

**DRUGS (MISUSE) ACT****Principal Act**

<b>Act. No. 1973-06</b>	<i>Commencement</i>	1.6.1973
	<i>Assent</i>	29.3.1973

Amending enactments	Relevant current provisions	Commencement date
Acts. 1977-11	s.2(1)	
1985-20	s.2(4)	5.12.1985
1988-32	s.8	1.5.1989
1989-27	s. 9	10.8.1989
1991-15	Sch.2	13.6.1991
LN. 1993/012	Sch.1	28.1.1993
Act. 1995-05	ss.2, 4, 5, 8, 11, 12, 13, 14, 16, 17, 18, 19, 25, 26, 29, 31, 34, 35, Schs.2, 3, 4 and 5	10.3.1995
“	s.15	11.11.1999
LN. 1995/043	ss. 11(2), 29(1) and 30(3)	10.3.1995
Act. 1998-46	s.33	24.6.1999
2004-02	ss. 2, 14(3)(c) and (b), 15(1)(e) and (f), 23, 26(1), (2), (3) and (3)(a)	28.1.2004
LN. 2005/105	Sch. 1 and 4	14.7.2005
2006/138	Sch. 1	7.12.2006
Act. 2007-17	ss. 11(3), (4) & (5), Sch. 3	14.6.2007

Appointments made under s. 35 to the Advisory Council are not printed in this Edition.

Delegation to the Director of Medical and Health Services of the powers and duties of the Governor under Part II and III, except the power to make subsidiary legislation, (LN.65/1974) appears under the title Interpretation and General Clauses.

English source

**1973-06**

## Drugs (Misuse)

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Misuse of Drugs Act 1971 (1971 c. 38)

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**DRUGS (MISUSE) ACT**

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

**PART I.**  
**PRELIMINARY.**

**Short title.**

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

**Interpretation.**

(1971 c. 38,s.37). 2. (1) In this Act, unless the context otherwise requires—

“the Advisory Council” means the Advisory Council on the Misuse of Drugs established under section 35;

“cannabis” (except in the expression “cannabis resin”) means any part of any plant of the genus *cannabis* from which the resin has not been extracted, by whatever name they may be designated;

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

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

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

“Convention State” means a state outside Gibraltar which is a party to the Vienna Convention;

“corresponding law” has the meaning assigned by section 3;

“dentist” means a person registered as a dentist under the Medical and Health Act, 1997<sup>1</sup>;

“Director” means the Director of Medical and Health Services;

“doctor” means a person who is registered as a medical practitioner under the Medical and Health Act 1997;

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“medical practitioner” means a person registered under Part I or Part IA of the Register established under section 7 of the Medical and Health Act, 1997<sup>1</sup>;

“person lawfully conducting a retail pharmacy business” means a person lawfully conducting such a business in accordance with the Medical and Health Act, 1997;

“pharmacist” means a person registered under Part III of the Register established under section 7 of the Medical and Health Act, 1997<sup>1</sup>;

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

“Schedule Substance” means a substance for the time being specified in Schedule 4;

“supplying” includes distributing;

“veterinary practitioner” means (in the absence of a prescribed definition under this Act) a person registered in the register of veterinary surgeons kept in the United Kingdom under the Veterinary Surgeons Act 1966 ;

“Vienna Convention” means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances which was signed in Vienna on 20th December 1988.

(2) References 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 purposes of this Act the things which a person has in his possession shall be taken to include anything subject to his control which is in the custody of another.

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(4) References in this Act to the supply by any person of a controlled drug to another are references to the supply of such a drug to any other person, whether or not such other person is in Gibraltar.

**Meaning and evidence of “corresponding law”.**

(1971 c.38, s.36). 3. (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 Gibraltar 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 Her Majesty’s Government in the United Kingdom are for the time being parties.

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

**Controlled drugs and their classification.**

4. (1) In this Act—

(1971 c.38, s.2).

- (a) the expression “controlled drug” means any substance or product for the time being specified in Part I, II, or III of Schedule 1; and
- (b) the expressions “Class A drug”, “Class B drug” and “Class C drug” mean any of the substances and products for the time being specified respectively in Part I, Part II and Part III of that 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 Government may by Order make such amendments in Schedule 1 as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts I to III of that Schedule, including amendments for securing that no substance or product is for the time being specified in a particular one of those Parts or for inserting any substance or product into any of those Parts in which no substance or product is for the time being specified.

(3) An Order under this section may amend Part IV of Schedule 1, and may do so whether or not it amends any other Part of that Schedule.

(4) Where an Advisory Council has been established under this Act, the Government shall not make an Order under this section except after consultation with or on the recommendation of the Council.

**PART II.**  
**RESTRICTIONS CONCERNING**  
**CONTROLLED DRUGS.**

**Restriction of importation and exportation.**

5. (1) Subject to subsection (2)– *(1971 c.38, s.3).*

- (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 11; or
- (b) to the importation or exportation of a controlled drug under, and in accordance with, the terms of a licence issued by the Government, and in compliance with, any conditions attached thereto.

**Restriction of production and supply.**

6.(1) Subject to any regulations under section 11 for the time being in force, it shall not be lawful for a person– *(1971 c.38, s.4).*

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

(2) Subject to section 29, 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 a drug by another in contravention of that subsection.
- (3) Subject to section 29, it is an offence for a person—
  - (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1); or
  - (b) to be concerned in the supplying of such a drug to another in contravention of that subsection; or
  - (c) to be concerned in the making to another of an offer to supply such a drug in contravention of that subsection.

**Restriction of possession.**

(1971 c.38, s.5). 7. (1) Subject to any regulations under section 11 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 section 29 and to subsection (4) of this section, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1) of this section.

(3) Subject to section 29 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) 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.

