

Zimbabwe

Dangerous Drugs Act

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Zimbabwe

Dangerous Drugs Act**Chapter 15:02**

Commenced on 15 April 1956

*[Up to date as at 31 December 2016]**[Note: This version of the Act was revised and consolidated by the Law Development Commission of Zimbabwe]***Part I – Preliminary****1. Short title**This Act may be cited as the Dangerous Drugs Act *[Chapter 15:02]***2. Interpretation**

(1) In this Act—

"**corresponding law**" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Zimbabwe to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs in accordance with the Hague Convention, the Geneva Convention (No. 1) and the Geneva Convention (No. 2);

"**Director-General**" means the Director-General of the Medicines Control Authority of Zimbabwe appointed in terms of section 16 of the Medicines and Allied Substances Control Act *[Chapter 15:03]*;

[definition inserted by section 40 of Act 1/1996]

"**Geneva Convention (No. 1)**" means the International Opium Convention signed at Geneva on the 19th February, 1925;

"**Geneva Convention (No. 2)**" means the International Convention for limiting the manufacture, regulation and distribution of narcotic drugs signed at Geneva on the 13th July, 1931;

"**Hague Convention**" means the International Opium Convention signed at the Hague on the 3rd January, 1912;

"**inspector**" means an inspector appointed in terms of section fifteen;

"**Minister**" means the Minister of Health and Child Welfare or any other Minister to whom the President may, from time to time, assign the administration of this Act;

"**Registrar**" *[definition repealed by section 40 of Act 1/1996]*

"**Secretary**" means the Secretary of the Ministry for which the Minister is responsible;

"**specified police officer**" means any member of the Police Force of or above the rank of sergeant.

(2) In any certificate such as is referred to in the definition of "corresponding law" in subsection (1), a statement as to the effect of the law mentioned in such certificate or a statement in any such certificate that any facts constitute an offence against that law shall be conclusive.

(3) Any word or expression to which a meaning has been assigned in Chapter VII ("Crimes Involving Dangerous Drugs") of the Criminal Law Code shall have the same meaning when used in this Act.

[subsection inserted by section 282 of act 23 of 2004]

Part II – Coca leaves, indian hemp and raw opium

3. Application of Part II

This Part applies to any dangerous drug referred to in paragraph (a) of the definition of " dangerous drug" in section 155 of the Criminal Law Code (that is, any coca bush, coca leaf, raw opium or cannabis plant "coca leaves" means the leaves of any plant of the genus of the erythroxylaceae from which cocaine can be extracted either directly or by chemical transformation.

[section as substituted by section 282 of Act 23 of 2004]

4. ***

[section repealed by section 282 of Act 23 of 2004]

5. ***

[section repealed by section 282 of Act 23 of 2004]

6. Regulations

- (1) The Minister may by regulation—
 - (a) prohibit, control or restrict the production, possession, sale, use or distribution of drugs to which this Part applies, and the cultivation of plants from which such drugs are derived;
 - (b) prescribe measures to be taken for the eradication of plants, to which regulations made under paragraph (a) apply, found to be growing wild.
- (2) Any person who contravenes any provision of regulations made in terms of subsection (1) shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

[subsection inserted by section 4 of Act 22/2001]

Part III

[Part repealed by section 282 of Act 23 of 2004]

7. ***

[section repealed by section 282 of Act 23 of 2004]

8. ***

[section repealed by section 282 of Act 23 of 2004]

9. ***

[section repealed by section 282 of Act 23 of 2004]

Part IV – Medicinal opium, cocaine, morphine and other drugs

10. Application of this part

- (1) Save as is provided in Part V, the drugs to which this Part applies are the drugs specified in the Schedule.
- (2) *[subsection repealed by section 282 of Act 23 of 2004]*

- (3) The Minister may, by statutory instrument, apply this Part, with such modifications as may be specified, to any of the following drugs—
- (a) methylmorphine (commonly known as codeine); and
 - (b) ethylmorphine;
- and their respective salts.
- (4) If it is made to appear to the Minister that a finding with respect to a preparation containing any of the drugs to which this Part applies has, in pursuance of article 8 of the Geneva Convention (No. 1), been communicated by the Economic and Social Council of the United Nations to the parties to the said Convention, the Minister may, by statutory instrument, declare that this Part shall, as from such date as may be specified in the notice, cease to apply to the preparation specified therein.

