



MONTSERRAT

CHAPTER 4.07

DRUGS (PREVENTION OF MISUSE) ACT and Subsidiary Legislation

Revised Edition
showing the law as at 1 January 2002

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Revised Edition of the Laws Act.

This edition contains a consolidation of the following laws—

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CHAPTER 4.07

DRUGS (PREVENTION OF MISUSE) ACT

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CHAPTER 4.07

DRUGS (PREVENTION OF MISUSE) ACT

(Acts 7 of 1989, 9 of 1991 and 13 of 1991)

AN ACT TO MAKE PROVISIONS WITH RESPECT TO DANGEROUS OR OTHERWISE HARMFUL DRUGS AND RELATED MATTERS, AND FOR PURPOSES CONNECTED THEREWITH.

Commencement

[15 September 1989]

Short title

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

Interpretation

2. (1) In this Act, except where the context otherwise requires—

“**Advisory Council**” means the Advisory Council on the Misuse of Drugs established under this Act;

“**analyst**” means—

- (a) the holder of any office specified in the First Schedule; and
- (b) any other person appointed as such by the Minister by notice in the *Gazette*;

“**cannabis**” (except in the expression “cannabis resin”) means any plant of the genus *Cannabis* or any part of any such plant, (by whatever name designated);

“**cannabis resin**” means the separated resin, whether crude or purified obtained from any plant or any part of a plant of the genus *Cannabis*;

“**chemist and druggist**” means a person registered as a chemist and druggist under the Medical Act;

“**contravention**” includes failure to comply, and “**contravene**” has a corresponding meaning;

“**controlled drug**” has the meaning assigned by section 4;

“**corresponding law**” has the meaning assigned by section 35;

“**dentist**” means a person registered as a dentist under the Medical Act;

“**doctor**” means a person registered as a medical practitioner under the Medical Act;

“**druggist**” means a person registered as a druggist under the Medical Act;

“drug trafficking” means doing or being concerned in any of the following, whether in Montserrat or elsewhere—

- (a) producing or supplying a controlled drug where the production or supply contravenes section 6(1) or a corresponding law;
- (b) transporting or storing a controlled drug where possession of the drug contravenes section 7(1) or a corresponding law;
- (c) importing or exporting a controlled drug where the importation is prohibited by section 5(1) or a corresponding law;
- (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—

- (a) an offence under section 6(2), 6(3), 7(2) or 7(3) of this Act;
- (b) an offence in any other Act in connection with a prohibition or restriction on importation or exportation having effect by virtue of section 5;
- (c) an offence under section 17;
- (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 another to commit any of those offences; and
- (g) aiding, abetting, counselling or procuring the commission of those offences;

“Minister” means the Minister for the time being charged with responsibility for the subject of Health;

“practitioner” (except in the expression “veterinary practitioner”) means doctor, dentist or a veterinary practitioner;

“prepared opium” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;

“produce”, where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method and **“production”** has a corresponding meaning;

“supplying” includes distributing;

“veterinary practitioner” means any person in Montserrat holding a qualification entitling him to practice as a veterinary surgeon in any part of the Commonwealth or any person who within Montserrat is engaged in the practice and profession of veterinary surgery.

(2) Reference in this Act to misusing a drug are references to misusing it by taking it; and the reference in the foregoing provision to the taking of a drug is a reference to the taking of it by a human being by way of any form of self administration, whether or not involving assistance by another.

(3) For the purpose of this Act the things which a person has in his possession shall be taken to include any thing subject to his control which is in the custody of another.

The Advisory Council on the misuse of drugs

3. (1) There shall be constituted in accordance with the Second Schedule to this Act an Advisory Council on the Misuse of Drugs (in this Act referred to as “the Advisory Council”); and the supplementary provisions contained in that Schedule shall have effect in relation to the Advisory Council.

(2) It shall be the duty of the Advisory Council to keep under review the situation in Montserrat with respect to drugs which are being or appear to them likely to be misused and of which the misuse is having or appears to them capable of having harmful effects sufficient to constitute a social problem, and to give to the Minister, where either the Advisory Council considers it expedient to do so or it is consulted by the Minister, advice on measures (whether or not involving alteration of the law) which in the opinion of the Advisory Council ought to be taken for preventing the misuse of such drugs dealing with social problems connected with their misuse, and in particular on measures which in the opinion of the Advisory Council, ought to be taken—

- (a) for restricting the availability of such drugs or supervising the arrangements for their supply;
- (b) for enabling persons affected by the misuse of such drugs to obtain proper advice, and for securing the provision of proper facilities and services for the treatment, rehabilitation and after-care of such persons;
- (c) for promoting co-operation between the various professional and community services which in the opinion of the Advisory Council have a part to play in dealing with social problems connected with the misuse of such drugs;
- (d) for educating the public (and in particular the young) in the dangers of misusing drugs, and for giving publicity to these dangers; and

- (e) for promoting research into, or otherwise obtaining information about, any matter which in the opinion of the Advisory Council, is of relevance for the purpose of preventing the misuse of such drugs or dealing with any social problem connected with their misuse.

(3) It shall also be the duty of the Advisory Council to consider any matter relating to drug dependence or the misuse of drugs which may be referred to them by the Minister and to advise the Minister thereon.

Controlled drugs and their classification

4. (1) In this Act—

- (a) the expression “**controlled drugs**” means any substance or product for the time being specified in Part I, Part II, or Part III of the Third Schedule; and
- (b) the expressions “**Class A drug**”, “**Class B drug**” and “**Class C drug**” means any of the substances and products for the time being specified respectively in Part I, Part II and Part III of the Schedule,

and the provisions of Part IV of that Schedule shall have effect with respect to the meanings of expressions used in that Schedule.

(2) The Governor in Council may by Order published in the *Gazette* amend the Third Schedule as may be requisite for the purpose of adding any substance or product, to, or removing any substance or product from, and of Part I to III of that Schedule. (*Substituted by Act 13 of 1991*)

(3) An Order under this section may amend Part IV of the Third Schedule, and may do so whether or not it amends any other Part of that Schedule.

Restriction of importation and exportation of controlled drugs

5. (1) Subject to subsection (2)—

- (a) the importation of a controlled drug; and
- (b) the exportation of a controlled drug,

are hereby prohibited.

(2) Subsection (1) does not apply—

- (a) to the importation or exportation of a controlled drug which is for the time being excepted from paragraph (a) or, as the case may be, paragraph (b) of subsection (1) by regulations under section 9; or
- (b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Minister and in compliance with any conditions attached thereto.

(3) Any person who imports or exports controlled drugs contrary to subsection (1) shall be guilty of a drug trafficking offence and liable on conviction therefor to the penalties laid down in section 27.

Restriction of production and supply of controlled drugs

6. (1) Subject to any regulations under section 9 for the time being in force, it shall not be lawful for a person—

- (a) to produce a controlled drug, or
- (b) to supply or offer to supply a controlled drug to another.

(2) Subject to section 30, it is an offence for a person—

- (a) to produce a controlled drug in contravention of subsection (1); or
- (b) to be concerned in the production of such drug in contravention of that subsection by another.

(3) Subject to section 30, it is an offence for a person—

- (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1);
- (b) to be concerned in the supply of such a drug to another in contravention of subsection (1); or
- (c) to be concerned in the making to another in contravention of subsection (1), of an offer to supply such a drug.

Restriction on possession of controlled drugs

7. (1) Subject to any regulations under section 9 for the time being in force, it shall not be lawful for a person to have a controlled drug in his possession.

(2) Subject to subsection (5) and 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, whether lawfully or not, with intent to supply it to another in contravention of section 6(1).

(4) Subject to subsection (1), a person found in possession of a controlled drug in quantities that may be specified by regulation made by the Governor in Council shall be deemed to be in possession of such controlled drug for the purpose of supplying it to another or for drug trafficking unless the contrary is proved the burden of proof being on the accused.

(5) In any proceedings for an offence under subsection (2) in which it is proved that the accused had a controlled drug in his possession, it shall be a defence for him to prove—

- (a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to destroy the drug or to deliver it into the custody of a person lawfully entitled to take custody of it; or
- (b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the custody of a person lawfully entitled to take custody of it and that as soon as possible after taking possession of it he took all such steps as were reasonably open to him to deliver it into the custody of such a person.

(6) Subsection (5) shall apply in the case of proceedings for an offence under section 20 consisting of an attempt to commit an offence under subsection (2) as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say—

- (a) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and
- (b) in paragraphs (a) and (b) the words from “and that as soon as possible” onwards shall be omitted.

(7) Nothing in subsection (5) or (6) shall prejudice any defence which is open to a person charged with an offence under this section to raise apart from those subsections.

Restriction or cultivation of cannabis plant

8. (1) Subject to any regulations under section 9 for the time being in force, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.

(2) Subject to section 30, it is an offence to cultivate any such plant in contravention of subsection (1).

Authorisation of activities otherwise unlawful under foregoing provisions

9. (1) The Governor in Council may by regulations—

- (a) except from section 5(1)(a) or (b), 6(1)(a) or (b) or 7(1) such controlled drugs as may be specified in the regulations; and
- (b) make such other provision as it thinks fit for the purpose of making it lawful for persons to do things which under the

following provisions of this Act, that is to say sections 6(1), 7(1) and 8(1). it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of paragraph (b) of subsection (1), regulations under that subsection authorizing the doing of any such thing as is mentioned in that paragraph may in particular provide for the doing of that thing to be lawful—

(a) if it is done under and in accordance with the terms of a licence or other authority issued by the Minister and in compliance with any conditions attached thereto; or

(b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to subsection (4), the Governor in Council shall so exercise its powers to make regulations under subsection (1) as to secure—

(a) that it is not unlawful under section 6(1) for a doctor, dentist or veterinary practitioner acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a druggist or a person lawfully conducting a retail pharmacy business, acting in either case in his capacity as such, to manufacture, compound or supply a controlled drug; and

(b) that it is not unlawful under section 7(1) for a doctor, dentist, veterinary practitioner, druggist or a person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purpose of acting in his capacity as such.

(4) If in the case of a controlled drug the Minister is of the opinion that it is in the public interest—

(a) for production, supply and possession of that drug to be either wholly unlawful or unlawful except for purposes of research or other special purposes; or

(b) for it to be unlawful for practitioners, druggists and persons lawfully conducting retail pharmacy business to do in relation to that drug any of the things mentioned in subsection (3) except under a licence or other authority issued by the Minister,

he may by order designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection designating a controlled drug as one to which this subsection applies, subsection (3) shall not apply as regards that drug.

(5) Any order made under subsection (4) shall be subject to negative resolution of the Legislative Council.

(6) The Governor in Council shall not make any order under subsection (4) except after consultation with or on the recommendation of the Advisory Council.