(5) Subsection (4) shall apply in the case of proceedings for an offence under section 22(1) consisting of an attempt to commit an offence against subsection (2) of this section as it applies in the case of proceedings for an offence against 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.

(6) Nothing in subsection (4) or (5) shall prejudice any defence which it is open to a person charged with an offence against this section to raise apart from that subsection.

**Prohibition of supply, etc., of articles for administering or preparing controlled drugs.**

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

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

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

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

- (a) the administration by any person of a controlled drug to another in circumstances where the administration of the drug is not unlawful under section 6(1) of this Act, or
- (b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession is not unlawful under section 7(1) of this Act.

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

(6) A person guilty of an offence under this section is liable, on a summary conviction, to imprisonment for six months and a fine at level 5 on the standard scale.

**Presumption concerning possession of controlled drug for purposes of supplying.**

9.(1) Any person who is proved to have had in his possession a commercial quantity of a controlled drug of a kind specified in subsection (3) below shall, until the contrary is proved, be presumed to have had such controlled drug in his possession for the purpose of supplying it to another.

(2) The presumption provided for in this section shall not be rebutted by proof that the defendant never had physical possession of the controlled drug.

(3) In this section “commercial quantity” in relation to a controlled drug specified in the table set out at the end of this subsection means the weight specified in that table opposite that drug.

**Table**

1. Name of Drug	Weight in grams
Amphetamine	2.00
Cannabinol (except where contained in Cannabis or Cannabis Resin)	2.00
Cannabinol derivatives	2.00
Cannabis or Cannabis Resin	20.00
Cocaine	2.00
Diamorphine	2.00
Lysergic Acid Diethylamide	0.002

2. The weights specified in paragraph 1 above include the weight of the substance either alone or contained in a preparation mixture, extract or other material.

3. The substances specified in paragraph 1 above include—

- (a) any stereoisomeric form of a substance for the time being specified in any of paragraph 1 of Parts I, II and III of Schedule 1;
- (b) any ester or ether of a substance for the time being specified in paragraph 1 or 2 of Part I of Schedule 1;
- (c) any salt of a substance for the time being specified in any of paragraphs 1 to 3 of Parts I, II and III of Schedule 1;
- (d) any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 4 of Parts I, II and III of Schedule 1;
- (e) any preparation designed for administration by injection which includes a substance or product for the time being specified in paragraph 6 of Part I of Schedule 1.

**Restriction of cultivation of *cannabis*.**

(1971 c.38, s.6).

10. (1) Subject to any regulations under section 11 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 29, it is an offence to cultivate any such plant in contravention of subsection (1) of this section.

**Authorization of activities otherwise unlawful.**

(1971 c.38 ss.7 and 22).

11. (1) The Government may by regulations—

- (a) except from section 5(1)(a) or (b), section 6(1)(a) or (b) or section 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 any of the following provisions of this Act, that is to say, section 6(1), 7(1) and 10(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 Government 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 Government shall so exercise his power to make regulations under subsection (1) as to secure—

(a) that it is not unlawful under section 6(1) for a doctor, dentist, veterinary practitioner or veterinary surgeon, acting in his capacity as such, to prescribe, administer, manufacture, compound or supply a controlled drug, or for a pharmacist 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, veterinary surgeon, pharmacist or 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 any controlled drug, the Government 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, pharmacists 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 Government,

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 drugs.

(5) Without prejudice to the foregoing provisions of this section, the Government 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 any of the provisions of the Imports and Exports Act<sup>2</sup> in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 5 of this Act;
- (b) for the application of any of the 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.

**PART III.**

**PREVENTION OF, AND PRECAUTIONS AGAINST, MISUSE.**

**Power to make regulations for preventing misuse.**

12.(1) Subject to the provisions of this Act, the Government may by regulations make such provision as appears to it necessary or expedient for preventing the misuse of controlled drugs. *(1971 c.38, s.10).*

(2) Without prejudice to the generality of subsection (1), regulations under this section may, in particular, make provision—

- (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 may be 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;

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- (f) for regulating the transport of controlled drugs and the method 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 a person who he considers, or has reasonable grounds to suspect, is 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 authorizing 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 Government in pursuance of the regulations;
- (j) for excluding in such cases as may be prescribed, the application of any provision of this Act which creates an offence, or the application of any of the provisions of the Imports and Exports Act insofar as they apply to a prohibition or restriction on importation or exportation having effect by virtue of section 5 of this Act;
- (k) for the application of any of the provisions of this Act or subsidiary legislation thereunder to servants or agents of the Crown, subject to such exceptions, adaptations and modifications as may be prescribed.

**Special precautions for safe custody.**

*(1971 c.38, s.11).* 13. (1) Without prejudice to any requirement imposed by regulations made in pursuance of paragraph (a) of section 12(2), the Government 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 of precautions or further precautions for the safe custody of any controlled drugs of a description specified in the notice which are kept on those premises.

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

**PART IV.**  
VIENNA CONVENTION.

**Manufacture and supply of Scheduled Substance.**

14. (1) It is an offence for a person—

- (a) to manufacture a Scheduled Substance; or
- (b) to supply such a substance to another person;

knowing or suspecting that the substance is to be used in or for the unlawful production of a controlled drug.

(2) A person guilty of an offence under subsection (1) is liable—

- (a) on summary conviction, to imprisonment for six months or to a fine at level 5 on the standard scale or both;
- (b) on conviction on indictment, to imprisonment for fourteen years or to a fine or both.

(3) The Government may by order make amendment to Schedule 4 (whether by addition, deletion or transfer from one Table in the Schedule to the other):

Provided that no such order shall add any substance to the Schedule unless—

- (a) it appears to the Government to be frequently used in or for the unlawful production of a controlled drug; or
- (b) it has been added to the Annex to the Vienna Convention under Article 12 of that Convention;
- (c) it is necessary in order to give effect to Gibraltar's European Union obligations.