11. Restriction on import and export of drugs to which this part applies

- (1) No person shall import into or export from Zimbabwe any drugs to which this Part applies, except under and in accordance with the terms of a licence issued by the Minister.
- (2) Any person who contravenes subsection (1) shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

[subsection inserted by section 4 of Act 22/2001]

12. Power to control manufacture, sale, etc., of drugs to which this part applies

- (1) For the purpose of preventing the improper use of the drugs to which this Part applies, the Minister may by regulation prohibit, control or restrict the manufacture, sale, possession or distribution of those drugs and in particular, but without prejudice to the generality of the foregoing—
- (a) prohibit the manufacture of any such drug except on premises licensed for the purpose by the Minister and subject to any conditions specified in the licence;
 - (b) prohibit the manufacture, sale or distribution of any such drug except by persons licensed or otherwise authorized under the regulations by the Minister and subject to any conditions specified in the licence or authority;
 - (c) regulate the issue of prescriptions containing any such drug and the dispensing of any such prescriptions;
 - (d) require persons engaged in the manufacture, sale or distribution of any such drug to keep such books and furnish such information either in writing or otherwise as may be prescribed by the regulations.
- (2) Regulations made under this section shall provide for authorizing a person lawfully carrying on business in accordance with any law relating to pharmacy and poisons as an authorized seller of poisons—
- (a) in the ordinary course of his retail business to manufacture, at any premises duly registered under any such law, any preparation, admixture or extract of a drug to which this Part applies; or
 - (b) to carry on at any such premises as aforesaid the business of retailing, dispensing or compounding any such drug;
- subject to the power of the Minister to withdraw the authorization in the case of a person who has been convicted of an offence against this Act and who cannot, in the opinion of the Minister, properly be allowed to carry on the business of manufacturing or selling or distributing, as the case may be, any such drug.
- (3) Nothing in any regulations made under this section shall be deemed to authorize the sale by retail of poisons by a person who is not qualified in that behalf under or otherwise than in accordance with any law

relating to pharmacy and poisons or to be in derogation of any such law prohibiting, restricting or regulating the sale of poisons.

- (4) Any person who contravenes any provision of regulations made in terms of this section shall be guilty of an offence and liable to a fine not exceeding level twelve or to imprisonment for a period not exceeding ten years or to both such fine and such imprisonment.

[subsection inserted by section 4 of Act 22/2001]

Part V – Control of dangerous drugs

[Part as substituted by section 282 of act 23 of 2004]

13. Interpretation in Part V

In this Part—

"**the 1961 Convention**" means the single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol Amending the Single Convention on Narcotic Drugs, 1961;

"**the 1971 Convention**" means the Convention on Psychotropic Substances, 1971;

"**the 1988 Convention**" means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988;

"**dangerous drug**" has the meaning given to that term in section 155 of the Criminal Law Code;

"**dangerous drugs crime**" means a crime specified in Chapter VII ("Crimes Involving Dangerous Drugs") of the Criminal Law Code;

"**deal in**", in relation to a dangerous drug, includes to sell or to perform any act, whether as a principal, agent carrier, messenger or otherwise, in connection with the delivery, collection, importation, exportation, trans-shipment, supply, administration, manufacture, cultivation, procurement or transmission of such drug;

"**police district**" means an area designated by the Commissioner of Police as a police district for the purposes of the administration of the Police Force;

"**scheduled drug**" means a drug specified in Part I or Part II of the Schedule and the term "Part I scheduled drug" shall be construed accordingly.

[section 13 substituted by section 282 of Act 23 of 2004]

14. Specification of dangerous drugs

- (1) Part I of the Schedule specifies dangerous drugs in compliance with the 1961, 1971 and 1988 Conventions.

- (2) Part II of the Schedule specifies other dangerous drugs.

- (3) If it appears to the Minister that any derivative of morphine or cocaine or of any salts of morphine or cocaine or any alkaloid of opium or any other drug of whatever kind not specified in Part I of the Schedule —

- (a) is or is likely to be productive, if improperly used, of ill effects substantially of the same character or nature as or analogous to those produced by morphine or cocaine; or
- (b) is capable of being converted into a substance which is likely to be productive, if improperly used, of such effects;

he may, by notice in a statutory instrument, after consultation with the Authority, amend Part I of the Schedule by specifying such derivative or alkaloid or drug.