(7) Reference in this section to a person “**doing**” things include references to his having things in his possession.

Occupiers etc. of premises to be punishable for permitting activities to take place there

10. A person commits an offence if, being the occupier or concerned in the management of any premises, he knowingly permits or suffers any of the following activities to take place on those premises, that is to say—

- (a) producing or attempting to produce a controlled drug in contravention of section 6(1);
- (b) supplying or attempting to supply a controlled drug to another in contravention of section 6(1), or offering to supply a controlled drug to another in contravention of section 6(1);
- (c) preparing cannabis, cannabis resin or opium for smoking;
- (d) smoking or misusing cannabis, cannabis resin or prepared opium.

Prohibition of certain activities etc relating to opium

11. (1) Subject to section 30, it is an offence for a person—

- (a) smoke or otherwise use prepared opium; or
- (b) to frequent a place used for the purpose of opium smoking;
or
- (c) to have in his possession—
 - (i) any pipes or other utensils made or adapted for use in connection with the smoking of opium, being pipes or utensils which have been used by him or with his knowledge and permission in that connection or which he intends to use or permit others to use in that connection; or
 - (ii) any utensils which have been used by him or with his knowledge and permission in connection with the preparation of opium for smoking.

(2) The provisions of subsection (1) shall apply *mutatis mutandis*, in the case of heroin, cocaine, morphine or cannabis resin as if every reference to opium in that subsection is also reference to heroin, cocaine, morphine or cannabis resin, as the case may be.

Power to make regulations for preventing misuse of drugs

12. (1) Subject to the provisions of this Act, the Governor in Council may by regulations make such provisions as appears to it necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of subsection (1) regulations under this section may in particular make provisions –

- (a) for requiring precautions to be taken for the safe custody of controlled drugs;
- (b) for imposing requirements as to the documentation of transactions involving controlled drugs, and for requiring copies of documents relating to such transactions to be furnished to the prescribed authority;
- (c) for requiring the keeping of records and the furnishing of information with respect to controlled drugs in such circumstances and in such manner as prescribed;
- (d) for the inspection of any precautions taken or records kept in pursuance of regulations under this section;
- (e) as to the packaging and labelling of controlled drugs;
- (f) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;
- (h) for requiring any doctor who attends on a person considered, addicted or on reasonable grounds suspected, to be addicted (within the meaning of the regulations) to controlled drugs of any description to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;
- (i) for prohibiting any doctor from administering, supplying and authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Governor in Council in pursuance of the regulations.

Power to direct special precautions for safe custody of controlled drugs to be taken at certain premises

13. (1) Without prejudice to any requirement imposed by regulations made in pursuance of section 12(2)(a), the Minister may by notice in

writing served on the occupier of any premises on which controlled drugs are or are proposed to be kept give directions as to the taking or precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are or are proposed to be kept on those premises.

(2) It is an offence to contravene any directions given under subsection (1).

Directions prohibiting prescribing, supplying, etc. of controlled drugs by practitioners, etc. convicted of certain offences

14. (1) Where a person who is a practitioner or druggist has, after the coming into operation of this subsection, been convicted of an offence under this Act or an offence under section 11 or 12 of the Criminal Justice (International Co-operation) Act, the Governor in Council may give a direction in writing under subsection (2) in respect of that person. (*Amended by Act 9 of 1991*)

(2) A direction under this subsection in respect of a person shall—

- (a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing; administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;
- (b) if that person is a druggist, be a direction prohibiting him from having in his possession, manufacturing, compounding and supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

(3) The Minister may at any time give a direction cancelling or suspending any direction given by him under subsection (2), or cancelling any direction of his under this subsection by which a direction so given is suspended.

(4) The Governor in Council shall cause a copy of any direction given by him under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in the *Gazette*.

(5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.

(6) It is an offence to contravene a direction given under subsection (2)

Directions prohibiting prescribing, supply etc. of controlled drugs by practitioners in other cases

15. (1) In the event of a contravention by a doctor of regulations made in pursuance of paragraph (h) or (i) of section 12(2) or of the terms of a

licence issued under regulations made in pursuance of the said paragraph (i), the Governor in Council may give a direction in respect of the doctor concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) If the Governor in Council is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Minister may, with the approval of the Advisory Council, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(3) A contravention such as is mentioned in subsection (1) does not as such constitute an offence, but it is an offence to contravene a direction given under subsection (1) or (2).

Drug trafficking

16. (1) A person who commits 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 \$100,000 or where the value of the drug the subject matter of the offence is known or ascertained and such value is in excess of \$100,000, the amount equal to such value; and
- (ii) to imprisonment for a term which may extend to ten years but which shall not be less than two years; or

(b) upon conviction on indictment to imprisonment for life.

(2) A person who commits 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 \$5,000 and to imprisonment for two years; or

(b) upon conviction on indictment to a fine of \$25,000 and to imprisonment for five years.

(3) Subject to any regulations under section 9 for the time being in force a person found in possession of a controlled drug in any school premises or within one hundred yards of any school premises is deemed to have the controlled drug for the purpose 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 or 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

17. (1) If a person enters into or is 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 is facilitated (whether by concealment, removal from the jurisdiction, transfer to nominees or otherwise); or
- (b) the proceeds of drug trafficking—
 - (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, directly or indirectly he is guilty of an offence.

(2) In this section, reference to the proceeds of drug trafficking by any person includes a reference to any property which directly or indirectly has come into his hands and are traceable to 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 were facilitated or, as the case may be, that by the arrangement those proceeds were used as mentioned in subsection (1).

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

- (a) on summary conviction to a fine of \$5,000 and to imprisonment for two years; or
- (b) on conviction on indictment to a fine of \$50,000 and to imprisonment for a term not exceeding fourteen years.

(5) Notwithstanding anything in any written law, any person, bank or any financial institution which discloses voluntarily or otherwise any information with regard to the assets of any person that are attributable to drug trafficking is hereby indemnified from any legal proceedings.

Power to obtain information from doctors etc. in certain circumstances

18. (1) If it appears to the Minister that there exists in any area in Montserrat a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, he may by notice in writing served on any doctor or druggist practising in or in the vicinity of that area or on any person lawfully conducting a retail pharmacy business at any premises situated in or in the vicinity of that area, require him to furnish to the Governor in Council with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs—

- (a) in the case of a doctor, were prescribed, administered or supplied by him;
- (b) in the case of a druggist, were supplied by him; or
- (c) in the case of a person conducting a retail pharmacy business, were supplied in the course of that business at any premises so situated which may be specified in the notice.

(2) A notice under subsection (1) may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a druggist or person conducting a retail pharmacy business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.

(3) A person commits an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirements to which he is subject by virtue of subsection (1).

(4) A person commits an offence if in purported compliance with a requirement imposed under this section, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

Miscellaneous offences

19. (1) It is an offence for a person to contravene any regulation made under this Act other than regulations made in pursuance of section 12(2)(h) or (i).

(2) It is an offence for a person to contravene a condition or other term of a licence issued under section 5 or of a licence or other authority issued under regulations made under this Act, not being a licence issued under regulations made in pursuance of section 12(2)(i).

(3) A person commits an offence if, in purported compliance with any obligation to give information to which he is subject under or by virtue of regulations made under this Act, he gives any information which he

knows to be false in a material particular or recklessly gives any information which is so false.

(4) A person commits an offence if, for the purpose or obtaining, whether for himself or another, the issue or renewal of a licence or other authority under this Act or under any regulations made under this Act, he—

- (a) makes any statement or gives any information which he knows to be false in a material particular or recklessly gives any information which is so false; or
- (b) produces or otherwise makes use of any book, record or other document which to his knowledge contains any statement or information which he knows to be false in a material particular.

Attempts etc. to commit offences

20. It is an offence for a person to attempt to commit an offence under any other provision of this Act or to incite or attempt to incite another to commit such an offence.

Assisting in or inducing commission outside Montserrat of offence punishable under a corresponding law

21. A person commits an offence if in Montserrat he assists in or induces the commission in any place outside Montserrat of an offence punishable under the provisions of a corresponding law in force in that place.

Offences by corporations

22. Where any offence under this Act or Part II of the Criminal Justice (International Co-operation) Act committed by a body corporate is proved to have been committed with the consent or connivance of, or be attributable to any criminal negligence on the part of any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable or be proceeded against accordingly.

(Amended by Act 9 of 1991)

Further powers to make regulations

23. The Governor in Council may by regulations make provision—

- (a) for excluding in such cases as may be prescribed—
 - (i) the application of any provision of this Act which creates an offence; or
 - (ii) the application of provisions in any other Act in so far as they apply in relation to a prohibition or restriction on

importation or exportation having effect by virtue of section 5;

- (b) for the application of any provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

Powers to search and obtain evidence

24. (1) A member of the Police Force or other person authorised in that behalf by a general or special order of the Commissioner of Police shall, for the purposes of the execution of this Act have power to enter the premises of a person carrying on business as a producer or supplier of any controlled drug and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs and to inspect any stocks or any such drugs. Before making the aforesaid order the Commissioner of Police shall record the circumstances which led him to make the order.

(2) If a member of the Police Force has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act or of any regulations made thereunder the members of the Police Force may subject to subsections (3), (6) and (7)—

- (a) search that person, and detain him for the purpose of searching him;
- (b) search any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description in which the member of the Police Force suspects that the drug may be found, and for that purpose require the person in control of the ship, vessel, aircraft, vehicle or other means of conveyance of any description to stop it;
- (c) seize and detain for the purposes of proceedings under this Act, anything found in the course of the search which appears to the member of the Police Force to be evidence of an offence under this Act.

(3) Nothing in subsection (2) shall derogate from any power of search or any power to seize or detain property which is otherwise exercisable by a member of the Police Force.

(4) A Captain of any ship belonging to the Royal Navy or any person acting under the command of such captain, shall have and exercise all the powers vested in a member of the Police Force under this section in so far as the commission of an offence under this Act is on a ship, vessel, boat, aircraft or other means of conveyance over the sea or air.

(5) Where the captain of any ship belonging to the Royal Navy or any person acting under the command of such captain finds in the course of the search that any ship, vessel, boat, aircraft or other means of conveyance over the sea or air is concerned in the commission of an offence under this

Act or any person found in any of them is concerned in the commission of an offence under this Act, such captain or any person acting under the command of such captain, shall have the power to act in such manner as a member of the Police Force would act in similar circumstances.