**Regulations about Scheduled Substances.**

15. (1) The Government may by regulations make provisions—

- (a) imposing requirements as to the documentation of transactions involving Scheduled Substances;
- (b) requiring the keeping of records and the furnishing of information with respect to such substances;
- (c) for the inspection of records kept pursuant to the regulations;
- (d) for the labelling of consignments of Scheduled Substances;
- (e) requiring that Scheduled Substances may not be manufactured in Gibraltar except in accordance with a licence issued by the Government;
- (f) prohibiting the importation or exportation of certain Scheduled Substances, or prohibiting the importation or exportation of certain scheduled substances other than in a particular form.

(2) Regulations made by virtue of subsection (1)(b) may, in particular, require—

- (a) the notification of the proposed exportation of substances specified in Table I in Schedule 4 to such countries as may be specified in the regulations; and
- (b) the production, in such circumstances as may be so specified, of evidence that the required notification has been given;

and for the purposes of section 79 of the Imports and Exports Act<sup>2</sup>, any such substance shall be deemed to be exported contrary to a restriction for the time being in force with respect to it under this Act, and that section if it is exported without the requisite notification having been given.

(3) Regulations made under this section may make different provision in relation to the substances specified in Table I and Table II in Schedule 4 respectively and in relation to different cases or circumstances.

(4) A person who fails to comply with a requirement imposed by the regulations or, in purported compliance with such requirement, furnishes information which he knows to be false in a material particular, is guilty of an offence and liable—

- (a) on summary conviction, to imprisonment for six months or to a fine at level 4 on the standard scale or both;

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- (b) on conviction on indictment, to imprisonment for two years or to a fine or both.

(5) Information obtained pursuant to regulations made under this section shall not be disclosed except for the purposes of criminal proceedings or of proceedings under the provisions of the Drug Trafficking Offences Act, 1995 relating to the confiscation of the proceeds of, or benefits from, drug trafficking.

### **Offences on Gibraltar registered ships.**

16. Anything which would constitute a drug trafficking offence under this Act if done on land in Gibraltar shall constitute that offence if done on a ship registered in Gibraltar.

### **Ships used for illicit traffic.**

17.(1) This section applies to a ship registered in Gibraltar and a ship registered in a state outside Gibraltar which is party to the Vienna Convention (a "Convention state").

(2) A person is guilty of an offence if on a ship to which this section applies, wherever it may be, he—

- (a) has a controlled drug in his possession; or
- (b) is in any way knowingly concerned in the carrying or concealing of a controlled drug on the ship,

knowing or having reasonable grounds to suspect that the drug is intended to be imported or has been exported contrary to section 5(1) or the law of a state outside Gibraltar.

(3) A certificate purporting to be issued by or on behalf of the government of a state to the effect that the importation or exportation of a controlled drug is prohibited by the law of that state shall be evidence of the matter stated.

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

- (a) in the case where the controlled drug is a Class A drug—
  - (i) on summary conviction, to imprisonment for six months or to a fine at level 5 on the standard scale or both;
  - (ii) on conviction on indictment, to imprisonment for life or to a fine or both;

- (b) in the case where the controlled drug is a Class B drug–
  - (i) on summary conviction, to imprisonment for six months or to a fine at level 4 on the standard scale or both;
  - (ii) on conviction on indictment, to imprisonment for fourteen years or to a fine or both;
- (c) in the case where the controlled drug is a Class C drug–
  - (i) on summary conviction, to imprisonment for three months or to a fine at level 4 on the standard scale or both;
  - (ii) on conviction on indictment, to imprisonment for five years or to a fine or both.

**Enforcement powers.**

18. (1) The powers conferred on an enforcement officer by Schedule 5 are exercisable in relation to any ship to which section 16 or 17 applies for the purpose of detecting and the taking of appropriate action in respect of the offences mentioned in those sections.

(2) Those powers shall not be exercised outside the territorial waters of Gibraltar in relation to a ship registered in a Convention state except with the authority of the Collector of Customs, and he shall not give his authority unless that state has in relation to that ship–

- (a) requested the assistance of Gibraltar for the purpose mentioned in subsection (1); or
- (b) authorised Gibraltar to act for that purpose.

(3) In giving his authority pursuant to a request or authorisation from a Convention state, the Collector of Customs shall impose such conditions or limitations on the exercise of the powers as may be necessary to give effect to any conditions or limitations imposed by that state.

(4) The Collector of Customs may, either on his own motion or in response to a request from a Convention State, authorise a Convention State to exercise, in relation to a Gibraltar ship, powers corresponding to those conferred on enforcement officers by Schedule 5 but subject to such conditions or limitations, if any, as he may impose.

(5) Subsection (4) is without prejudice to any agreement made, or which may be made, on behalf of Gibraltar whereby Gibraltar undertakes not to object to the exercise by any other state in relation to a Gibraltar ship of powers corresponding to those conferred by Schedule 5.

(6) The powers conferred by Schedule 5 shall not be exercised in the territorial waters of any state outside Gibraltar without the authority of the Collector of Customs, and he shall not give his authority unless that state has consented to the exercise of these powers, jurisdiction and prosecutions.

**Jurisdiction and prosecutions.**

19. (1) Proceedings under this Part or Schedule 5 in respect of an offence on a ship may be taken, and the offence may, for all incidental purposes, be treated as having been committed, in Gibraltar.

(2) No such proceedings shall be instituted except with the consent of the Attorney General.

(3) Without prejudice to subsection (2), no proceedings for an offence under section 17 alleged to have been committed outside the territorial waters of Gibraltar on a ship registered in a Convention state shall be instituted except in pursuance of the exercise with the authority of the Collector of Customs of the powers conferred by Schedule 5 and section 3 of the Territorial Waters Jurisdiction Act 1878, as it applies in Gibraltar, shall not apply to those proceedings.