- (4) If it is made to appear to the Minister that, in pursuance of article 12 of the 1988 Convention, a decision by the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations to include or

delete from the annex to that Convention any substance has been communicated by the Secretary-General of the United Nations to the parties to that Convention, the Minister may, by notice in a statutory instrument, amend Part I of the Schedule by specifying or deleting such substance as a dangerous drug, as the case may be.

- (5) Whenever the Authority considers it necessary or desirable in the public interest that any drug, other than one specified in accordance with the 1988 Convention, should be prohibited absolutely, it may, by notice in a statutory instrument, after consultation with the Minister, amend Part II of the Schedule by specifying such drug, and may in like manner amend or revoke such specification.

[section 14 substituted by section 282 of Act 23 of 2004]

14A. Restriction on import and export of dangerous drugs

- (1) No person shall import into or export from Zimbabwe—
- (a) coca leaves, cannabis plant, raw opium or any drug specified in Part I of the Schedule except under and in accordance with the terms of a licence issued by the Authority;
 - (b) prepared opium, prepared cannabis, cannabis resin or any drug specified in Part II of the Schedule.
- (2) Any person who contravenes subsection (1) shall be guilty of unlawful dealing in a dangerous drug as provided in section 156 of the Criminal Law Code.
- (3) If at any time the importation into a foreign country of a dangerous drug referred to in paragraph (a) of subsection (1) is prohibited or restricted by the laws of that country, there shall, while that prohibition or restriction is in force, be attached to every licence which is issued under this Act authorising the export of that drug from Zimbabwe, such conditions as appear necessary for preventing or restricting, as the case may be, the exportation of that drug from Zimbabwe to that country during such time as the importation of that drug into that country is so prohibited or restricted, and any such licences issued before the prohibition or restriction came into force shall, if the Minister by order so directs, be deemed to be subject to the like conditions.

[section 14A substituted by section 282 of Act 23 of 2004]

14B. Authority may restrict lawful possession, etc., of dangerous drugs in certain cases

- (1) If any person who is a medical, dental or veterinary practitioner or pharmaceutical chemist or other person who is authorised in terms of section 161 ("Persons who may lawfully possess, deal in or use dangerous drugs") of the Criminal Law Code to lawfully possess, deal in or use a dangerous drug—
- (a) is convicted of a dangerous drugs crime or an offence under the repealed Act or this Part; or
 - (b) is considered by the Authority to be prescribing, administering or supplying any Part I scheduled drug in an irresponsible manner;
- the Authority may, subject to this section, issue a direction to that person prohibiting him from acquiring, possessing, prescribing, administering, manufacturing, compounding or supplying, as may be appropriate, such Part I schedule D drug for such period of time as the authority shall specify in the direction.
- (2) Before issuing any direction under subsection (1) the Authority shall direct the Director-General to give written notice to the person concerned of its intention to issue the direction.
- (3) A notice given under subsection (2) shall—
- (a) specify the terms of the proposed direction and the grounds on which the Authority proposes to issue it;
 - (b) indicate that the person to whom it is directed may within a calendar month of the receipt of the notice submit to the Director-General any comments he may wish to put forward in connection with the matter.

- (4) If—
- (a) no comments are submitted under paragraph (b) of subsection (3); or
 - (b) after consideration of any comments submitted under paragraph (b) of subsection (3) the Authority decides to issue the direction;
- the Authority may direct the Director-General to issue the direction.
- (5) any person aggrieved by a decision of the Authority to issue a direction under subsection (1) may, within thirty days after the date of that decision, appeal to the Administrative Court, but in such case the direction shall continue to have effect until the appeal is determined.
- (6) Any person subject to a direction issued under subsection (1) who contravenes the terms of the direction shall be guilty of contravening section 156 ("Unlawful dealing in dangerous drugs") or 157 ("Unlawful possession or use of dangerous drugs") of the Criminal Law Code with respect to the acquisition, possession, prescription, administration, manufacture, compounding or supply of the Part I scheduled drug specified in the direction.