(6) If a Magistrate or a Justice of the Peace is satisfied by information on oath that there is reasonable ground for suspecting—

- (a) that any controlled drugs are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises or in any place; or
- (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act or in the case of a transaction or dealing carried out or intended to be carried out in a place outside Montserrat an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises or in any place, he may issue a warrant authorising any member of the Police Force at any time or times within one month from the date of issue of the warrant, to enter, if need be by force, the premises or place named in the warrant, and to search premises or place and any person found therein and, if there is reasonable ground for suspecting that an offence under this Act has been committed in relation to any controlled drugs found on the premises or place or in the possession of any such person, or that a document so found in such a document as is mentioned in paragraph (b), to seize and detain those drugs or that document, as the case may be.

(7) A person commits an offence if he—

- (a) intentionally obstructs a person in the exercise of his powers under this section;
- (b) being the person in control of the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description fails to stop it when required to do so by a member of the Police Force under subsection (2)(b);
- (c) being a person being conveyed in a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description prevents or intimidates the person in control of or any other person operating the ship, vessel, aircraft, vehicle or other means of conveyance of any description from stopping when required to do so by a member of the Police Force under subsection (2)(b);
- (d) without the permission of the members of the Police Force concerned, leaves a ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description which has

been stopped by a member of the Police Force under subsection (2)(b);

- (e) conceals from a person acting in the exercise of his powers under subsection (1) any such books, documents, stocks or drugs as are mentioned in that subsection; or
- (f) without reasonable excuse (proof of which shall lie on him) fails to produce any such books or documents as are so mentioned where their production is demanded by a person in the exercise of his powers under that subsection.

(8) No person may be searched by any person of the opposite sex unless the consent of the person to be searched has first been obtained, or unless such search is made in the presence of some other person, not being a member of the Police Force, of the same sex.

(9) Except with his consent no article of a person's clothing may be removed from his person during a search at any place other than within a police station.

(10) The powers conferred by subsection (1) above shall be exercisable also for the purposes of the execution of Part II of the Criminal Justice (International Co-operation) Act and subsection (6) above (excluding paragraph (a)) shall apply also to offences under section 11 or 12 of that Act, taking references in those provisions to Controlled drugs as references to Scheduled Substances within the meaning of that Part.

(Inserted by Act 9 of 1991)

Power to arrest

25. (1) (a) A member of the Police Force may arrest without warrant a person who has committed, or who the member of the Police Force, with reasonable cause, suspects to have committed, an offence under this Act.

- (b) Where any controlled drug is found on any premises searched under section 24(1), or in any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description stopped under section 24(2), the member of the Police Force who has made the search or stopped the ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, as the case may be, may arrest without warrant any person in such premises or in such ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description whom he has reason to believe to be guilty of an offence under this Act.

(2) A captain of any ship belonging to the Royal Navy or any person acting under the command of such captain shall have and exercise all the powers vested in a member of the Police Force under this section and accordingly such captain or any person acting under the command of such captain shall without warrant—

- (a) stop, search, seize and detain any ship, vessel, aircraft, vehicle or other means of conveyance or search, detain or arrest any person thereon suspected of conveying controlled drugs within the territorial waters of the territory;
- (b) where controlled drug is found in the course of the search in the ship, vessel, aircraft or other means of conveyance, seize and produce it to a member of the Police Force to be dealt with according to the provisions of this Act;
- (c) where the controlled drug is found in the possession of a person in a ship, vessel, aircraft or other means of conveyance, arrest and produce such person to a member of the Police Force to be dealt with according to the provisions of this Act.

(3) This section shall not prejudice any power of arrest conferred by law apart from this section.

Committal to the High Court for sentence

26. (1) Where on the summary trial of an offence committed under this Act and triable either summarily or on indictment a person who is not less than eighteen years of age is convicted of the offence, then, if on obtaining information that his character and antecedents are such that in the opinion of the Magistrate greater punishment should be inflicted for the offence than the Magistrate has power to inflict, the Magistrate may commit that person in custody to the High Court for sentence and shall, as soon as practicable, transmit to the Registrar of the High Court the record of the proceedings.

(2) On receipt of the record, the Registrar of the High Court shall issue an order to the gaoler to bring the convicted person before a Judge of the High Court at a time to be fixed by the Judge of the High Court.

(3) The Judge of the High Court shall enquire into the circumstances of the case and shall have power to deal with the convicted person as if he had just been convicted of the offence on indictment before the High Court.

Prosecution and punishment of offences

27. (1) Except where expressly otherwise provided the Fourth Schedule shall have effect, in accordance with subsection (2), with respect to the way in which offences under this Act are punishable on conviction.

(2) In relation to an offence under a provision of this Act specified in the first column of the Fourth Schedule (the general nature of the offence being described in the second column)—

- (a) the third column shows whether the offence is punishable on summary conviction or on indictment or in either way;
- (b) the fourth, fifth and sixth columns show respectively the punishments which may be imposed on a person convicted of

the offence in the way specified in relation thereto in the third column (that is to say, summarily or on indictment) according to whether the controlled drug in relation to which the offence was committed was a Class A drug, a Class B drug or a Class C drug; and

- (c) the seventh column shows the punishments which may be imposed on a person convicted of the offences in the way specified in relation thereto in the third column (that is to say, summarily or on indictment), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug;

and in the fourth, fifth, sixth and seventh columns a reference to a period gives the maximum term of imprisonment and a reference to a sum of money the maximum fine.

(3) An offence under section 20 shall be punished on summary conviction, on indictment or in either way according to whether, under the Fourth Schedule, the substantive offence is punishable on summary conviction, on indictment or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

(4) In subsection (3) “**the substantive offence**” means the offence under this Act to which the attempt or, as the case may be, the incitement or attempted incitement mentioned in section 20 was directed.

(5) Notwithstanding anything in this Act or in any other law, a Magistrate may try on information or complaint for an offence under this Act if the information or complaint was laid or, as the case may be, made at any time within twelve months from the commission of the offence.

Forfeiture

28. (1) Where a person is convicted of an offence under this Act other than a drug trafficking offence, the court may order forfeiture to the Government of Montserrat of any opium pipe or other article or the controlled drug in respect of which the offence was committed and all receptacles of any kind whatsoever found containing the controlled drug and any ship, vessel, boat, aircraft, vehicle or other means of conveyance of any description, proved to have contained the opium pipe or other article of controlled drug or anything shown to the satisfaction of the court to relate to the offence.

(2) Without prejudice to subsection (1), where a person is convicted of a drug trafficking offence the court shall in passing sentence order forfeiture to the Government of Montserrat of—

- (a) any article;

(b) any money; or

(c) any valuable consideration, relating to the offence.

(3) Forfeiture shall extend—

(a) to any property which there is reason to believe has been obtained from the proceeds of anything relating to the offence for which a person is convicted under this Act or to a conspiracy to commit any such offence; or

(b) to anything into which any such property has been converted.

(4) Notwithstanding anything in subsection (3) where a person convicted under this Act has converted the proceeds of drug trafficking into any asset, the forfeiture shall extend to such asset if it is attributable to such proceeds and adequately represent such proceeds. If such asset does not adequately represent in value such proceeds the court may order the forfeiture of any other asset of that person to the extent adequate to satisfy the forfeiture of such proceeds.

(5) Notwithstanding anything in this Act where a person is convicted under this Act it shall be presumed, unless the contrary is proved, the burden of proof being on the accused, that all the assets whether movable or immovable owned by such accused or held on his behalf by some other person are assets acquired from the proceeds of drug trafficking carried on directly or indirectly by that person and be subject to forfeiture as the court may determine having regard to all the circumstances of the case.

(6) At any stage of the proceedings under this Act the Court shall have the power to order any bank, financial institution or person who hold any money belonging to the person accused of an offence under this Act to furnish a declaration to the court within such period as may be specified of the amount of money held by such bank, financial institution or person, as the case may be. The Court may where it deems it necessary order that such asset be frozen until the determination of the proceedings. Where the Court orders the freezing of the assets it shall have regard to the day to day requirement of such person and his household.

(7) Where a person is convicted of an offence under this Act any transfer of any immovable property made by that person after proceedings against that person had commenced shall be null and void, and shall have no effect in law, notwithstanding anything contrary in any other Law.

(8) Subject to subsection (9) forfeiture under this section shall be applied for such purposes as may be determined by the Governor in Council by regulation. In determining the purpose the Governor in Council shall have regard to the need to provide funds for rehabilitation of persons addicted to drugs and the necessity to finance preventative and enforcement measures.

(9) Subject to subsection (11) forfeitures under this section shall be applied to the treatment and rehabilitation of persons addicted (within the meaning of the regulations) to controlled drugs of any description.

(10) Where proceeds of trafficking in drugs are not traceable at the time of conviction and are therefore not forfeited such proceeds or any other assets into which such proceeds are converted shall be liable to forfeiture within ten years of such conviction.

(11) Controlled drugs forfeited under this section shall be delivered to the Commissioner of Police for disposal.

Certificate of analyst admissible in evidence

29. (1) Subject to subsections (3) and (4), notwithstanding the provisions of any other law, a certificate of an analyst purporting to be signed by him stating that he has analysed or examined a substance and stating the result of such analysis or examination is admissible in evidence in any prosecution under this Act of the matters stated therein if it is proved by other evidence that the seals or other fastenings of the container of the substance or thing analysed and in respect of which the certificate was given were intact at the time the container was delivered to him.

(2) No evidence shall be required by the court as to the signature or qualifications of the person purporting to have signed the certificate.

(3) No certificate shall be received in evidence unless the party intending to produce it has given to the other parties seven days notice of such intention and has furnished with such notice a copy of the certificate.

(4) In any prosecution under this Act either of the parties may require the attendance of an analyst to give evidence and in such case the costs of his attendance shall, unless the Judge or Magistrate orders otherwise, be payable by the party so requiring.

Proof of lack of knowledge etc. to be a defence in proceedings, for certain offences

30. (1) This section applies to offences under any of the following provisions of this Act, that is to say, section 5(3), 6(2) and (3), section 7(2) and (3), section 8(2) and section 11.

(2) Subject to subsection (3), in any proceedings for an offence to which this section applies it shall be a defence for the person charged to prove that he neither knew of nor suspected nor had reason to suspect the existence of some fact alleged by the prosecution which it is necessary for the prosecution to prove if he is to be convicted of the offence charged.

(3) Where in any proceedings for an offence to which this section applies it is necessary if the accused is to be convicted of the offence charged, for the prosecution to prove that some substance or product involved in the alleged offence was the controlled drug which the prosecution alleges it to have been, and it is proved that the substance or product in question was that controlled drug, the accused—

(a) shall not be acquitted of the offence charged by reason only of proving that he neither knew, nor suspected nor had

reason to suspect that the substance or product in question was the particular controlled drug alleged; but

(b) shall be acquitted thereof—

- (i) if he proves that he neither believed nor suspected nor had reason to suspect that the substance or product in question was a controlled drug; or
- (ii) if he proves that he believed the substance or product in question to be a controlled drug, or a controlled drug of a description, such that if it had in fact been that controlled drug or a controlled drug of that description, he would not at the material time have been committing any offence to which this section applies.