**PART V.**  
**OFFENCES AND ENFORCEMENT.**

**Liability of occupiers.**

*(1971 c.38, s.8).*

20. 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 such subsection;
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

**Prohibitions concerning opium.**

(1971 c.38, s. 9).

21. Subject to section 29, it is an offence for a person—

- (a) to 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.

**Miscellaneous offences.**

(1971 c.38, s.18).

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

(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 paragraph (i) of section 12(2).

(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 of 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 and incitement.**

*(1971 c.38, s. 19).*

23.(1) It is an offence for a person—

- (a) to attempt to commit an offence against any other provision of this Act, or
- (b) to incite or attempt to incite another to commit such an offence.

(2) For the purposes of subsection (1) a person may be guilty of attempting to commit an offence to which this section applies even though the facts are such that the commission of the offence is impossible.

**Assisting, etc., commission of offence outside Gibraltar.**

24. A person commits an offence if in Gibraltar he assists in or induces the commission in any place outside Gibraltar of an offence punishable under the provisions of a corresponding law in force in that place. *(1971 c.38, s. 20).*

**Offences by corporations.**

25. (1) Where any offence against this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect 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 is guilty of that offence and is liable to be proceeded against accordingly. *(1971 c.38, s.21).*

(2) Where the affairs of a corporate entity are managed by its members, subsection (1) shall have application in relation to the acts and defaults of a member in connection with his functions of management as if he were a director of the entity.

**Powers of search and seizure.**

26. (1) A customs or police officer, revenue officer or other person appointed for this purpose, either generally or specifically, by the Government 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 drugs or Scheduled Substance 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 of any such drugs. *(1971 c.38, s.23).*

(2) If a customs or police officer has reasonable grounds to suspect that any person is in possession of a controlled drug or Scheduled Substance in contravention of this Act or of any regulations made thereunder, customs or the police officer may—

- (a) search that person, and detain him for the purpose of searching him;
- (b) search any vehicle or vessel in which the officer suspects that the drug may be found, and for that purpose require the person in control of the vehicle or vessel 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 officer to be evidence of an offence against this Act.

In this subsection “vessel” includes a hovercraft; and nothing in this subsection shall prejudice any power of search or any power to seize or detain property which is exercisable by a customs or police officer a part from this subsection.

(3) If a justice of the peace is satisfied by information on oath that there is reasonable ground for suspecting—

- (a) that any controlled drugs or Scheduled Substance are, in contravention of this Act or of any regulations made thereunder, in the possession of a person on any premises; 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 against this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside Gibraltar an offence against the provisions of a corresponding law (as defined in section 3) in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorizing any customs or police officer at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises named in the warrant, and to search the premises and any persons found therein and, if there is reasonable ground for suspecting that an offence against this Act has been committed in relation to any controlled drugs or Scheduled Substance found on the premises or in the possession of any such persons, or that a document so found is such a document as is mentioned in paragraph (b) to seize and detain those drugs or that document, as the case may be.

- (4) A person commits an offence if he—
- (a) intentionally obstructs a person in the exercise of his powers under this section; or
  - (b) 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
  - (c) 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.

**Prosecution and punishment.**

27. (1) Schedule 2 shall have effect, in accordance with subsection (2), with respect to the way in which offences under this Act are punishable on conviction. *(1971 c.38, s. 25).*

(2) In relation to an offence against a provision of this Act specified in the first column of Schedule 1, 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 offence 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 against section 23 shall be punishable on summary conviction, on indictment or in either way according to whether, under Schedule 2, 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 against that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

In this subsection “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 23 was directed.

(4) Notwithstanding anything in section 117 of the Criminal Procedure Act<sup>3</sup>, the magistrates’ court may try an information for an offence under this Act if the information was laid at any time within twelve months from the commission of the offence.

(5) No person shall be proceeded against by indictment for an offence against this Act unless the proceedings are instituted by, or with the consent of, the Attorney-General:

Provided that this subsection shall not apply where the person charged claims, in pursuance of section 115 of the Criminal Procedure Act, to be tried by a jury.

## **PART VI.** **MISCELLANEOUS.**

### **Forfeiture.**

(1971 c.38, s. 27). 28. (1) Subject to subsection (2) the court, by or before which a person is convicted of an offence against this Act, may order anything shown to the satisfaction of the court to relate to the offence, to be forfeited and either destroyed or dealt with in such other manner as the court may order.

(2) The court shall not order anything to be forfeited under this section, where a person claiming to be the owner of or otherwise interested in it applies to be heard by the court, unless an opportunity has been given to him to show cause why the order should not be made.

### **Evidence and defences.**

(1971 c.38, s. 28).

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<sup>3</sup> 1961-24

29. (1) This section applies to offences against any of the following provisions of this Act, that is to say, section 6(2) and (3), section 7(2) and (3), section 10(2), section 14, section 15, section 17 and section 21.

(2) Subject to subsection (3) of this section, in any proceedings for an offence to which this section applies it shall be a defence for the accused 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.**

*(1971 c. 38, s.29).*

30. (1) Any notice or other document required or authorized 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 authorized 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, and of section 8 of the Interpretation and General Clauses Act<sup>4</sup> in its application to 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 Government.

#### **Licences and authorities.**

(1971 c. 38, s. 30). 31. (1) A licence or other authority issued by the Government for purposes of this Act or of regulations made under this Act may be, to any degree, general or specific, issued on such terms and subject to such conditions, including, in the case of a licence, the payment of a prescribed fee, as the Government thinks proper, and may be modified or revoked by it at any time.