[section 14B substituted by section 282 of Act 23 of 2004]

14C. Regulations under Part V

- (1) For the purpose of preventing the improper use of dangerous drugs, the Minister may by regulation prohibit, control or restrict the cultivation, manufacture, sale, possession or distribution of those drugs and, in particular, but without prejudice to the generality of the foregoing—
- (a) prohibit, control or restrict the cultivation, production, possession, sale, use or distribution of coca bushes, cannabis plants and raw opium;
 - (b) prescribe measures to be taken for the eradication of plants, to which regulations made under paragraph (a) apply, found to be growing wild;
 - (c) prohibit the manufacture of a Part I scheduled drug except on premises licensed for the purpose by the Authority and subject to any terms and conditions specified in the licence;
 - (d) prohibit the manufacture, sale or distribution of a Part I scheduled drug except by persons licensed or otherwise authorized under the regulations;
 - (e) require precautions for the safe custody of Part I scheduled drugs;
 - (f) require the packaging and labelling of Part I scheduled drugs and specify the manner of such packaging and labelling;
 - (g) regulate the transport of Part I scheduled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
 - (h) regulate the issuing of prescriptions containing any Part I scheduled drug and the supply of such drugs on prescription and the dispensing of any such prescriptions;
 - (i) require persons issuing or dispensing prescriptions containing Part I scheduled drugs to furnish to the Authority such information relating to those prescriptions as may be prescribed;
 - (j) require persons engaged in the manufacture, sale and distribution of any Part I scheduled drug to keep such books and furnish such information, either in writing or otherwise, as may be prescribed;
 - (k) require any medical practitioner treating a person whom he considers, or has reasonable grounds to suspect, is addicted to any dangerous drug, to furnish such particulars concerning that person to the Permanent Secretary responsible for health as may be prescribed;
 - (l) prohibit any medical practitioner from administering, supplying or authorising the administration and supply to persons addicted to any dangerous drug such drug, and from prescribing for such persons such drug, except under and in accordance with the terms of a permit issued by the

Permanent Secretary responsible for health.

- (m) regulate the fees payable for the issue or renewal or any licence, application or thing done in terms of this Part;
 - (n) make any contravention of the regulations an offence and impose a fine not exceeding level six for any such contravention.
- (2) Regulations made under this section shall provide for authorising a person lawfully carrying on business as a pharmaceutical chemist—
- (a) in the ordinary course of his retail business to manufacture, at any premises registered under Part VI, any preparation, admixture or extract of a Part I scheduled drug;
 - (b) to carry on at any such premises the business of retailing, dispensing or compounding any such drug;

subject to the power of the Authority to withdraw the authorisation in the case of a person who has been convicted of a dangerous drugs crime, and who cannot, in the opinion of the Authority, properly be allowed to carry on the business of a manufacturing or selling or distributing, as the case may be, such a drug.

[section 14C substituted by section 282 of Act 23 of 2004]

14D. Powers of search, seizure and forfeiture

- (1) Notwithstanding anything to the contrary contained in any other enactment, and without derogation from section sixteen, if any inspector, customs officer, or police officer above the rank of sergeant (or below the rank of sergeant with the written authorisation of a police officer above the rank of sergeant) has reasonable grounds for believing that any person is in unlawful possession of any dangerous drug, he may, without a search warrant—
- (a) enter upon any land where such person is believed to be, and there require him to produce for his inspection such dangerous drug; or
 - (b) search such person or any animal in his possession, and enter and search any land, building, vehicle, aircraft, train, vessel, or boat in the possession or use of such person:

Provided that—

- (i) a person shall be searched only by a person of like sex; and
 - (ii) such search shall be done with the strictest regard to decency and decorum; and seize any dangerous drug in the possession of such person and, unless he is satisfied that such person will appear and answer any charge which may be preferred against him, arrest and detain him.
- (2) Any inspector, customs officer or police officer above the rank of sergeant (or below the rank of sergeant with the written authorisation of a police officer above the rank of sergeant) may at any time enter upon and inspect any land, building or other structure on or in which plants, from which dangerous drugs are derived, may be found, for the purpose of ascertaining if any such plants are being cultivated in contravention of this Part or Chapter VII - ("crimes involving dangerous drugs") of the criminal law code.
- (3) If on any search or inspection made in terms of this section any dangerous drug, pipe, receptacle or appliance for smoking or using the same or any plant which it is suspected upon reasonable grounds is being cultivated in contravention of this Part or Chapter VII ("Crimes involving dangerous drugs") of the Criminal Law Code is found, it may be seized and removed, together with any books, accounts or documents relating thereto.
- (4) Any person who is arrested and detained and any dangerous drug or article which is seized in terms of subsection (1) or (3) shall be taken as soon as practicable before a court of competent jurisdiction to be dealt with according to law.