(4) Nothing in this section shall prejudice any defence which it is open to a person charged with an offence to which this section applies to raise apart from this section.

Service of documents

31. (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.

(2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.

(3) For the purposes of this section the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Governor in Council.

Licences and authorities

32. A licence or other authority issued by the Governor in Council for the purposes of this Act or of regulations made under this Act may be, to any degree, general or specific and issued on such terms and subject to such conditions (including in the case of a licence the payment of a prescribed fee) as the Minister thinks proper, and may be modified or revoked by him at any time.

General provision as to regulations

33. (1) Regulations made by the Governor in Council under any provision of this Act—

- (a) may make different provision in relation to different controlled drugs, different classes of persons, different

provisions of this Act or other different cases or circumstances; and

- (b) may obtain the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and
- (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Governor in Council.

Research

34. The Governor in Council may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.

Meaning of “corresponding law”; and evidence of certain matters by certificate

35. (1) In this Act the expression “corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Montserrat to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March, 1961 or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and the Government of Montserrat are for the time being parties.

(2) A statement in any such certificate as aforesaid to the effect that any facts constitute an offence against the law mentioned in the certificate shall be conclusive evidence of the matters stated.

Offence of dealing in controlled drugs

36. Notwithstanding anything to the contrary in this Act, where a person charged with an offence of drug trafficking sets up a defense that he had neither imported nor produced the drugs the subject matter of the offence and proves to the satisfaction of the court that he had only been buying and selling drugs, he shall on conviction be liable to a fine of \$50,000 and to imprisonment for a term not exceeding two years but not less than one year.

Offence of laundering drug trafficking money

37. Notwithstanding anything to the contrary in this law or in any other written law where a person—

- (a) invests the proceeds of drug trafficking either directly or indirectly so as to give the appearance that those proceeds or any other assets into which such proceeds may have been

converted are proceeds or assets arising from a legitimate transaction or legitimate source; or

- (b) transfers the proceeds of drug trafficking to another person either directly or indirectly so as to give such appearance, such person and any other person assisting him in such investment or transfer shall be guilty of an offence of drug trafficking under section 16, and such proceeds, assets, or investments shall be forfeited.
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FIRST SCHEDULE

(Section 2)

Government Analyst Montserrat

Scientific Officers employed with the Government of Montserrat designated as Scientific Officer I, Scientific Officer II and Scientific Officer III.

SECOND SCHEDULE

(Section 3)

CONSTITUTION OF THE ADVISORY COUNCIL ON THE MISUSE OF DRUGS

1. (1) The members of the Advisory Council, of whom there shall not be more than eleven nor less than seven, shall be appointed by the Minister after consultation with such organisation as he considers appropriate and shall include—

- (a)* in relation to each of the activities specified in subparagraph (2) at least one person appearing to the Minister to have wide and recent experience of that activity; and
- (b)* persons appearing to the Minister to have wide and recent experience of social problems connected with the misuse of drugs.

(2) The activities referred to in subparagraph (1)(a) are—

- (a)* the practice of medicine (other than veterinary medicine);
- (b)* the practice of dentistry;
- (c)* the practice of veterinary medicine;
- (d)* the practice of pharmacy.

(3) The Minister shall appoint one of the members of the Advisory Council to be chairman of the Advisory Council.

2. The Advisory Council may appoint committees, which may consist in part of persons who are not members of the Advisory Council to consider and report to the Advisory Council on any matter referred to them by the Advisory Council.

3. At meetings of the Advisory Council the quorum shall be four, and subject to that the Advisory Council may determine their own procedure.

THIRD SCHEDULE*(Section 4)***CONTROLLED DRUGS**

PART I

CLASS A DRUGS

1. The following substances and products, namely—

Acetorphine

Allylprodine

Alphacetylmethadol

Alphameprodine

Alphamethadol

Alphaprodine

Anileridine

Benethidine

Benzylmorphine (3-benzylmorphine)

Betacetylmethadol

Betameprodine

Betamethadol

Bezitramide

Bufotenine

Cannabinol, except where contained in cannabis or cannabis resin

Cannabinol derivatives

Clonitazene

Coca leaf

Cocaine

Desomorphine

Dextromoramide

Diamorphine

Diampromide
Diethylthiambutene
D-carboxymethyloxime
Dihydromorphine
Dimenoxadole
Dimepheptanol
Dimethylthiambutene
Dioxaphetyl butyrate
Diphenoxylate
Dipipanone

Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine

Ethylmethylthiambutene
Etonitazene
Etorphine
Etoxeridine

Fentanyl
Furethidine

Hydrocodone
Hydromorphanol
Hydromorphone
Hydroxypethidine

Isomethadone

Ketobemidone

Levomethorphan
Levomoramide
Levophenacymorphan
Levorphanol

Lysergamide

Lysergide and other N-alkyl derivatives of lysergamide

Mescaline

Metazocine

Methadone

Methadyl acetate

Methyldesorphine (6-methyldihydromorphine)

Metohon

Morpheridine

Morphine

Morphine methobromide, morphine N-oxide and other pentavalent nitrogen
morphine derivatives

Myrophine

Nicodicodine (6-nicotinyldihydrocodeine)

Nicomorphine (3,6-dinicotinylmorphine)

Noracymethadol

Normethadone

Normorphine

Norpipanone

Opium, whether raw, prepared or medicinal

Oxycodone

Oxymorphone

Pethidine

Phenadoxone

Phenampramide

Phenazocine

Phenomorphane

Phenoperidine

Piminodine

Piritramide

Poppy-straw and concentrate of poppy-straw

Propeptazine

Properidine (1-methyl-4-phenylpiperidine 4-carboxylic acid isopropyl ester)

Pislocin

Racemethorphan

Racemoramide

Racemorphan

Thebacon

Thebaine

Trimeperidine

4-cyano-2-dimethylamino-4, 4-diphenylbutane

4-cyano-1-methyl-4-phenyl-piperidine

N,N-diethyltryptamine

N,N-dimethyltryptamine

2,5-dimethoxy-alpha-4-dimethylphenethylamine

1-Methyl-4-phenylpiperidine-4-carboxylic acid

4-phenylpiperidine-4-carboxylic acid ethyl ester

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.
3. Any ester or other of a substance for the time being specified in paragraph 1 or 2 above.
4. Any salt of a substance for the time being specified in any of paragraphs 1 or 3 above.
5. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 above.
6. 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. The following substances and products, namely—

Acetyldihydrocodeine

Amphetamine

Cannabis and cannabis resin

Codeine

Dexamphetamine

Dihydrocodeine

Ethylmorphine (3-ethylmorphine)

Methylamphetamine

Methylphenidate

Nicocodine

Norcodeine

Phenmetrazine

Pholcodine

2. Any stereoisometric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule.

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

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

PART III

CLASS C DRUGS

1. The following substances, namely—

Benzphetamine

Chlorphentermine

Fencamfamin

Mephentermine

Methaqualone
Pemoline
Phendimetrazine
Phentermine
Pipradrol
Prolintane

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

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

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

PART IV

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purpose of this Schedule the following expressions (which are not among those defined in Section 2 of this Act) have the meanings hereby assigned to them respectively, that is to say—

“**cannabinol derivatives**” means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives;

“**coca leaf**” means the leaf of any plant of 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;

“**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.

FOURTH SCHEDULE

(Section 27)

PROSECUTION AND PUNISHMENT OF OFFENCES

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment			
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved	General
Section 5(3)	Importing and exporting controlled drugs	(a) Summary	3 years \$100,000	3 years \$100,000	2 years \$25,000	
		(b) On indictment	14 years \$200,000	14 years \$200,000	14 years \$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 \$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	

FOURTH SCHEDULE (Cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment			
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved	General
Section 7(2)	Having possession of a controlled drug	(a) Summary (b) On indictment	3 years \$100,000 7 years and \$200,000	3 years \$100,000 7 years and \$100,000	2 years and \$75,000 5 years and \$100,000	
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	
Section 8(2)	Cultivation of Cannabis plant	(b) On indictment (a) Summary	14 years and \$200,000	14 years and \$200,000	10 years and \$200,000	3 years and \$100,000 14 years and \$200,000
Section 10	Being the 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 \$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	

FOURTH SCHEDULE (cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment			
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved	General
Section 11	Offences relating to opium	(a) Summary				2 years and \$75,000
		(b) On indictment				14 years and \$200,000
Section 13(2)	Contravention of directions relating to safe custody of controlled drugs	(a) Summary				3 years and \$100,000
		(b) On indictment				10 years and \$200,000
Section 14(6)	Contravention of direction prohibiting practitioner, etc. from possessing, supplying, etc. controlled drugs	(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 15(3)	Contravention of direction prohibiting practitioner, etc., from prescribing, supplying, etc. controlled drugs	(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	

FOURTH SCHEDULE (cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment			
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved	General
Section 16(1)	Drug trafficking	(a) Summary (b) On indictment	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	2 years \$5,000
Section 16(2)	Trafficking in and drugs held out as controlled drug	(a) Summary (b) On indictment	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	2 years \$5,000
Section 17(4)	Retention of and proceeds of drug trafficking	(a) Summary (b) On indictment	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	5 years \$25,000 2 years \$5,000
Section 18(3)	Failure to comply with notice requiring information relating to prescribing, supply, etc., of drugs	(a) Summary (b) On indictment	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	10 years but not less than 2 years \$100,000 Life \$100,000	14 years \$50,000 \$75,000

FOURTH SCHEDULE (cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment		
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved
Section 18(4)	Giving false information in purported compliance with notice requiring information	(a) Summary			3 years \$100,000
Section 19(1)	Contravention of regulations (other than regulations relating to addicts)	(b) On indictment			10 years and \$200,000
		(a) Summary			3 years and \$100,000
Section 19(2)	Contravention of terms of licence authority	(b) On indictment			10 years and \$200,000
		(a) Summary			10 years and \$200,000

FOURTH SCHEDULE (cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment		
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved General
Section 19(3)	Giving false information on purported compliance with obligation to give information imposed under or by virtue of regulations	(a) Summary			3 years and \$100,000
		(b) On indictment			10 years and \$200,000
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			3 years and \$100,000
		(b) On indictment			10 years and \$200,000

FOURTH SCHEDULE (cont'd)

Section Creating Offences	General Nature of Offences	Mode of Prosecution	Punishment		
			Class A Drug Involved	Class B Drug Involved	Class C Drug Involved General
Section 21	Assisting in or inducing commission outside Montserrat of an offence punishable under a corresponding law	(a) Summary (b) On indictment			3 years and \$100,000 14 years and \$200,000
Section 24(7)	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 (b) On indictment			3 years and \$100,000 14 years and \$200,000