(2) For the avoidance of doubt, it is hereby declared that in any proceedings against a person for an offence against this Act, it is not necessary to negative by evidence a licence, authority or other matter of exception or defence, and that the burden of proving any such matter lies on the person seeking to avail himself thereof.

32. *Transferred to Act. 1958-17.*

#### **Certificate of analysis.**

33. In any proceedings for an offence against this Act a certificate signed by any person designated by the Public Health Director, by notification in the Gazette, as a person competent to give evidence of analysis for the purposes of this Act, shall be admissible as evidence of the matters stated therein, provided, in the case of a certificate tendered by a prosecutor, that a copy of the certificate has been given to the defendant; and either party may require the person by whom the analysis was made to be called as a witness.

#### **General provisions as to regulations.**

(1971 c.38, s. 31). 34. (1) Regulations made by the Government under any provision of this Act—

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<sup>4</sup> 1962-08

- (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 make the opinion, consent or approval of a prescribed authority or of any person authorized 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 Government.

(2) Any regulations made under this Act shall be laid before the Parliament.

### **Advisory Council.**

35. (1) The Government may, by order, constitute, in accordance with Schedule 3, an Advisory Council on the Misuse of Drugs, and the supplementary provisions contained in that Schedule shall have effect in relation to the Council. *(1971 c. 38, s. 1).*

(2) It shall be the duty of the Advisory Council to keep under review the situation in Gibraltar 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 the Government advice on measures (whether or not involving alteration of the law) which in the opinion of the Council ought to be taken for preventing the misuse of such drugs or dealing with social problems connected with their misuse, and in particular, on measures which in the opinion of the 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 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 such drugs, and for giving publicity to those dangers; and

- (e) for promoting research into, or otherwise obtaining information about, any matter which in the opinion of the 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 Government, and to advise the Government thereon.

**Repeal.**

36. *Omitted.*

## SCHEDULE 1

sections 2(1) and 4

## Part I

## Class A Drugs

1. The following substances and products, namely—

(a)

Acetorphine	Lysergamide
Alfentanil	Lysergide and other <i>N</i> -alkyl derivatives of lysergamide
Allylprodine	Mescaline
Alphacetylmethadol	Metazocine
Alphameprodine	Methadone
Alphamethadol	Methadyl acetate
Alphaprodine	Methyldesorphine
Anileridine	Methyldihydromorphine (6-methyldihydromorphine)
Benzethidine	Metopon
Benzylmorphine (3-benzylmorphine)	Morpheridine
Betacetylmethadol	Morphine
Betameprodine	Morphine methobromide, morphine <i>N</i> -oxide and other pentavalent nitrogen morphine derivatives
Betamethadol	Myrophine
Betaprodine	Nicomorphine (3,6-dinicotinoyl-morphine)
Bezitramide	Noracymethadol
Bufotenine	Norlevorphanol
Cannabinol, except where contained in cannabis or cannabis resin	Normethadone
Cannabinol derivatives	Normorphine
Carfentanil	Norpipanone
Clonitazene	Opium, whether raw, prepared or medicinal
Coca leaf	Oxycodone
Cocaine	Oxymorphone
Desomorphine	Pethidine
Dextromoramide	Phenadoxone
Diamorphine	Phenampromide
Diampromide	Phenazocine
Diethylthiambutene	Phencyclidine

Difenoxin (1-(3-cyano-3,3-diphenylpropyl) -4-phenylpiperidine-4-carboxylic acid)	Phenomorphan
Dihydrocodeinone O-carboxymethyloxime	Phenoperidine
Dihydroetorphine	Piminodine
Dihydromorphine	Piritramide
Dimenoxadole	Poppy-straw and concentrate of poppy-straw
Dimepheptanol	Proheptazine
Dimethylthiambutene	Properidine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester)
Dioxaphetyl butyrate	Psilocin
Diphenoxylate	Racemethorphan
Dipipanone	Racemoramide
(Drotebanol (3,4-dimethoxy-17-methylmorphinan-6 beta, 14-diol)	Racemorphan
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine	Remifentanil
Ethylmethylthiambutene	Rolicyclidine
Eticyclidine	Sufentanil
Etonitazene	Tenocyclidine
Etorphine	Thebacon
Etoxidine	Thebaine
Etryptamine	Tilidate
Fentanyl	Trimeperidine
Furethidine	4-Bromo-2,5-dimethoxy-alpha-methylphenethylamine
Hydrocodone	4-Cyano-2-dimethylamino-4, 4-diphenylbutane
Hydromorphinol	4-Cyano-1-methyl-4-phenyl-piperidine
Hydromorphone	<i>N,N</i> -Diethyltryptamine
Hydroxypethidine	<i>N,N</i> -Dimethyltryptamine
Isomethadone	2,5-Dimethoxy-alpha,4-dimethylphenethylamine
Ketobemidone	<i>N</i> -Hydroxy-tenamphetamine
Levomethorphan	1-Methyl-4-phenylpiperidine-4-carboxylic acid
Levomoramide	2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid
Levophenacylmorphan	4-Methyl-aminorex

Levorphanol	4-Phenylpiperidine-4-carboxylic acid ethyl ester
Lofentanil	

(b) any compound (not being a compound specified in subparagraph (a)) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;