- (5) Any person who resists, hinders or obstructs an inspector or other person in the lawful exercise of his powers under this section shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.
- (6) If on the trial of any person for contravening or failing to comply with any provision of this Act or any condition of any authority or licence issued thereunder it is proved that any drug, pipe, receptacle, appliance or plant seized under this section was produced, kept, used, sold, distributed or cultivated in contravention of this Act, it shall be forfeited to the State.

[section 14D substituted by section 282 of Act 23 of 2004]

14E. Forfeiture on conviction, and prohibition from driving and flying

- (1) Where any person is convicted of any dangerous drugs crime the court—
 - (a) shall order that any drug to which the conviction relates be forfeited to the State, unless the drug is further required as an exhibit at a trial; and
 - (b) may order that any vehicle, aircraft, vessel, boat, animal, receptacle or thing in or upon which such drug was found or was used for the purpose of or in connection with such drug, be forfeited to the State, and section 62 of the Criminal Procedure and Evidence Act *[Chapter 9:07]* shall thereupon apply, *mutatis mutandis*, in respect of the vehicle, aircraft, vessel, boat, animal, receptacle, container or thing.
- (2) If it is established to the satisfaction of the court convicting a person of a dangerous drugs crime that the convicted person used any motor vehicle or aircraft to convey the drug to which the conviction relates, the court may order that the convicted person or, where the motor vehicle was driven or aircraft was flown by another person who was a participant or accomplice in or accessory to the crime, such other person, be prohibited from driving all classes of motor vehicles or flying all types of aircraft for a period not exceeding fifteen years, as the case may be, and the appropriate provisions of the Road Traffic Act *[Chapter 13:11]* or the Civil Aviation Act *[Chapter 13:16]* shall apply, *mutatis mutandis*, in respect of any such prohibition.

[section 14E substituted by section 282 of Act 23 of 2004]

14F. Safe custody of forfeited dangerous drugs

- (1) Upon the conclusion of criminal proceedings resulting in the conviction of a person of a dangerous drugs crime, the court shall order that any dangerous drugs forfeited to the State, other than cannabis, be delivered forthwith to the police officer in command of the police district where the drugs were seized for safe custody, and shall ensure that such police officer and the Director-General are given full particulars of such drugs, including their quantity and any other relevant information.
- (2) Pending their destruction in terms of section fourteen G, the Director-General shall store any drugs delivered to him under subsection (1) in a place of maximum security under his personal control, free from contamination by moisture or dust, and shall protect them from access by any other person, and keep and maintain them in such a safe manner as to avoid and prevent any deterioration whatsoever.

[section 14F substituted by section 282 of Act 23 of 2004]

14G. Destruction of forfeited dangerous drugs and articles

- (1) Within seven days of the receipt from the court of any consignment of forfeited dangerous drugs the police officer in command of the police district to whom any dangerous drugs are delivered in terms of section fourteen F (hereafter in this section called "the custodian police officer") shall communicate in writing to the Commissioner of Police, the Director-General, the Commissioner-General of the Zimbabwe Revenue Authority and the Attorney-General, the full particulars of such drugs, including their quantity and all other relevant information, which shall, in every material respect, correspond strictly with the particulars furnished to the custodian police officer and the Director-General by the court at the time of

delivery to him of the forfeited dangerous drugs.

- (2) Within fourteen days of the written communication referred to in subsection (1), the custodian police officer shall appoint a date and time, which shall not be before the expiry of the period within which an appeal against the conviction concerned may be noted, for the total destruction by incineration of such drugs:

Provided that, where an appeal has been noted, the drugs shall not be destroyed until such time as the appeal has been abandoned or determined, whereupon this subsection shall apply.

- (3) For the purposes of subsection (2) there is hereby constituted a panel comprising a police officer of or above the rank of superintendent designated by the Commissioner of Police, a senior customs officer designated by the Commissioner-General of the Zimbabwe Revenue Authority, the Director-General or an inspector designated by him and a senior official of the Ministry responsible for justice designated by the Attorney-General, who shall, if they so decide whether on their own initiative or at the request of the custodian police officer concerned, assist the custodian police officer in the destruction of all dangerous drugs, other than cannabis plants, forfeited to the State.
- (4) On the date and time appointed by the custodian police officer under subsection (2), the panel referred to in subsection (3) may attend to the destruction by incineration of the drugs concerned in the full view and presence of each other and, immediately thereafter, shall sign a joint declaration in the prescribed form, attesting to the total destruction of the drugs.
- (5) Within fourteen days of the destruction of any dangerous drugs forfeited to the State, the Director General shall cause to be published in the *Gazette* for public information the joint declaration referred to in subsection (4).
- (6) Whenever the custodian police officer is prevented by illness or other reasonable cause from discharging his functions under this section, such functions shall be discharged by any police officer of or above the rank of sergeant designated by the custodian police officer for that purpose.
- (7) Cannabis or other article forfeited under this Part shall, unless the court otherwise directs, be burned or otherwise destroyed in the presence of a specified police officer.

