



**Isle of Man**

*Ellan Vannin*

**AT 21 of 1976**

**MISUSE OF DRUGS ACT 1976**





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## MISUSE OF DRUGS ACT 1976

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**Isle of Man***Ellan Vannin*

## MISUSE OF DRUGS ACT 1976

*Received Royal Assent:* 30 July 1976  
*Passed:* 19 October 1976  
*Commenced:* 1 February 1978

**AN ACT** to make new provision with respect to dangerous or otherwise harmful drugs and related matters, and for purposes connected therewith.

**GENERAL NOTE:** The maximum fines in this Act are as increased by the *Fines Act 1986* and by the *Criminal Justice (Penalties, Etc.) Act 1993 s 1*.

### 1 The Advisory Council on the Misuse of Drugs

[P1971/38/1]

- (1) There shall be constituted in accordance with Schedule 1 to this Act an Advisory Council on the Misuse of Drugs (in this Act referred to as “the Advisory Council”); and the supplementary provisions contained in that Schedule shall have effect in relation to the Council.
- (2) It shall be the duty of the Advisory Council to keep under review the situation in the Island with respect to drugs which are being or appear to it likely to be misused and of which the misuse is having or appears to it capable of having harmful effects sufficient to constitute a social problem, and to give to any one or more of the specified authorities, where either the Council consider it expedient to do so or it is consulted by the specified authority or authorities in question, 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 it by any one or more of the specified authorities and to advise the specified authority or authorities in question thereon, and in particular to consider and advise the Department of Health and Social Care (in this Act referred to as “the Department”) with respect to any communication referred by it to the Council, being a communication relating to the control of any dangerous or otherwise harmful drug made to Her Majesty’s Government in the United Kingdom by any organisation or authority established by or under any treaty, convention or other agreement or arrangement to which that Government is for the time being a party.<sup>1</sup>
- (4) In this section, “the specified authorities” means the Department, the Commission, the Department of Education, Sport and Culture and the Chief Constable.<sup>2</sup>
- (5) The Advisory Council must –
- (a) prepare an annual report about the discharge of its duties under this Act; and
  - (b) lay a copy of the report before Tynwald.<sup>3</sup>
- (6) Without limiting the generality of subsection 5(a), the annual report must set out the views of the Advisory Council in respect of the measures which ought to be taken in relation to each of the matters mentioned in subsection (2)(a) to (e).<sup>4</sup>

### *Controlled drugs and their classification*

## **2 Controlled drugs and their classification for purposes of this Act**

- (1) In this Act –
- (a) “**controlled drug**” means any substance or product for the time being specified –
    - (i) in Part I, II or III of Schedule 2 to the UK Act;

- (ii) in a temporary class drug order made under section 2A of the UK Act; or
    - (iii) in an order under subsection (3); and<sup>5</sup>
  - (b) “**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, II or III of Schedule 2 to the UK Act.
- (2) The provisions of Part IV of Schedule 2 to the UK Act have effect with respect to the meanings of expressions used in that Schedule.
  - (3) After consulting the Advisory Council, the Department may by order specify a substance or product, which is not for the time being specified in Part I, II or III of Schedule 2 to the UK Act, as a controlled drug.
  - (4) An order under subsection (3) (if not previously revoked) ceases to have effect at the end of —
    - (a) the period of 12 months beginning with the day on which it came into operation; or
    - (b) any shorter period specified in it.
  - (5) Subsection (4) does not limit the power to make a further order.
  - (6) If a substance or product which is specified in an order under subsection (3) is subsequently specified in Part I, II or III of Schedule 2 to the UK Act, that substance or product ceases to be specified in the order.
  - (7) For the purposes of this Act, a substance or product specified in an order under subsection (3) is to be treated as if it were a Class C drug.
  - (8) An order under subsection (3) must not come into operation unless it is approved by Tynwald.<sup>6</sup>

*Restrictions relating to controlled drugs etc.*

### **3 Restriction of importation, exportation etc of controlled drugs**

[P1971/38/3]

- (1) Subject to subsection (2) below —
  - (a) the importation of a controlled drug; and
  - (b) the exportation of a controlled drug,are hereby prohibited.
- (2) Subsection (1) above 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) above by relevant secondary legislation; or<sup>7</sup>
  - (b) to the importation or exportation of —

- (i) cannabinol, cannabinol derivatives, cannabis or cannabis resin (including a cannabis-based product for medicinal use in humans) under and in accordance with the terms of a licence issued by the Commission and in compliance with any conditions attached thereto; or
  - (ii) a cannabis-based product for medicinal use in humans or any controlled drug under and in accordance with the terms of a licence issued by the Department and in compliance with any conditions attached thereto.<sup>8</sup>
- (2A) The Commission shall not issue a licence under subsection (2)(b) in respect of a cannabis-based product for medicinal use in humans without the consent of the Department.<sup>9</sup>
- (3) Subsections (1) and (2) above shall apply in relation to the removal to the Island from the United Kingdom, or the removal from the Island to the United Kingdom, of a controlled drug as they apply to the importation or exportation of a controlled drug.
- (4) Any person who causes or attempts to cause any controlled drug to be removed to the Island from the United Kingdom, or cause or attempts to cause any such drug to be removed from the Island to the United Kingdom, in contravention of this section shall be deemed to have produced that drug in contravention of section 4(1) of this Act.