DRUGS (PREVENTION OF MISUSE) REGULATIONS

ARRANGEMENT OF REGULATIONS

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SCHEDULE 1: Controlled Drugs Excepted from the Prohibition on Importation, Exportation and Possession and Subject to the Requirements of Regulation 21

SCHEDULE 2: Controlled Drugs Subject to the Requirements of Regulations 13, 14, 15, 16, 17, 18, 19 and 22

SCHEDULE 3: Controlled Drugs Subject to the Requirements of Regulations 13, 14, 15 and 16

SCHEDULE 4: Controlled Drugs Subject to the Requirements of Regulations 13, 14, 15, 16, 17 and 24

DRUGS (PREVENTION OF MISUSE) REGULATIONS

– SECTIONS 7(4), 9, 12 AND 23

*(S.R.O.s 14/1989, 18/1989 and 77/1996)***Commencement***[29 August 1989]***Short title**

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

Interpretation

2. (1) In these Regulations, unless the context otherwise requires, the expression—

“**Act**” means the Drugs (Prevention of Misuse) Act;

“**authorised as a member of a group**” means authorised by virtue of being a member of a class as respects which the Minister has granted an authority under and for the purposes of Regulation 7(3), 8(3) or 9(3) which is in force, and “**his group authority**”, in relation to a person who is a member of such a class, means the authority so granted to that class;

“**master**”, in relation to a ship, includes any person having or taking the charge or command of the ship;

“**officer of customs and excise**” means any person employed in the department of Customs and Excise;

“**prescription**” means a prescription issued by a doctor for the medical treatment of a single individual, by a dentist for the dental treatment of a single individual or by a veterinary practitioner for the purposes of animal treatment;

“**register**” means a bound book and does not include any form of loose leaf register or card index;

“**registered pharmacy**” means a licensed pharmacy;

“**retail dealer**” means a person lawfully conducting a retail pharmacy business;

“**wholesale dealer**” means a person who carries on the business of selling drugs to persons who buy to sell again.

(2) In these Regulations any reference to a Regulation or Schedule shall be construed as a reference to a Regulation contained in these Regulations or, as the case may be, to a Schedule thereto; and any reference in a Regulation or Schedule to a paragraph shall be construed as a reference to a paragraph of that Regulation or Schedule.

(3) In these Regulations any reference to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by or under any other enactment.

(4) Nothing in these Regulations shall be construed as derogating from any power or immunity of the Crown, its servants or agents.

Exceptions for drugs in Schedule 1 and poppy straw

3. (1) Sections 5(1) and 7(1) of the Act (which prohibit the importation and possession of controlled drugs) shall not have effect in relation to the controlled drugs specified in Schedule 1.

(2) Section 6(1) (which prohibits the production and supply of controlled drugs) and section 7(1) of the Act shall not have effect in relation to poppy-straw.

Licences to produce etc. controlled drugs

4. Where any person is authorised by a licence of the Minister issued under this Regulation and for the time being in force to produce, supply, offer to supply or have in his possession any controlled drug, it shall not by virtue of section 6(1) or 7(1) of the Act be unlawful for that person to produce, supply, offer to supply or have in his possession that drug in accordance with the terms of the licence and in compliance with any conditions attached to the licence.

General Authority to possess

5. Any of the following persons may notwithstanding the provisions of section 7(1) of the Act have any controlled drug in his possession, that is to say—

- (a) a member of the Police Force when acting in the course of his duty as such;
- (b) a person engaged in the business of a carrier when acting in the course of that business;
- (c) a person engaged in the business of the Post Office when acting in the course of that business;
- (d) an officer of customs and excise when acting in the course of his duty as such;
- (e) a person engaged in the work of any laboratory to which the drug has been sent for forensic examination when acting in the course of his duty as a person so engaged;
- (f) a person engaged in conveying the drug to a person authorised by these Regulations to have it in his possession.

Administration of drugs in Schedules 1 and 2

6. (1) Any person may administer to another any drug specified in Schedule 1.

(2) A doctor or dentist may administer to a patient any drug specified in Schedule 2 or 3.

(3) Any person other than a doctor or dentist may administer to a patient, in accordance with the directions of a doctor or dentist, any drug specified in Schedule 2 or 3.

Production and supply of drugs in Schedules 1 and 2

7. (1) Notwithstanding the provisions of section 6(1)(a) of the Act—

- (a) a practitioner or druggist, acting in his capacity as such, may manufacture or compound any drug specified in Schedule 1 or 2;
- (b) a person lawfully conducting a retail pharmacy business and acting in his capacity as such may, at the pharmacy at which he carries on that business, manufacture or compound any drug specified in Schedule 1 or 2.

(2) Notwithstanding the provisions of section 6(1)(b) of the Act any of the following persons, that is to say—

- (a) a practitioner;
- (b) a druggist;
- (c) a person lawfully conducting a retail pharmacy business;
- (d) the matron of a hospital or nursing home;
- (e) in the case of a drug supplied to her by a person responsible for the dispensing and supply of medicines at the hospital or nursing home, the sister for the time being in charge of a ward, theatre or other department in such a hospital or nursing home;
- (f) a person who is in charge of a laboratory the recognised activities of which consist in, or include, the conduct of scientific education or research and which is attached to a university, hospital or to any other institution approved for the purpose by the Minister;
- (g) an analyst,

may when acting in his capacity as such, supply or offer to supply any drug specified in Schedule 1 or 2 to any person who may lawfully have that drug in his possession:

Provided that nothing in this paragraph authorises—

- (i) the matron of a hospital or nursing home, having a druggist responsible for dispensing and supply of medicines, to supply or offer to supply any drug;
- (ii) a sister for the time being in charge of a ward, theatre or other department to supply any drug otherwise than for administration to patient in that ward, theatre or department in accordance with the directions of a doctor or dentist.

(3) Notwithstanding the provisions of section 6(1)(b) of the Act, a person who is authorised as a member of a group may, under and in accordance with the terms of his group authority and in compliance with any conditions attached thereto, supply or

offer to supply any drug specified in Schedule 1 or 2 to any person who may lawfully have that drug in his possession.

(4) Notwithstanding the provisions of section 6(1)(b) of the Act, a person whose name is for the time being entered in the register kept for the purposes of this paragraph by the Minister may, at the premises in respect of which his name is so entered, supply or offer to supply any drug specified in Schedule 1 to any person who may lawfully have that drug in his possession.

(5) Notwithstanding the provisions of section 6(1)(b) of the Act, the owner of a ship, or a master of a ship which does not carry a doctor on board as part of her complement, may supply or offer to supply any drug specified in Schedule 1 or 2—

- (a) to any member of the crew;
- (b) to any person who may lawfully supply that drug; or
- (c) to any member of the police force for the purpose of destruction.

Production and supply of drugs in Schedule 3

8. (1) Notwithstanding the provisions of section 6(1)(a) of the Act—

- (a) a practitioner or druggist, acting in his capacity as such, may manufacture or compound any drug specified in Schedule 3;
- (b) a person lawfully conducting a retail pharmacy business and acting in his capacity as such may, at the pharmacy at which he carries on that business, manufacture or compound any drug specified in Schedule 3;
- (c) a person whose name is for the time being entered in the register kept for the purpose of this sub-paragraph by the Minister may produce, at the premises in respect of which his name is so entered and in compliance with any conditions subject to which his name is so entered, any drug specified in Schedule 3.

(2) Notwithstanding the provisions of section 6(1)(b) of the Act, any of the following persons, that is to say—

- (a) a practitioner;
- (b) a druggist;
- (c) a person lawfully conducting a retail pharmacy business;
- (d) the matron of a hospital or nursing home;
- (e) in the case of such drug supplied to her by a person responsible for the dispensing and supply of medicines at the hospital or nursing home, the sister for the time being in charge of a ward, theatre or other department in a hospital or nursing home;
- (f) a person in charge of a laboratory the recognised activities of which consist in, or include, the conduct of scientific education or research;
- (g) an analyst,

may, when acting in his capacity as such, supply or offer to supply any drug specified in Schedule 3 to any person who may lawfully have that drug in his possession;

Provided that nothing in this paragraph authorises—

- (i) the matron of a hospital or nursing home, having a druggist responsible for the dispensing and supply of medicines, to supply any drug;
- (ii) a sister for the time being in charge of a ward, theatre, or other department to supply any drug otherwise than for administration to a patient in that ward, theatre or department in accordance with the directions of a doctor or dentist;

(3) Notwithstanding the provisions of section 6(1)(b) of the Act, a person who is authorised as a member of a group may, under and in accordance with the terms of his group authority and in compliance with any conditions attached thereto, supply or offer to supply any drug specified in Schedule 3 to any person who may lawfully have that drug in his possession.

(4) Notwithstanding the provisions of section 6(1)(b) of the Act—

- (a) a person whose name is for the time being entered in that register kept for the purposes of this sub-paragraph by the Minister may, at the premises in respect of which his name is so entered and in compliance with any conditions subject to which his name is so entered, supply or offer to supply any drug specified in Schedule 3 to any person who may lawfully have that drug in his possession;
- (b) a person whose name is for the time being entered in the register kept for the purposes of paragraph (1)(c) by the Minister may supply any drug which he may, by virtue of his name being so entered, lawfully produce to any person who may lawfully have that drug in his possession.

(5) Notwithstanding the provisions of section 6(1)(b) of the Act, the owner of a ship, or the master of a ship which does not carry a doctor on board as part of her complement, may supply or offer to supply any drug specified in Schedule 3—

- (a) to any member of the crew; or
- (b) to any person who may lawfully supply that drug.

Possession of drugs in Schedules 2 and 3

9. (1) Notwithstanding the provisions of section 7(1) of the Act—

- (a) a person specified in Regulation 7(2) may have in his possession any drug specified in Schedule 2;
- (b) a person specified in Regulation 8(2) may have in his possession any drug specified in Schedule 3, for the purpose of acting in his capacity as such.

(2) Notwithstanding the provisions of section 7(1) of the Act a person may have in his possession any drug specified in Schedule 2 or 3 for administration for medical, dental or veterinary purposes in accordance with the directions of a practitioner:

Provided that this paragraph shall not have effect in the case of a person to whom the drug has been supplied by or on the prescription of a doctor if—

- (a) that person was being supplied with any controlled drug by or on the prescription of another doctor and failed to disclose that fact to the first mentioned doctor before the supply by him or on his prescription; or
- (b) that or any other person on his behalf made a declaration or statement, which was false in any particular, for the purpose of obtaining the supply or prescription.