[section 14G substituted by section 282 of Act 23 of 2004]

14H. Forfeiture on acquittal or withdrawal of charge

At the conclusion of any proceedings in connection with a dangerous drugs crime, resulting in the accused being acquitted or the charge against him being withdrawn or otherwise dismissed, the court shall order that any drug, other than cannabis, which was seized in connection with the proceedings, shall be forfeited to the State, and sections fourteen F and fourteen G shall apply, *mutatis mutandis*, in relation to the drug:

Provided that, if the drug is further required as an exhibit at a trial, this section shall not apply in relation to the drug.

[section 14H substituted by section 282 of Act 23 of 2004]

14J. Forfeiture where no criminal proceedings are instituted

If any dangerous drug, other than cannabis, has been seized by a police officer or any other public officer and no criminal proceedings are instituted in connection therewith and the drug is not further required as an exhibit at a trial, the drug shall be forfeited to the State and the police officer or other public officer concerned shall deliver the drug to the Director-General as though the court had made an order in respect of that drug under section fourteen G, and thereafter section fourteen H and shall apply, *mutatis mutandis*, in relation to the drug.

[section 14J substituted by section 282 of Act 23 of 2004]

Part VI – General

15. Appointment of inspectors

- (1) Subject to subsection (2), the Minister shall appoint one or more inspectors for the purpose of enforcing this Act.
- (2) No person shall be qualified for appointment as an inspector unless he is a person duly authorized to act as a compounder or dispenser of poisons or drugs in terms of any law relating to pharmacy and poisons.

16. Powers of inspection

- (1) Any inspector shall, for enforcing this Act, have power at all reasonable times to enter the premises on which any pharmaceutical chemist, general dealer or licensed manufacturer of any drug to which this Act applies carries on business, and any premises owned or occupied by any person authorized to be in possession of any such drug, and to enter any other premises in which he has reasonable cause to suspect that an offence against this Act has been committed, and in either case shall have power to make such examination and inquiry and do such other things, including the checking of stocks and the taking, on payment therefor, of samples as may be necessary for ascertaining whether this Act is being complied with.
- (2) All books, records and documents required to be kept by any person under this Act shall be open to inspection by any police officer or by any other member of a police force authorized in writing by a magistrate or by a police officer.
- (3) If any person wilfully delays or obstructs an inspector or a member of a police force in the exercise of his powers under this section, or refuses to allow any sample to be taken in accordance with this section, or fails without reasonable excuse to give any information which he is duly required under this section to give, he shall be guilty of an offence and liable to a fine not exceeding level five or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

[subsection amended by section 4 of Act 22/2001]

17. ***

[section repealed by section 282 of Act 23 of 2004]

18. Persons upon whom powers of inspection, etc., are conferred to produce proof of identity

Any person upon whom powers of inspection, search, seizure or forfeiture are conferred under this Act who fails on demand to produce—

- (a) in the case of an inspector, a certificate under the hand of the Secretary of his appointment as an inspector;
- (b) in the case of—
 - (i) a customs officer; or
 - (ii) a specified police officer;who is not in uniform, proof of his identity;
- (c) in the case of a police officer authorized in writing by a magistrate or by a specified police officer, to exercise those powers, his authority in writing;

shall not, save as is provided in subsection (4) of section seventeen, thereafter be entitled to exercise those powers until he has produced that certificate, proof of identity or authority in writing, as the case may be.

19. Offences and penalties

- (1) Subject to this section, any person—
- (a) ...
 - (b) who acts in contravention of or fails to comply with the conditions of a licence issued or authority granted under or in pursuance of this Act; or
 - (c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence or authority as aforesaid makes a declaration or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or a document containing the same; or
 - (d) ...

shall be guilty of an offence and, subject to subsection (3), liable to a fine not exceeding level seven or to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.