(ba) the following phenethylamine derivatives, namely—

Allyl( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)amine
2-Amino-1-(2,5-dimethoxy-4-methylphenyl)ethanol
2-Amino-1-(3,4-dimethoxyphenyl)ethanol
Benzyl( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)amine
4-Bromo- $\beta$ ,2,5-trimethoxyphenethylamine
<i>N</i> -(4- <i>sec</i> -Butylthio-2,5-dimethoxyphenethyl)hydroxylamine
Cyclopropylmethyl( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)amine
2-(4,7-Dimethoxy-2,3-dihydro-1 <i>H</i> -indan-5-yl)ethylamine
2-(4,7-Dimethoxy-2,3-dihydro-1 <i>H</i> -indan-5-yl)-1-methylethylamine
2-(2,5-Dimethoxy-4-methylphenyl)cyclopropylamine
2-(1,4-Dimethoxy-2-naphthyl)ethylamine
2-(1,4-Dimethoxy-2-naphthyl)-1-methylethylamine
<i>N</i> -(2,5-Dimethoxy-4-propylthiophenethyl)hydroxylamine
2-(1,4-Dimethoxy-5,6,7,8-tetrahydro-2-naphthyl)ethylamine
2-(1,4-Dimethoxy-5,6,7,8-tetrahydro-2-naphthyl)-1-methylethylamine
$\alpha,\alpha$ -Dimethyl-3,4-methylenedioxyphenethylamine
$\alpha,\alpha$ -Dimethyl-3,4-methylenedioxyphenethyl(methyl)amine
Dimethyl( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)amine
<i>N</i> -(4-Ethylthio-2,5-dimethoxyphenethyl)hydroxylamine
4-Iodo-2,5-dimethoxy- $\alpha$ -methylphenethyl(dimethyl)amine
2-(1,4-Methano-5,8-dimethoxy-1,2,3,4-tetrahydro-6-naphthyl)ethylamine
2-(1,4-Methano-5,8-dimethoxy-1,2,3,4-tetrahydro-6-naphthyl)-1-

methylethylamine
2-(5-Methoxy-2,2-dimethyl-2,3-dihydrobenzo[ <i>b</i> ]furan-6-yl)-1-methylethylamine
2-Methoxyethyl( <i>a</i> -methyl-3,4-methylenedioxyphenethyl)amine
2-(5-Methoxy-2-methyl-2,3-dihydrobenzo[ <i>b</i> ]furan-6-yl)-1-methylethylamine
$\beta$ -Methoxy-3,4-methylenedioxyphenethylamine
1-(3,4-Methylenedioxybenzyl)butyl(ethyl)amine
1-(3,4-Methylenedioxybenzyl)butyl(methyl)amine
2-( $\alpha$ -Methyl-3,4-methylenedioxyphenethylamino)ethanol
$\alpha$ -Methyl-3,4-methylenedioxyphenethyl(prop-2-ynyl)amine
<i>N</i> -Methyl- <i>N</i> -( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)hydroxylamine
<i>O</i> -Methyl- <i>N</i> -( $\alpha$ -methyl-3,4-methylenedioxyphenethyl)hydroxylamine
$\alpha$ -Methyl-4-(methylthio)phenethylamine
$\beta$ ,3,4,5-Tetramethoxyphenethylamine
$\beta$ ,2,5-Trimethoxy-4-methylphenethylamine

- (c) any compound (not being methoxyphenamine or a compound specified in sub-paragraph (a)) structurally derived from phenethylamine, an *N*-alkylphenethylamine, alpha-methylphenethylamine, an *N*-alkyl-alpha-methylphenethylamine, alpha-ethylphenethylamine, or an *N*-alkyl-alpha-ethylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylene-dioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents;
- (d) any compound (not being a compound specified in sub-paragraph (a)) structurally derived from fentanyl by modification in any of the following ways, that is to say,—
- (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
  - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;

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- (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
  - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylenedioxy, halogeno or haloalkyl groups;
  - (v) by substitution at the 4-position of the piperidine ring with any alkoxy-carbonyl or alkoxyalkyl or acyloxy group; or
  - (vi) by replacement of the *N*-propionyl group by another acyl group;
- (e) any compound (not being a compound specified in subparagraph (a)) structurally derived from pethidine by modification in any of the following ways, that is to say,
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
  - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;
  - (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
  - (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy-carbonyl or any alkoxyalkyl or acyloxy group; or
  - (v) by formation of an *N*-oxide or of a quaternary base.
2. Any stereoisomeric form of a substance specified in paragraph 1 not being dextromethorphan or dextrorphan.
  3. Any ester or ether of a substance specified in paragraph 1 or 2 not being a substance specified in Part II of this Schedule.
  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.
  6. Any preparation designed for administration by injection which includes a substance or product 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—

(a)

Acetyldihydrocodeine
Amphetamine
Cannabis and cannabis resin
Codeine
Dihydrocodeine
Ethylmorphine (3-ethylmorphine)
Flunitrazepam
Glutethimide
Lefetamine
Mecloqualone
Methaqualone
Methcathinone
Methylamphetamine
<i>α</i> -Methylphenethylhydroxylamine
Methylphenidate
Methylphenobarbitone
Nicodine
Nicodicodine (6-nicotinoyldihydrocodeine)
Norcodeine
Pentazocine
Phenmetrazine
Pholcodine
Propiram
Zipeprol.

- (b) any 5, 5 distributed barbituric acid.
2. Any stereoisomeric form of a substance specified in paragraph 1 of this Part of this Schedule.
  3. Any salt of a substance specified in paragraph 1 or 2 of this Part of this Schedule.
  4. Any preparation or other product containing a substance or product specified in any of paragraphs 1 to 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—

(a)	Alprazolam	Haloxazolam
	Aminorex	4-Hydroxy-n-butyric acid
	Benzphetamine	Ketamine
	Bromazepam	Ketazolam
	Brotizolam;	Loprazolam
	Buprenorphine;	Lorazepam
	Camazepam;	Lormetazepam
	Cathine;	Mazindol
	Cathinone;	Medazepam
	Chordiazepoxide;	Mefenorex
	Cholrphentermine	Mephentermine
	Clobazam	Meprobabate
	Clonazepam	Mesocarb
	Clorazepic acid	Methyprylone
	Clotiazepam	Midazolam
	Cloxazolam	Nimetazepam
	Delorazepam	Nitrazepam
	Dextropropoxyphene	Nordazepam