(3) Notwithstanding the provisions of section 7(1) of the Act, a person who is authorised as a member of a group may, under and in accordance with the terms of his group authority and in compliance with any conditions attached thereto, have any drug specified in Schedule 2 or 3 in his possessions.

(4) Notwithstanding the provisions of section 7(1) of the Act—

- (a) a person whose name is for the time being entered in the register kept for the purpose of this sub-paragraph by the Minister may, in compliance with any conditions subject to which his name is so entered, have in his possession any drug specified in Schedule 3;
- (b) a person whose name is for the time being entered in the register kept for the purposes of Regulation 8(1)(c) by the Minister may have in his possession any drug which he may, by virtue of his name being so entered, lawfully produce;
- (c) a person whose name is for the time being entered in the register kept for the purposes of Regulation 8(4)(a) by the Minister may have in his possession any drug which he may, by virtue of his name being so entered, lawfully supply or offer to supply.

(5) Notwithstanding the provisions of section 7(1) of the Act—

- (a) the owner of a ship, or the master of a ship which does not carry a doctor on board as part of her complement, may have in his possession any drug specified in Schedule 2 or 3 so far as necessary for the equipment of the ship in compliance with the Merchant Shipping Act;
- (b) the master of a foreign ship which is in a port in Montserrat may have in his possession any drug specified in Schedule 2 or 3 so far as necessary for the equipment of the ship.

Exemption for midwives in respect of pethidine

10. (1) Notwithstanding the provisions of section 6(1)(b) and 7(1) of the Act, a registered midwife who has notified the Chief Medical Officer of her intention to practice, may subject to the provisions of this Regulation—

- (a) so far as necessary for the practice of her profession or employment as a midwife, have pethidine in her possession;
- (b) so far as necessary as afore-said, administer pethidine; and
- (c) surrender to the Chief Medical Officer any stocks of pethidine in her possession which are no longer required by her.

(2) Nothing in paragraph (1) authorises a midwife to have in her possession pethidine which has been obtained otherwise than on an order in writing specifying the name and occupation of the midwife obtaining the pethidine, the purpose for which it is required and the total quantity to be obtained signed by a doctor.

Cultivation under licence of Cannabis plant

11. Where any person is authorised by a licence of the Minister issued under this Regulation and for the time being in force to cultivate plants of the genus *Cannabis*, it shall not by virtue of section 8 of the Act be unlawful for that person to cultivate any such plant in accordance with the terms of the licence and in compliance with any conditions attached to the licence.

Approval of premises for cannabis smoking for research purposes

12. Section 10 of the Act (which makes it an offence for the occupier of premises to permit certain activities there) shall not have effect in relation to the smoking of cannabis or cannabis resin for the purpose of research on any premises for the time being approved for the purpose by the Minister.

Documents to be obtained by supplier of controlled drugs

13. (1) Where a person (hereafter in this paragraph referred to as “the supplier”), not being a practitioner, supplies a controlled drug otherwise than on a prescription, the supplier shall not deliver the drug to a person who—

- (a) purports to be sent by or on behalf of the person to whom it is supplied (hereafter in this paragraph referred to as “the recipient”); and
- (b) is not authorised by any provision of these Regulations other than the provisions of Regulation 5(f) to have the drug in his possession;

unless that person produces to the supplier a statement in writing signed by the recipient to the effect that he is empowered by the recipient to receive that drug on behalf of the recipient, and the supplier is reasonably satisfied that the document is a genuine document.

(2) Where a person (hereafter in this paragraph referred to as “the supplier”) supplies a controlled drug, otherwise than on a prescription or by way of

administration, to any of the persons specified in paragraph (4), the supplier shall not deliver the drug—

- (a) until he has obtained a requisition in writing which—
 - (i) is signed by the person to whom the drug is supplied (hereafter in this paragraph referred to as “the recipient”);
 - (ii) states the name, address and profession or occupation of the recipient;
 - (iii) specifies the purpose for which the drug supplied is required and the total quantity to be supplied; and
 - (iv) where appropriate, satisfies the requirements of paragraph (5);
- (b) unless he is reasonably satisfied that the signature is that of the person purporting to have signed the requisition and that person is engaged in the profession or occupation specified in the requisition:

Provided that where the recipient is a practitioner and he represents that he urgently requires a controlled drug for the purpose of his profession, the supplier may, if he is reasonably satisfied that the recipient so requires the drug and is, by reason of some emergency, unable before delivery to furnish to the supplier a requisition in writing duly signed, deliver the drug to the recipient on an undertaking by the recipient to furnish such a requisition within twenty-four hours next following.

(3) A person who has such an undertaking as aforesaid shall deliver to the person by whom the controlled drug was supplied a signed requisition in accordance with the undertaking.

- (4)** The persons referred to in paragraph (2) are—
 - (a) a practitioner;
 - (b) the matron of a hospital or nursing home;
 - (c) a person who is in charge of a laboratory the recognised activities of which consist in, or include, the conduct of scientific education or research;
 - (d) the owner of a ship, or the master of a ship which does not carry a doctor on board as part of her complement;
 - (e) the master of a foreign ship in a port in Montserrat.
- (5)** A requisition furnished for the purposes of paragraph (2) shall—
 - (a) where furnished by the matron of a hospital or nursing home, be signed by a doctor or dentist employed or engaged in that hospital or nursing home;
 - (b) when furnished by the master of a foreign ship, contain statement, signed by the proper officer of the port health authority within whose jurisdiction the ship is, that the quantity of the drug supplied is the quantity necessary for the equipment of the ship.

(6) Where the person responsible for the dispensing and supply of medicines at any hospital or nursing home supplies a controlled drug to the sister for the time being in charge of any ward, theatre or other department of that hospital or nursing home (hereafter in this paragraph referred to as “the recipient”) he shall—

- (a) obtain a requisition in writing, signed by the recipient, which specifies the total quantity of drug to be supplied; and
- (b) mark the requisition in such manner as to show that it has been complied with, and any requisition obtained for the purposes of this paragraph shall be retained in the dispensary at which the drug was supplied and a copy of the requisition or a note of it shall be retained or kept by the recipient.

(7) Nothing in this Regulation shall have effect in relation to the drugs specified in Schedule 1 or poppy-straw.

Form of a prescription

14. (1) Subject to the provisions of this Regulation, a person shall not issue a prescription containing a controlled drug other than a drug specified in Schedule 1 unless the prescription complies with the following requirements, that is to say, it shall—

- (a) be in ink or otherwise so as to be indelible and be signed by the person issuing it with his usual signature and dated by him;
- (b) insofar as it specifies the information required by sub-paragraph (e) and (f) below to be specified, be written by the person issuing it in his own handwriting;
- (c) specify the address of the person issuing it;
- (d) have written thereon, if issued by a dentist, the words “for dental treatment only” and, if issued by a veterinary practitioner, the words “for animal treatment only”;
- (e) specify the name and address of the person for whose treatment it is issued or, if it is used by a veterinary practitioner, of the person to whom the controlled drug prescribed is to be delivered;
- (f) specify the dose to be taken and—
 - (i) in the case of a prescription containing a controlled drug which is a preparation, the form and, where appropriate, the strength of the preparation, and either the total quantity (in both words and figures) of the preparation or the number (in both words and figures) of dosage units, as appropriate, to be supplied;
 - (ii) in any other case, the total quantity (in both words and figures) of the controlled drug to be supplied;
- (g) in the case of a prescription for a total quantity intended to be dispensed by instalments contain a direction specifying the amount of the instalments of the total amount which may be dispensed and the intervals to be observed when dispensing.

(2) Paragraph (1)(b) shall not have effect in relation to a prescription issued by a person approved (whether personally or as a member of a class) for the purposes of this paragraph by the Minister.

(3) In the case of a prescription issued for the treatment of a patient in a hospital or nursing home, it shall be sufficient compliance with paragraph (1)(e) if the prescription is written on the patient's bed card or case sheet.

Provisions as to supply on prescription

15. (1) A person shall not supply a controlled drug other than a drug specified in Schedule 1 on a prescription—

- (a) unless the prescription complies with the provisions of Regulation 14;
- (b) unless the address specified in the prescription as the address of the person issuing it is an address within Montserrat;
- (c) unless he either is acquainted with the signature of the person by whom it purports to be issued and no reason to suppose that it is not genuine, or has taken sufficient and reasonable steps to satisfy himself that it is genuine;
- (d) before the date specified in the prescription;
- (e) subject to paragraph (3), later than thirteen weeks after the date specified in the prescription.

(2) Subject to paragraph (3), a person dispensing a prescription containing a controlled drug other than a drug specified in Schedule 1 shall, at the time of dispensing it, mark thereon the date on which it is dispensed and shall retain it on the premises on which it was dispensed.

(3) In the case of a prescription containing a controlled drug other than a drug specified in Schedule 1, which contains a direction that specified instalments of the total amount may be dispensed at stated intervals, the person dispensing it shall not supply the drug otherwise than in accordance with that direction and—

- (a) paragraph (1) shall have effect as if for the requirement contained in sub-paragraph (e) thereof there were substituted a requirement that the occasion on which the first instalment is dispensed shall not be later than thirteen weeks after the date specified in the prescription;
- (b) paragraph (2) shall have effect as if for the words "at the time of dispensing it" there were substituted the words "on each occasion on which an instalment is dispensed".

Marking of bottles and other containers

16. (1) Subject to paragraph (2), no person shall supply a controlled drug otherwise than in a bottle, package or other container which is plainly marked—

- (a) in the case of a controlled drug other than a preparation, with the amount of the drug contained therein;
- (b) in the case of a controlled drug which is a preparation—

- (i) made up into tablets, capsules or other dosage units, with the amount of each component (being controlled drug) of the preparation in each dosage unit and the number of dosage units in the bottle, package or other container;
- (ii) not made up as aforesaid, with the total amount of the preparation in the bottle, package or other container and the percentage of each of its components which is a controlled drug.

(2) Nothing in this Regulation shall have effect in relation to the drugs specified in Schedule 1 or poppy-straw or in relation to the supply of a controlled drug by or on the prescription of a practitioner.

Keeping of registers

17. (1) Subject to paragraph (3) and Regulation 19 every person authorised by or under Regulation 4 or 7 to supply any drug specified in Schedule 2 or 4 shall comply with the following requirements, that is to say—

- (a) he shall in accordance with the provisions of this Regulation and of Regulation 18, keep a register and shall enter therein in chronological sequence particulars of every quantity of such a drug supplied (whether by way of administration or otherwise) by him whether to persons within or outside Montserrat;
- (b) he shall use a separate register or separate part of the register for entries made in respect of each class of drugs, and each of the drugs specified in paragraphs 1,3 and 6 of Schedule 2 and paragraphs 1 and 3 of Schedule 4 together with its salts and any preparation or other product containing it or any of its salts shall be treated as a separate class, so however that any stereoisomeric form of a drug or its salts shall be classed with that drug.