[subsection amended by section 4 of Act 22/2001]

- (2) *[subsection repealed by section 282 of Act 23 of 2004]*
- (3) *[subsection repealed by section 282 of Act 23 of 2004]*
- (4) *[subsection repealed by section 282 of Act 23 of 2004]*
- (5) Any person who is convicted of any offence in terms of subsection (1) which involves a contravention of any provision of this Act relating to the keeping of books or the issuing or dispensing of prescriptions containing any drug to which this Act applies shall be liable to a fine not exceeding—
- (a) for a first such offence, level four or imprisonment not exceeding three months or to both such fine and such imprisonment;
 - (b) for a second or subsequent such offence, level six or imprisonment for a period not exceeding twelve months or to both such fine and such imprisonment.

[subsection amended by section 4 of Act 22/2001]

- (6) Indian hemp or other article forfeited under this Act shall, unless the court otherwise directs, be burned or otherwise destroyed in the presence of a specified police officer.
- (7) *[subsection repealed by section 282 of Act 23 of 2004]*

19A. Offences involving juveniles

Where an offence of which a person is convicted under this Act involves-

- (a) unlawfully supplying a drug to or procuring a drug for a person under the age of eighteen years, or offering so to supply or procure; or
- (b) inciting or influencing a person under the age of eighteen years unlawfully to smoke or use any drug in contravention of Part III;

the court shall have regard to that fact as an aggravating feature when imposing sentence on the convicted person.

[section inserted by section 4 of Act 22/2001]

20. ***

[section repealed by section 282 of Act 23 of 2004]

21. ***

[section repealed by section 282 of Act 23 of 2004]

22. ***

[section repealed by section 282 of Act 23 of 2004]

23. ***

[section repealed by section 282 of Act 23 of 2004]

24. ***

[section repealed by section 282 of Act 23 of 2004]

25. ***

[section repealed by section 282 of Act 23 of 2004]

26. Power of arrest

Any police officer may arrest without warrant a person who has committed, or attempted to commit, or is reasonably suspected by the police officer of having committed or attempted to commit an offence against this Act if he has reasonable grounds for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to, and cannot be ascertained by, him.

27. Licences and authorities

- (1) A licence or authority issued for the purposes of this Act by the Minister may be issued on such terms and subject to such conditions, including, in the case of a licence, the payment of a fee, as the Minister may fix.
- (2) Whenever the Minister is empowered under any provision of this Act to issue any licence or authority, he may delegate to the Secretary such power, subject to the right of any person to whom the issue of such licence or authority has been refused to appeal in writing to the Minister against such refusal.

Schedule (Section 14)

Scheduled drugs

[Schedule as substituted by section 282 of Act 23 of 2004]

Part I – Dangerous drugs specified in compliance with 1961, 1971 and 1988 conventions

1. The following substances or plants, namely—

Acetorphine; Acetyldihydrocodeine; Acetylmethadol; Alfentanil; Allylprodine; Alphacetylmethadol; Alphameprodine; Alphamethadol; Alphaprodine; Anileridine.

Benzethidine; Benzylmorphine; Betacetylmethadol; Betameprodine; Betamethadol; Betaprod; Bezitramide. Desomorphine; Dextromoramide; Dextropropoxyphene; Diampromide; Diethylthiambutene; Difenoxin (or diphenoxylate), except mixtures containing, per dosage unit, not more than 0,5 milligrams of difenoxin, calculated as the base, and a quantity of atropine sulphate equal to at 5,0 per cent of the quantity of difenoxin, calculated as the base, which is present in the mixture; Dihydromorphine; Dimenoxadol; Dimepheptanol; Dimethylthiambutene; Dioxaphetylbutyrate; Diphenoxylate, except preparations containing not more than 2,5 milligrams of diphenoxylate, calculated as the base, and not less than 25 micrograms of atropine sulphate per dosage unit; Dronabinol [(-) transdelta-9-

tetrahydrocannabinol]; Drotebanol.

Ecgonine and the esters and derivatives thereof which are convertible to ecgonine and cocaine;
Ethylmethylthiambutene; Ethylmorphine; Etonitazene; Etorphine; Etoxidine.

Fentanyl; Furethidine.

Hydrocodone (dihydrocodeinone); Hydromorphinol (14- hydroxydihydromorphine); Hydromorphone
(dihydromorphinone); Hydroxypethidine.

Isomethadone.

Ketobemidone.

Levomoramide; Levophenacymorphan; Levorphanol.