#### **4 Restriction of production and supply of controlled drugs**

[P1971/38/4]

- (1) Subject to any relevant secondary legislation, it shall not be lawful for a person —
- (a) to produce a controlled drug; or
  - (b) to supply or offer to supply a controlled drug to another.<sup>10</sup>
- (2) Subject to section 28 of this Act, it is an offence for a person —
- (a) to produce a controlled drug in contravention of subsection (1) above; or
  - (b) to be concerned in the production of such a drug in contravention of that subsection by another.
- (3) Subject to section 28 of this Act, it is an offence for a person —
- (a) to supply or offer to supply a controlled drug to another in contravention of subsection (1) above; 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 in contravention of that subsection of an offer to supply such a drug.

#### 4A Manufacture and supply of scheduled substances

- (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 production of a controlled drug in contravention of section 4(1)(a) of this Act.
- (2) A person guilty of an offence under subsection (1) above is liable —
  - (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both;
  - (b) on conviction on information, to imprisonment for a term not exceeding 14 years or a fine or both.
- (3) In this Act, “a scheduled substance” means a substance for the time being specified in Schedule 2A to this Act.<sup>11</sup>

#### 5 Restriction of possession of controlled drugs

[P1971/38/5]

- (1) Subject to any relevant secondary legislation, it shall not be lawful for a person to have a controlled drug in his possession.<sup>12</sup>
- (2) Subject to section 28 of this Act and to subsection (4) below, it is an offence for a person to have a controlled drug in his possession in contravention of subsection (1) above.
- (3) Subject to section 28 of this Act, 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 4(1) of this Act.
- (4) In any proceedings for an offence under subsection (2) above 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) above shall apply in the case of proceedings for an offence under section 19(1) of this Act consisting of an attempt to commit an offence under subsection (2) above as it applies in the case of proceedings for an offence under subsection (2), subject to the following modifications, that is to say —
- (a) for the references to the accused having in his possession, and to his taking possession of, a controlled drug there shall be substituted respectively references to his attempting to get, and to his attempting to take, possession of such a drug; and
  - (b) in paragraphs (a) and (b), the words from “and that as soon as possible” onwards shall be omitted.
- (6) Nothing in subsection (4) or (5) above shall prejudice any defence which it is open to a person charged with an offence under this section to raise apart from that subsection.

## **6 Restriction of cultivation of cannabis plant**

[P1971/38/6]

- (1) Subject to any relevant secondary legislation, it shall not be lawful for a person to cultivate any plant of the genus *Cannabis*.<sup>13</sup>
- (2) Subject to section 28 of this Act, it is an offence to cultivate any such plant in contravention of subsection (1) above.

## **7 Authorisation of activities otherwise unlawful under foregoing provisions**

[P1971/38/7]

- (1) Subject to subsection (1A), the Department may by regulations —
- (a) except from section 3(1)(a) or (b), 4(1)(a) or (b) or 5(1) of this Act 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, sections 4(1), 5(1) and 6(1), it would otherwise be unlawful for them to do.<sup>14 15</sup>
- (1A) The Department must not make regulations under subsection (1) above in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans.<sup>16</sup>
- (1B) The Commission may, by regulations —
- (a) except from section 3(1)(a) or (b), (4)(1)(a) or (b) or 5(1) of this Act cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans;
  - (b) make such 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, sections 4(1), 5(1) and 6(1), it would otherwise be unlawful for them to do in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans; and
- (c) with the consent of the Department, make regulations for a purpose described in paragraphs (a) or (b) in respect of a cannabis-based product for medicinal use in humans.<sup>17</sup>
- (2) [Repealed]<sup>18</sup>
- (2A) Without prejudice to the generality of subsections (1)(b) and (1B)(b) above, regulations under either of those subsections authorising the doing of any such thing as is mentioned in those subsections 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 Department or the Commission, as the case may be, and in compliance with any conditions attached thereto; or
- (b) if it is done in compliance with any conditions as may be prescribed.<sup>19</sup>
- (3) Subject to subsection (4) below, the Department shall so exercise its power to make regulations under subsection (1) above, and the Commission shall so exercise its power to make regulations under subsection (1B) above, as to secure —
- (a) that it is not unlawful under section 4(1) of this Act for a doctor, dentist, 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<sup>20</sup>
- (b) that it is not unlawful under section 5(1) of this Act for a doctor, dentist, 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.<sup>21 22</sup>
- (4) If, in the case of any controlled drug, the Department or the Commission 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 businesses to do in relation to that drug any of the things mentioned in subsection (3) above

except under a licence or other authority issued by the Department or the Commission, as the case may be,<sup>23</sup>

it may by an order or under any relevant secondary legislation designate that drug as a drug to which this subsection applies; and while there is in force an order under this subsection or any relevant secondary legislation designating a controlled drug as one to which this subsection applies, subsection (3) above shall not apply as regards that drug.<sup>24</sup>