(2) Nothing in paragraph (1) shall be taken as preventing the use of a separate section within a register or separate part of a register in respect of different drugs or strengths of drugs comprised within the class of drugs to which that register or separate part relates.

(3) The foregoing provisions of this Regulation shall not have effect in relation to—

- (a) a person licensed under Regulation 4 to supply any drug, where the licence so directs; or
- (b) the sister for the time being in charge of a ward, theatre or other department in a hospital or nursing home.

Requirements as to registers

18. Any person required to keep a register under Regulation 17 shall comply with the following requirements, that is to say—

- (a) the class of drugs to which the entries on any page of any such register relate shall be specified at the head of that page;

- (b) every entry required to be made under Regulation 17 in such a register shall be made on the day on which the drug is obtained or, as the case may be, on which the transaction in respect of the supply of the drug by the person required to make the entry takes place or, if that is not reasonably practicable, on the day next following that day;
- (c) no cancellation, obliteration or alteration of any such entry shall be made, and a correction of such an entry shall be made only by way of marginal note or footnote which shall specify the date on which the correction is made;
- (d) every such entry and every correction of such an entry shall be made in ink or otherwise so as to be indelible;
- (e) such a register shall not be used for any purpose other than the purposes of these Regulations;
- (f) the person so required to keep such a register shall on demand made by the Minister or by any person authorised in writing by the Minister in that behalf—
 - (i) furnish such particulars as may be required in respect of the obtaining or supplying by him of any drug specified in Schedule 2 or 4, or in respect of any stock of such drugs in his possession;
 - (ii) for the purpose of confirming any such particulars, produce any stock of such drugs in his possession;
 - (iii) produce the said register and such other books or documents in his possession relating to any dealings in drugs specified in Schedule 2 or 4 as may be requested.
- (g) a separate register shall be kept in respect of each premises at which the person required to keep the register carries on his business or occupation, but subject to that not more than one register shall be kept at one time in respect of each class of drugs in respect of which he is required to keep a separate register, so, however, that a separate register may, with the approval of the Minister, be kept in respect of each department of the business carried on by him;
- (h) every such register in which entries are currently being made shall be kept at the premises to which it relates.

Record-keeping requirements in particular cases

19. Where a drug specified in Schedule 2 is supplied in accordance with Regulations 7(5)(a) to a member of the crew of a ship, an entry in the official log book of the ship or, in the case of ship which is not required to carry such official log book, a report signed by the master of the ship, shall, notwithstanding anything in these Regulations be sufficient record of the supply if the entry or record specified the drug supplied.

Records to be maintained by Midwives

20. A midwife authorised by Regulation 10(1) to have pethidine in her possession shall—

- (a) on each occasion on which she obtains a supply of pethidine, enter in a book kept by her and used solely for the purposes of this paragraph the date, the name and address of the person from whom the drug was obtained, the amount obtained and the form in which it was obtained; and
- (b) in administering pethidine to a patient, enter in the said book as soon as practicable the name and address of the patient, the amount administered and the form in which it was administered.

Preservation of registers, books and other documents

21. (1) A producer of any drug specified in Schedule 1 and a wholesale dealer in any such drug shall keep every invoice or other like record issued in respect of each quantity of such a drug obtained by him and in respect of each quantity of such a drug supplied by him.

(2) A retail dealer in any drug specified in Schedule 1 shall keep every invoice or other like record issued in respect of each quantity of such a drug obtained by him.

(3) Every document kept in pursuance of this Regulation shall be preserved for a period of two years from the date on which it is issued:

Provided that the keeping of a copy of the document made at any time during the said period of two years shall be treated for the purposes of this paragraph as if it were the keeping of the original document.

Destruction of controlled drugs

22. (1) No person who is required by any provision of, or by any term or condition of a licence having effect under these Regulations to keep records with respect to a drug specified in Schedule 2 or 4 shall destroy such a drug or cause such a drug to be destroyed except in the presence of and in accordance with any directions given by a person authorised (whether personally or as a member of a class) for the purposes of this paragraph by the Minister (hereafter in this Regulation referred to as an “authorised person”).

(2) An authorised person may, for the purpose of analysis, take a sample of a drug specified in Schedule 2 or 4 which is to be destroyed.

(3) Where a drug specified in Schedule 2 or 4 is destroyed in pursuance of paragraph (1) by or at the instance of a person who is required by any provision of, or by any term or condition of a licence having effect under these Regulations to keep a record in respect of the obtaining or supply of that drug, that record shall include particulars of the date of destruction and the quantity destroyed and shall be signed by the authorised person in whose presence the drug is destroyed.

(4) Where the master or owner of a ship has in his possession a drug specified in Schedule 2 which he no longer requires, he shall not destroy the drug or cause it to be destroyed but shall dispose of it to the Minister.

Quantities of drugs

23. The quantities of drugs specified for the purpose of section 7(4) of the Drugs (Prevention of Misuse) Act are—

- (a) heroin – two grammes and above
- (b) cocaine – one gramme and above
- (c) opium – fifty five grammes and above
- (d) morphine – three grammes and above
- (e) cannabis – fifteen grammes and above
- (f) cannabis resin – fifteen grammes and above

(Inserted by S.R.O. 18/1989)

SCHEDULE 1

CONTROLLED DRUGS EXCEPTED FROM THE PROHIBITION ON IMPORTATION, EXPORTATION AND POSSESSION AND SUBJECT TO THE REQUIREMENTS OF REGULATION 21

1. Any preparation of one or more of the substances to which this paragraph applies, not being a preparation designed for administration by injection, when compounded with one or more other active or inert ingredients and containing a total of not more than 100 milligrammes of the substance or substances (calculated as base) per dosage unit and with a total concentration of not more than 2.5 per cent (calculated as base) in individual preparation. The substances to which this paragraph applies are acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, nicocodine, micodicodine (6-nicotinoyl-dihydrocodeine), norcodeine, pholcodine and their respective salts.

2. Any preparation of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base, being a preparation compounded with one or more other active or inert ingredients in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

3. Any preparation of medicinal opium or of morphine containing (in either case) not more than 0.2 per cent of morphine calculated as anhydrous morphine base, being a preparation compounded with one or more other active or inert ingredients in such a way that the opium or as the case may be, the morphine, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

4. Any preparation of difenoxin (1-(3-cyano-3, 3-diphenylpropyl)-4-phenyl-piperidine-4-carboxylic acid) containing, per dosage unit, not more than 0.5 milligrammes of difenoxin and a quantity of atrophine sulphate equivalent to at least 5 per cent of the dose of difenoxin.

5. Any preparation of diphenoxylate containing, per dosage unit, not more than 2.5 milligrammes of diphenoxylate calculated as base, and a quantity of atrophine sulphate equivalent to at least one per cent of the dose of diphenoxylate.

6. Any preparation of propiram containing, per dosage unit, not more than 100 milligrammes of propiram calculated as base and compounded with at least the same amount (by weight) of methylcellulose.

7. Any powder of ipecacuanha and opium comprising 10 per cent opium, in powder, 10 per cent ipecacuanha root, in powder, well mixed with 80 per cent of any other powdered ingredient containing no controlled drug.

8. Any mixture containing one or more of the preparations specified in paragraphs 1 to 7 being a mixture of which none of the other ingredients is a controlled drug.

Regulations 6, 7, 9, 17, 19 and 22.

SCHEDULE 2

(Amended by S.R.O. 77/1996)

**CONTROLLED DRUGS SUBJECT TO THE REQUIREMENTS OF
REGULATIONS 13, 14, 15, 16, 17, 18, 19 AND 22**

1. The following substances are products, namely—

Acetorphine
Allylprodine
Alphacetylmethadol
Alphameprodine
Alphamethadol
Alphaprodine
Benzethidine
Betacetylmethadol (3-benzylmorphine)
Betameprodine
Betamethadol
Betaprodine
Bezitramide
Clonitazene
Cocaine
Desomorphine
Dextromoramide
Diamorphine
Diampromide
Diethylthiambutene
Difenoxin (1-(3-cyano-3,3-diphenyl-propyl)-4-phenylpiperidine-4-carboxylic acid)
Dihydrocodeinone o-carboxymethyloxime
Dihydromorphine
Dimenoxadole
Dimepheptanol
Dimethylthiambutene
Dioxaphetyl butyrate

Diphenoxy
Dipipanone
Dronabinol
Drotebanol (3,4-dimethoxy-17-methylmorphinan-6B,14-diol)
Ecgonine, and any derivatives of ecgonine which is convertible to ecgonine or to cocaine
Ethylmethylthiambutene
Etonitazene
Etorphine
Etoxadine
Fentanyl
Furethidine
Hydromorphanol
Hydroxypethidine
Isomethadone
Ketobemidone
Levomethorphan
Levomoramide
Levophenacymorphan
Levorphanol
Medicinal opium
Metazocine
Methadone
Methadyl acetate
Methyldesorphine
Methyldihydromorphine (6-methyldihydromorphine)
Metopon
Morpheridine
Morphine
Morphine methobromide, morphine N-oxide and other pentavalent nitrogen morphine derivative
Myrophine
Nicomorphine

Noracymethadol
Norlevorphanol
Normethadone
Norpipanone
Oxycodone
Oxymorphone
Pethidine
Phenadoxone
Phenampromide
Phenazocine
Phencyclidine
Phenomorphane
Phenoperidine
Piminodine
Piritramide
Proheptazine
Properidine
Racemethorphan
Racemorphan
Thebacon
Thebaine
Trimeperidine
4-cyano-2-dimethylamino-4,4-diphenylbutane
4-cyano-1-methyl-4-phenylpiperidine
1-cyano-1-methyl-4-phenylpiperidine-4-carboxylic acid
2-methyl-3-morpholino-1,1-diphenylpropanecarboxylic acid
4-phenylpiperidine-4-carboxylic acid ethyl ester.

2. Any stereoisomeric form of a substance specified in paragraph 1 not being dextromethorphan or dextrorphan.
3. Any ester other of a substance specified in paragraph 1 or 2, not being a substance specified in paragraph 6.
4. Any salt of a substance specified in any of paragraphs 1 to 3.

5. Any preparation or other product containing a substance or product specified in any of paragraphs 1 to 4 not being a preparation specified in Schedule 1.

6. The following substances and products, namely—

Acetyldihydrocodeine

Amphetamine

Codeine

Dexamphetamine

Dihydrocodeine

Ethylmorphine (3-ethylmorphine)

Methaqualone

Methylamphetamine

Methylphenidate

Nicocodine

Nicodicodine (6-nicotinyldihydrocodeine)

Norcodeine

Phenmetrazine

Pholcodine

Propiram

7. Any stereoisomeric form of a substance specified in paragraph 6.

8. Any salt of a substance specified in paragraph 6 or 7.

9. Any preparation or other product containing a substance or product specified in any of paragraphs 6 to 8, not being a preparation specified in Schedule 1.