	Diazepam	Oxazepam
	Diethylpropion	Oxazolam
	Estazolam	Pemoline
	Ethchlorvynol	Phendimetrazine
	Ethinamate	Pentermine
	Ethyl loflazepate	Pinazepam
	Fencamfamin	Pipradol
	Fenethylamine	Prazepam
	Fenproporex	Pyrovalerone
	Fludiazepam	Temazepam
	Flurazepam	Tetrazepam
	Halazepam	Triazolam
		<i>N</i> -Ethylamphetamine
		Zolpidem
(b)	4-Androstene-3, 17 dione	Methenolone
	5-Androstene-3, 17 diol	Methyltestosterone
	Atamestane	Metribolone
	Bolandioli	Mibolerone
	Bolasterone	Nandrolone
	Bolazine	19-Nor-4-Androstene-3, 17-dione
	Boldenone	19-Nor-5-Androstene-13, 17-diol
	Bolenol	Norboletone
	Bolmantalate	Norclostebol
	Calusterone	Norethandrolone
	4-Cholormethandienone	Ovandrotone
	Clostebol	Oxabolone
	Drotanolone	Oxandrolone
	Enestebol	Oxymesterone
	Epitiostanol	Oxymetholone

	Ethyloetrenol	Prasterone
	Fluoxymesterone	Propetandrol
	Formbolone	Quinbolone
	Furazabol	Roxibolone
	Mebolazine	Silandrone
	Mepitiostane	Stanolone
	Mesabolone	Stanozolol
	Mestanolone	Stenbolone
	Mesterolone	Testosterone
	Methandienone	Thimesterone
	Methandriol	Trenbolone

- (c) any compound (not being Trilostane or a compound specified in sub-paragraph (b)) structurally derived from 17-hydroxyandrostane-3-one or from 17-hydroxyestrane-3-one by modification in any of the following ways, that is to say,
- (i) by further substitution at position 17 by a methyl or ethyl group;
  - (ii) by substitution to any extent at one or more of positions 1, 2, 4, 6, 7, 9, 11 or 16, but at no other position;
  - (iii) by unsaturation in the carbocyclic ring system to any extent, provided that there are no more than two ethylenic bonds in any one carbocyclic ring; or
  - (iv) by fusion of ring A with a heterocyclic system;
- (d) any substance which is an ester or ether (or, where more than one hydroxyl function is available, both an ester and an ether) of a substance specified in sub-paragraph (b) or described in sub-paragraph (c);
- (e) Chorionic Gonadotrophin (HCG);  
 Clenbuterol;  
 Non-human chorionic gonadotrophin;  
 Somatotropin;  
 Somatrem;  
 Somatropin.

- 2 Any stereoisomeric form of a substance specified in paragraph 1 of this Part of this Schedule not being phenylpropanolamine.
- 3 Any salt of a substance specified in paragraph 1 or 2 of this Part of this Schedule.
- 4 Any preparation or other product containing a substance 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 purposes of this Schedule the following expressions (which are not among those defined in section 2 (1) of this Act) have the following meanings—

“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 the 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.

SCHEDULE 2

Section 27

PROSECUTION AND PUNISHMENT OF OFFENCES.

Section Creating Offences	General Nature of Offence	Mode of Prosecution	Punishment.			
			Class A drug involved	Class B drug involved	Class C drug involved	General
Section 6(2)	Production, or being concerned in the production, of a controlled drug.	(a) Summary  (b) On indictment	12 month and an amount at level 5 on the standard scale, life imprisonment and a fine.	12 months and an amount at level 5 on the standard scale, life imprisonment and a fine.	6 months and an amount at level 4 on the standard scale, 5 years and a fine.	
Section 6(3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another.	(a) Summary  (b) On indictment	12 months, and an amount at level 5 on the standard scale, life imprisonment and a fine.	12 months and an amount at level 5 on the standard scale, life imprisonment and a fine.	6 months and an amount at level 4 on the standard scale, 5 years and a fine.	
Section 7(2)	Having possession of a controlled drug.	(a) Summary  (b) On indictment	12 months and an amount at level 5 on the standard scale, 7 years and a fine.	6 months and an amount at level 5 on the standard scale, 5 years and a fine.	6 months and an amount at level 4 on the standard scale, 2 years and a fine.	
Section 7(3)	Having possession of a controlled drug with intent to supply it to another.	(a) Summary  (b) On indictment	12 months and an amount at level 5 on the standard scale, life imprisonment and a fine.	12 months and an amount at level 5 on the standard scale, life imprisonment and a fine.	6 months and an amount at level 4 on the standard scale, 5 years and a fine.	
Section 10(2)	Cultivation of cannabis plant.	(a) Summary (b) On indictment	—	—	—	
Section 20	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	12 months and an amount at level 5 on the standard scale, 14 years and a fine.	12 months and an amount at level 5 on the standard scale, 14 years and a fine.	6 months and an amount at level 4 on the standard scale, 5 years and a fine.	
Section 21	Offences relating to opium.	(a) Summary	—	—	—	12 months and an amount at