- (5) Neither the Department nor the Commission shall make any order under subsection (4) above except after consultation with, or on the recommendation of the Advisory Council.<sup>25</sup>
- (5A) The Department shall not make regulations under subsection (3), or an order under subsection (4), in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans.<sup>26</sup>
- (5B) The Commission shall not make regulations under subsection (3), or an order under subsection (4) —
  - (a) except in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin; and
  - (b) in the case of a cannabis-based product for medicinal use in humans, except with the consent of the Department.<sup>27</sup>
- (6) An order under subsection (4) above shall not have effect until it has been approved by Tynwald.
- (7) References in this section to a person's "doing" things include references to his having things in his possession.

*Miscellaneous offences involving controlled drugs etc.*

## **8 Occupiers etc of premises to be punishable for permitting certain activities to take place there**

[P1971/38/8]

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 4(1) of this Act;
- (b) supplying or attempting to supply a controlled drug to another in contravention of section 4(1) of this Act, or offering to supply a controlled drug to another in contravention of section 4(1);
- (c) preparing opium for smoking;
- (d) smoking cannabis, cannabis resin or prepared opium.

## 9 Prohibition of certain activities etc relating to opium

[P1971/38/9]

Subject to section 28 of this Act, 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.

## 9A Prohibition of supply etc of articles for administering or preparing controlled drugs

- (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) 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 would not be unlawful under section 4(1), or
  - (b) the administration by any person of a controlled drug to himself in circumstances where having the controlled drug in his possession would not be unlawful under section 5(1).
- (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.<sup>28</sup>

*Offences at sea***9B Offences on Manx ships**

Anything which would constitute a drug trafficking offence if done on land in the Island shall constitute that offence if done on a Manx ship.<sup>29</sup>

**9C Ships used for illicit traffic**

(1) This section applies to a Manx ship, a ship registered in a state which is a party to the Vienna Convention (a “Convention state”) and a ship not registered in any country or territory.

(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 3(1) of this Act or the law of any country or territory outside the Island.

(3) A certificate purporting to be issued by or on behalf of the government of any country or territory to the effect that the importation or export of a controlled drug is prohibited by the law of that country or territory shall be evidence of the matters stated.

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

(a) in a case where the controlled drug is a Class A drug —

(i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both;

(ii) on conviction on information, to imprisonment for life or a fine or both;

(b) in a case where the controlled drug is a Class B drug —

(i) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both;

(ii) on conviction on information, to imprisonment for a term not exceeding 14 years or a fine or both;

(c) in a case where the controlled drug is a Class C drug —

(i) on summary conviction, to imprisonment for a term not exceeding 3 months or a fine not exceeding £5,000 or both;

(ii) on conviction on information, to imprisonment for a term not exceeding 5 years or a fine or both.<sup>30</sup>

**9D Enforcement powers**

- (1) The powers conferred on an enforcement officer by Schedule 2B to this Act shall be exercisable in relation to any ship to which section 9B or 9C above 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 landward limits of the territorial sea of the Island in relation to a ship registered in a Convention state except with the authority of the Chief Minister; and he shall not give his authority unless that state has in relation to that ship —
  - (a) requested the assistance of the Island or the United Kingdom for the purpose mentioned in subsection (1) above; or
  - (b) authorised the Island or the United Kingdom to act for that purpose.
- (3) In giving his authority pursuant to a request or authorisation from a Convention state the Chief Minister 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 Chief Minister may, either of his own motion or in response to a request from a Convention state, authorise a Convention state to exercise, in relation to a Manx ship, powers corresponding to those conferred on enforcement officers by Schedule 2B to this Act but subject to such conditions or limitations, if any, as he may impose.
- (5) Subsection (4) above is without prejudice to any agreement made, or which may be made, on behalf of the United Kingdom and which extends to the Island whereby it is agreed not to object to the exercise by any other state in relation to a Manx ship of powers corresponding to those conferred by that Schedule.
- (6) The powers conferred by that Schedule shall not be exercised in the territorial sea of any country or territory other than the Island without the authority of the Chief Minister and he shall not give his authority unless the relevant state has consented to the exercise of those powers.<sup>31</sup>

**9E Ss 9B to 9D: supplementary provisions**

- (1) Proceedings in pursuance of section 9B or 9C of, or Schedule 2B to, this Act in respect of an offence on a ship shall not be instituted except by or with the consent of the Attorney General.<sup>32</sup>
- (2) Without prejudice to subsection (1) above no proceedings for an offence under section 9C above alleged to have been committed outside the landward limits of the territorial sea of the Island on a ship registered in a Convention state shall be instituted except in pursuance of the exercise with the authority of the Chief Minister of the powers conferred by Schedule 2B to this Act.