Regulations 6,8 and 9

SCHEDULE 3

**CONTROLLED DRUGS SUBJECT TO THE REQUIREMENTS OF
REGULATIONS 13, 14, 15 AND 16**

1. The following substances, namely—
 - Benzphetamine
 - Chlorphenermine
 - Mephentermine
 - Phendimetrazine
 - Pipradrol
 2. Any stereoisomeric form of a substance specified in paragraph 1.
 3. Any salt of a substance specified in paragraph 1 or 2.
 4. Any preparation or other product containing a substance specified in any of paragraphs 1 to 3, not being a preparation specified in Schedule 1.
- Regulations 17 and 22
-

SCHEDULE 4

(Amended By S.R.O. 77/1996)

**CONTROLLED DRUGS SUBJECT TO THE REQUIREMENTS
OF REGULATIONS 13, 14, 15, 16, 17 AND 24**

1. The following substances and products namely—
 - (a) Bufotenine
Cannabinol
Cannabinol derivatives not being Dronabinol or its stereoisomers
Cannabis and cannabis resin
Coca leaf
Concentrate of poppy-straw
Lysergamide
Lysergamide and other N-alkyl derivatives of lysergamide
Mescaline
Psilocin
Raw opium
4-bromo-2,5-dimethoxy-x-methylphenethylamine
N,N-diethyltryptamine
N,N-dimethyltryptamine
2,5-dimethoxy-alpha-4-dimethylphenethylamine
 - (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the side chain with one or more alkyl substituent but no other substituent;
 - (c) any compound (not being methoxyphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, a-methylphenethylamine, alpha-ethylphenethylamine, or an N-alkyl-alpha-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents.
2. Any stereoisomeric form of a substance specified in paragraph 1.

3. Any ester or ether of a substance specified in paragraph 1 or 2.
 4. Any salt of a substance specified in any of paragraphs 1 to 3.
 5. Any preparation or other product containing a substance or product specified in any of paragraphs 1 to 4, not being a preparation specified in Schedule 1.
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DRUGS (NOTIFICATION OF AND SUPPLY TO ADDICTS) REGULATIONS

– SECTION 12

*(S.R.O. 13/1989)***Commencement***[29 August 1989]***Short title**

1. These Regulations may be cited as the Drugs (Notification of and Supply to Addicts) Regulations.

Interpretation

2. (1) In these Regulations, the expression “**drugs**” means a controlled drug specified in the Schedule to these Regulations.

(2) For the purposes of these Regulations, a person shall be regarded as being addicted to a drug if, and only if, he has as a result of repeated administration become so dependent upon the drug that he has an overpowering desire for the administration of it to be continued.

(3) In these Regulations any reference to any enactment shall be construed as a reference to that enactment as amended, and as including a reference thereto as extended or applied, by or under any other enactment.

Addict Report

3. (1) Subject to paragraph (2) of this Regulation, any doctor who attends a person who he considers or has reasonable grounds to suspect, is addicted to any drug shall, within seven days of the attendance, furnish in writing to the Chief Medical Officer such of the following particulars with respect to that person as are known to the doctor, that is to say, the name, address, sex and date of birth of that person, the date of the attendance and the name of the drug or drugs concerned.

(2) It shall not be necessary for a doctor who attends a person to comply with the provisions of paragraph (1) of this Regulation in respect of that person if—

- (a) the doctor is of the opinion, formed in good faith, that the continued administration of the drug or drugs concerned is required for the purpose of treating organic disease or injury; or
- (b) the particulars which, apart from this paragraph, would have been required under these provisions to be furnished have, during the period of twelve months ending with the date of the attendance, been furnished in compliance with those provisions—
 - (i) by the doctor; or
 - (ii) if the doctor is a partner in or employed by a firm of general practitioners, by a doctor who is a partner in or employed by that firm; or

- (iii) if the attendance is on behalf of another doctor, whether for payment or otherwise, by that doctor; or
- (iv) if the attendance is at a hospital, by a doctor on the staff of that hospital.

Treatment of Addicts

4. (1) Subject to paragraph (2) of this Regulation, a doctor shall not administer or supply to a person who he considers, or has reasonable grounds to suspect, is addicted to any drug, or authorise the administration or supply to such a person of, any substance specified in paragraph (3) below, or prescribe for such a person any such substance, except—

- (a) for the purpose of treating organic disease or injury; or
- (b) under and in accordance with the terms of a licence issued by the Minister in pursuance of these Regulations.

(2) Paragraph (1) of this Regulation shall not apply to the administration or supply by a doctor of a substance specified in paragraph (3) below if the administration or supply is authorised by another doctor under and in accordance with the terms of a licence issued to him in pursuance of these Regulations.

(3) The substances referred to in paragraphs (1) and (2) above are—

- (a) cocaine, its salts and any preparation or other product containing cocaine or its salts other than a preparation falling within paragraph 2 of Schedule 1 to the Drugs (Prevention of Misuse) Regulation;
 - (b) diamorphine, its salts and any preparation or other product containing diamorphine or its salts.
-

SCHEDULE**CONTROLLED DRUGS TO WHICH THESE REGULATIONS APPLY**

1. The following substances and products namely—

Cocaine	Methadone
Dextromoramide	Morphine
Diamorhpine	Opium
Dipepanone	Oxycodone
Hydrocodone	Pethidine
Hydromorphone	Phenazocine
Levorphanal	Piritramide

2. Any stereoisomeric form of a substance specified in paragraph 1 above not being dextrorphan.

3. Any ester or ether of a substance specified in paragraph 1 or 2 above not being a substance for the time being specified in Part II of Schedule to the Drugs (Prevention of Misuse) Act.

4. Any salt of a substance specified in any of paragraph 1 to 3 above.

5. Any preparation or other product containing a substance or product specified in any of paragraphs 1 to 4 above.

U.S.A. – U.K. CO-OPERATION ARRANGEMENTS

(G.N. 65/1982)

EXCHANGE OF NOTES BETWEEN THE GOVERNMENT OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND AND THE GOVERNMENT OF THE UNITED STATES OF AMERICA CONCERNING CO-OPERATION IN THE SUPPRESSION OF THE UNLAWFUL IMPORTATION OF NARCOTIC DRUGS INTO THE UNITED STATES.

No. 1

*The Secretary of State for Foreign and Commonwealth Affairs to
the United States Ambassador at London*

Foreign and Commonwealth Office, London.

13th November, 1981

Your Excellency,

I have the honour to refer to the recent discussions between representatives of our two Governments concerning the desire of the authorities of the United States to take more effective measures to suppress the unlawful importation of cannabis and other narcotic drugs into the United States.

Bearing in mind the special nature of this problem and having regard to the need for international co-operation in suppressing the illicit traffic in narcotic drugs, which is recognised in the Single Convention on Narcotic Drugs of 1961⁽¹⁾, I have the honour to propose the following:

1. The Government of the United Kingdom of Great Britain and Northern Ireland agree that they will not object to the boarding by the authorities of the United States, outside the limits of the territorial sea and contiguous zone of the United States and within the areas described in paragraph 9 below, of private vessels under the British flag in any case in which those authorities reasonably believe that the vessel has on board a cargo of drugs for importation into the United States in violation of the laws of the United States.

2. On boarding the vessel the authorities of the United States may address enquiries to those on board, examine the ship's papers and take such other measures as are necessary to establish the place of registration of the vessel. When these measures suggest that an offence against the laws of the United States relative to the importation of narcotic drugs is being committed, the Government of the United Kingdom agree that they will not object to the authorities of the United States instituting a search of the vessel.

3. If the authorities of the United States then believe that an offence against the laws referred to in paragraph 2 above is being committed, the Government of the

⁽¹⁾ Treaty Series No. 34 (1965), Cmnd. 2631.

United Kingdom agree that they will not object to the vessel being seized and taken into a United States port.

4. The Government of the United Kingdom may, within 14 days of the vessel's entry into port, object to the continued exercise of United States jurisdiction over the vessel for purposes of the laws referred to in paragraph 2 above, and the Government of the United States shall thereupon release the vessel without charge. The Government of the United States shall not institute forfeiture proceedings before the end of the period allowed for objection.

5. The Government of the United Kingdom may, within 30 days of the vessel's entry into port, object to the prosecution of any United Kingdom national found on board the vessel, and the Government of the United States shall thereupon release such person. The Government of the United Kingdom agree that they will not otherwise object to the prosecution of any person found on board the vessel.

6. Any action by the authorities of the United States shall be taken in accordance with this Agreement and United States law.

7. In any case where a vessel under the British flag is boarded the authorities of the United States shall promptly inform the authorities of the United Kingdom of the action taken and shall keep them fully informed of any subsequent developments.

8. If any loss or injury is suffered as a result of any action taken by the United States in contravention of these arrangements or any improper or unreasonable action taken by the United States pursuant thereto, representatives of the two Governments shall meet at the request of either to decide any question relating to compensation. Representatives of the two Governments shall in any case meet from time to time to review the working of these arrangements.

9. The areas referred to in paragraph 1 above comprise the Gulf of Mexico, the Caribbean Sea, that portion of the Atlantic Ocean West of longitude 55° West and South of latitude 30° North and all other areas within 150 miles of the Atlantic coast of the United States.

10. I have the honour to suggest that if the foregoing proposals are acceptable to the Government of the United States, this Note and Your Excellency's confirmatory reply shall constitute an Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the United States which shall enter into force on the date of your reply. It may be terminated by either Government on one month's notice but will continue to remain effective in respect of any proceedings based on action taken during its validity.

Accept, Excellency, the renewed
assurance of my highest consideration.

(For the Secretary of State)
MICHAEL St. E. BURTON.

No. 2

*The United States Ambassador at London to
the Secretary of State for Foreign and Commonwealth Affairs*

Embassy of the United States of America

November 13, 1981

No. 55

Excellency:

I have the honour to refer to your Note of November 13, 1981, which reads as follows:

(As in No. 1)

I have the honour to inform you that the Government of the United States welcomes the co-operation offered by your Government in efforts to suppress the unlawful importation of narcotic drugs into the United States and to confirm that the foregoing proposals are acceptable to the Government of the United States which therefore agrees that your Note and this reply shall constitute an agreement between the Government of the United States and the Government of the United Kingdom of Great Britain and Northern Ireland which shall enter into force on the date of this reply.

Accept, Excellency, the renewed assurances of my highest consideration.

EDWARD J. STREATOR,
Charge d'Affaires ad interim.

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