		(b) On indictment				level 5 on the standard scale, 14 years and a fine.
Section 13(2)	Contravention of directions relating to safe custody of controlled drugs.	(a) Summary  (b) On indictment	— —	— —	— —	12 months and an amount at level 5 on the standard scale, 14 years and a fine.
Section 22(1)	Contravention of regulations (other than regulations relating to addicts).	(a) Summary  (b) On indictment	— —	— —	— —	6 months and an amount at level 5 on the standard scale, 2 years and a fine.
Section 22(2)	Contravention of terms of licence or other authority (other than licence issued under regulation relating to addicts).	(a) Summary  (b) On indictment	— —	— —	— —	6 months and an amount at level 5 on the standard scale  2 years and a fine.
Section 22(3)	Giving false information in purported compliance with obligation to give information imposed under or by virtue of regulations.	(a) Summary  (b) On indictment	— —	— —	— —	6 months and an amount at level 5 on the standard scale,  2 years and a fine.
Section 23(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  (b) On indictment	— —	— —	— —	6 months and an amount at level 5 on the standard scale,  2 years and a fine.
Section 24	Assisting in or inducing commission outside Gibraltar of an offence punishable under a corresponding law.	(a) Summary  (b) On indictment	— —	— —	— —	6 months and an amount at level 5 on the standard scale,  2 years and a fine.
Section 26(4)	Obstructing exercise of powers of search etc., or concealing books drugs, etc.	(a) Summary	— —	— —	— —	12 months and an amount at level 5 on the

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		(b) On indictment				standard scale, 14 years and a fine.
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**SCHEDULE 3.**

Section 35

**CONSTITUTION, ETC., OF ADVISORY COUNCIL ON THE  
MISUSE OF DRUGS.**

1.(1) The members of the Advisory Council, of whom there shall be not less than five, shall be appointed by the Government after consultation with such organisations as it considers appropriate, and shall include-

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

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

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

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

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

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

**SCHEDULE 4**

section 2(1)

**SUBSTANCES USEFUL FOR MANUFACTURING CONTROLLED  
DRUGS**

**TABLE I**

N-ACETYLANTHRANILIC ACID  
EPHEDRINE  
ERGOMETRINE  
ERGOTAMINE  
ISOFROLE  
LYSERGIC ACID  
3,4-METHYLENEDIOXYPHENYL-2-PROPANONE  
1-PHENYL-PROPANONE  
PIPERONAL  
PSEUDOEPHEDRINE  
SAFROLE,

and the salts of the substances listed in this Table whenever the existence of such salts is possible.

**TABLE II**

ACETIC ANHYDRIDE  
ACETONE  
ANTHRANILIC ACID  
ETHYL ETHER  
HYDROCHLORIC ACID  
METHYL ETHYL KETONE  
PHENYLACETIC ACID  
PIPERIDINE  
POTASSIUM PERMANGANATE  
SULPHURIC ACID  
TOLUENE,

and the salts of the substances listed in this Table whenever the existence of such salts is possible, except the salts of hydrochloric acid and sulphuric acid.

**SCHEDULE 5.**

Section 18

**ENFORCEMENT POWERS IN RESPECT OF SHIPS****Preliminary**

1. (1) In this Schedule “an enforcement officer” means—
- (a) a customs or police officer;
  - (b) any other person of a description specified in an order made for the purposes of this Schedule by the Government.
- (2) In this Schedule “the ship” means the ship in relation to which the powers conferred by this Schedule are exercised.

**Power to stop, board, divert and detain.**

2. (1) An enforcement officer may stop the ship, board it and, if he thinks it necessary for the exercise of his functions, require it to be taken to the Port of Gibraltar and detain it there.
- (2) Where an enforcement officer is exercising his powers with the authority of the Collector of Customs given under section 18(2) the officer may require the ship to be taken to a port in the Convention state in question or, if that has so requested, in any other country or territory willing to receive it.
- (3) For any purpose falling within subparagraphs (1) and (2), an enforcement officer may require the master or any member of the crew of the ship to take such action as may be necessary.
- (4) If an enforcement officer detains the ship, he shall serve on the master a notice in writing stating that it is to be detained until the notice is withdrawn by the service on him of a further notice in writing signed by an enforcement officer,

**Power to search and obtain information.**

3. (1) An enforcement officer may search the ship, anyone on it and anything on it including its cargo.

(2) An enforcement officer may require any person on the ship to give information concerning himself or anything on the ship.

(3) Without prejudice to the generality of those powers an enforcement officer may—

- (a) open any containers;
- (b) make tests and take samples of anything on the ship;
- (c) require the production of documents, books or records relating to the ship or anything on it;
- (d) make photographs or copies of anything whose production he has power to require.

### **Powers in respect of suspected offence.**

4. If an enforcement officer has reasonable grounds to suspect that an offence mentioned in section 16 or 17 has been committed on a ship to which that section applies he may—

- (a) arrest without warrant anyone whom he has reasonable grounds for suspecting to be guilty of the offence; and
- (b) seize and detain anything found on the ship which appears to him to be evidence of the offence.

### **Assistants.**

5. (1) An enforcement officer may take with him, to assist him in exercising his powers—

- (a) any other persons; and
- (b) any equipment or material.

(2). A person whom an enforcement officer takes with him to assist him may perform any of the officer's functions but only under the officer's supervision.

### **Use of reasonable force.**

6. An enforcement officer may use reasonable force, if necessary, in the performance of his functions.

### **Evidence of authority.**

7. An enforcement officer shall, if required, produce evidence of his authority.

**Protection of officers.**

8. An enforcement officer shall not be liable in any civil or criminal proceedings for anything done in the purported performance of his functions under this Schedule if the court is satisfied that the act was done in good faith and that there were reasonable grounds for doing it.

**Offences.**

9 (1) A person is guilty of an offence if he—

- (a) intentionally obstructs an enforcement officer in the performance of any of his functions under this Schedule;
- (b) fails without reasonable excuse to comply with a requirement made by an enforcement officer in the performance of those functions; or
- (c) in purporting to give information required by an officer for the performance of those functions—
  - (i) makes a statement which he knows to be false in a material particular or recklessly makes a statement which is false in a material particular; or
  - (ii) intentionally fails to disclose any material particular.

(2) A person guilty of an offence under this paragraph is liable, on summary conviction, to a fine not exceeding level 5 on the standard scale.