Mefenorex; Metazocine; Methadone; Methadone-intermediate; Methorphan, including levomethorphan
and racemethorphan, but excluding dextromethorphan; Methyl-desorphine; Methyl-dihydromorphine;
Methylphenidate and the derivatives thereof; Metopon; Moramide-intermediate; Morpheridine;
Morphine, except preparations and mixtures of morphine containing not more than 0,2 per cent of
morphine, calculated as anhydrous morphine; Morphine methobromide and other pentavalent nitrogen
morphine derivatives; Morphine-N-oxide and the derivatives thereof.; Myrophine
(myristylbenzylmorphine).

Nicodine; Nicodicodine; Nicomorphine; Noracymethadol; Norcodeine, except preparations and
mixtures containing not more than 20 milligrams norcodeine per recommended or prescribed dose;
Norlevorphanol; Normethadone; Normorphine (demethylmorphine or N-demethylated morphine);
Norpipanone.

Opium and opiates and any salt, compound, derivative or preparation of opium or opiates, whether
obtained directly or indirectly by extraction from material or substances obtained from plants, or obtained
independently by chemical synthesis, or by a combination of extraction and chemical synthesis, except
mixture containing not more than 0,2 per cent of morphine, calculated as anhydrous morphine; Opium-
poppy and poppy straw, whether obtained directly or indirectly by extraction from material or substances
obtained from plants, or whether obtained independently by chemical synthesis, or by a combination of
extraction and chemical synthesis; Oxycodone (14 hydroxydihydrocodeinone or
dihydrohydroxycodone); Oxymorphone (14-hydroxydihydromorphinone or dihydro-
hydroxymorphinone).

Pethidine, pethidine-intermediate A, pethidine-intermediate B and pethidine-intermediate C;
Phenadoxone; Phenampromide; Phenazocine; Phenomorphan; Phenoperidine; Piminodine; Piritramide;
Proheptazine; Propерidine; Propiram.

Racemoramide; Racemorphan.

Sufentanil.

Thebacon; Thebaine; Tilidine; Trimeperidine.

2. Unless expressly excluded, all substances included in this part include the following:

- (a) the isomers of the specified substances, where the existence of such isomers is possible;
- (b) the esters and ethers of the specified substances and of the isomers referred to in subparagraph (a),
as well as the isomers of such esters and ethers, where the existence of such esters, ethers and
isomers is possible;
- (c) the salts of the specified substances, of the isomers referred to in subparagraph (a) and of the
esters, ethers and isomers referred to in subparagraph (b), as well as the isomers of such salts,
where the existence of such salts and isomers is possible; and
- (d) all preparations and mixtures of the specified substances and of the isomers, esters, ethers and salts
referred to in this paragraph.

Part II – Prohibited drugs

[Schedule as substituted by section s.i 93 of 2010]

Bufotenine;

Brolamfetamine (DOB);

Catha, also known as Abyssinian. African, or Arabian Tea, Kat, Kath, Khat, or Miraa;

Cathine, all isomers and their stereochemical variants;

Cathinone, all isomers and their stereochemical variants;

Cocaine, also known as Basuco, Bazooka, Bernice, Blow, C. Charlie, Coke, Crack, Flake, Girl, Gold dust, Her, Lady, Leaf, Nose candy. Pasta, Rock, She, Snow, Space dust, Toot, White girl, White Lady:

DET:

DMA;

DMHP;

DMT;

DOET;

Eticyclidine (PCE):

Etryptamine;

Glutethimide;

Lysergamide;

Lysergide and other N-alkyle derivatives of lasergamide. including the drug commonly known as LSD, but not including methysergide maleate:

Mescaline;

Methcathinone;

4-methylaminorex:

MMDA;

4-MTA:

Methaqualone, also known as Mandrax:

Methylenedioxymethamphetamine, also known as Adam, F. Ecstasy, M&M. MDM. MDMA and XTC:

Methyprylon:

N.N-Diethyltryptamine

Parahexyl

PMA;

Psilocine, psilocin:

Psilocybine:

Rolicyclidine (PHP. PCPY):

STP. DOM:

Tenamfetarmine (MDA):

Tenocyclidine (TCP);

Tetrahydrocannabinols, all isomers and their stereochemical variants:

TMA; and

Any stereoisomeric form, ester, ether or salt of a substance prohibited under this Act and any preparation containing any proportion of the above-mentioned drugs