- (3) Section 3 of the Territorial Waters Jurisdiction Act 1878 (consent of Governor for certain prosecutions) (an Act of Parliament) shall not apply to proceedings to which subsection (2) above applies.
- (4) In sections 9B to 9D and this section —
- “**Convention state**” has the meaning given in section 9C above;
- “**drug trafficking offence**” means an offence which is specified in —
- (a) paragraph 1 of Schedule 3 to the *Proceeds of Crime Act 2008* (drug trafficking offences); or
  - (b) so far as it relates to that paragraph, paragraph 11 of that Schedule;<sup>33</sup>
- “**Manx ship**” means a ship registered in the Island;
- “**ship**” includes any vessel used in navigation;
- “**the 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.
- (5) If in any proceedings under section 9B to 9D of, or Schedule 2B to, this Act any question arises whether any country or territory is a state or is a party to the Vienna Convention, a certificate issued by or under the authority of the Chief Minister shall be conclusive evidence on that question.<sup>34</sup>

*Powers of Department and Commission for preventing misuse of controlled drugs<sup>35</sup>*

**10 Power to make regulations for preventing misuse of controlled drugs**

[1971/38/10]

- (1) Subject to the provisions of this Act, the Department and the Commission may by regulations make such provision as appears to it necessary or expedient for preventing the misuse of controlled drugs.<sup>36</sup>
- (1A) The Department shall not make regulations under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans.<sup>37</sup>
- (1B) The Commission may make regulations under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin, provided that the Commission —
- (a) shall not make such regulations in relation to a cannabis-based product for medicinal use in humans, without the consent of the Department; and
  - (b) shall not make regulations that make provision for the matters described in subsection (2)(g), (h) or (i).<sup>38</sup>
- (2) Without prejudice to the generality of subsection (1) above, 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;
- (f) for regulating the transport of controlled drugs and the methods used for destroying or otherwise disposing of such drugs when no longer required;
- (g) for regulating the issue of prescriptions containing controlled drugs and the supply of controlled drugs on prescriptions, and for requiring persons issuing or dispensing prescriptions containing such drugs to furnish to the prescribed authority such information relating to those prescriptions as may be prescribed;
- (h) for requiring any doctor who attends 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 authorising the administration and supply to persons so addicted, and from prescribing for such persons, such controlled drugs as may be prescribed, except under and in accordance with the terms of a licence issued by the Department in pursuance of the regulations.<sup>39</sup>

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

[P1971/38/11]

- (1) Subject to subsections (1A) and (1B), and without prejudice to any requirement imposed by—
  - (a) regulations made in pursuance of section 10(2)(a) of this Act; or
  - (b) regulations for the time being in force made in pursuance of section 10(2)(a) of the UK Act and applied to the Island by an order made under section 33 of this Act,

the Department or the Commission 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.<sup>40</sup>

- (1A) The Department shall not give a direction under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans.<sup>41</sup>
- (1B) The Commission —
- (a) may only give a direction under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin; and
  - (b) shall not give a direction in relation to a cannabis-based product for medicinal use in humans without the consent of the Department.<sup>42</sup>
- (2) It is an offence to contravene any directions given under subsection (1) above.

## 12 Directions prohibiting prescribing, supply etc of controlled drugs by practitioners etc convicted of certain offences

[P1971/38/12]

- (1) Where a person who is a practitioner or pharmacist has after this subsection takes effect been convicted —
- (a) of an offence under this Act or under the *Dangerous Drugs Act 1966* or any enactment repealed by that Act; or
  - (b) of an offence under section 45, 56 or 304 of the Customs and Excise Act or under section 50, 68 or 170 of the Customs and Excise Management Act or under section 47, 69 or 178 of the *Customs and Excise Management Act 1986* in connection with a prohibition of or restriction on importation or exportation of a controlled drug having effect by virtue of section 3 of this Act or which had effect by virtue of any provision contained in or repealed by the said Act of 1966,<sup>43</sup>

the Department may give a direction under subsection (2) below in respect of that person.<sup>44</sup>

- (2) A direction under this subsection in respect of a person shall —
- (a) if that person is a practitioner, be a direction prohibiting him from having in his possession, prescribing, administering, manufacturing, compounding and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction;
  - (b) if that person is a pharmacist, be a direction prohibiting him from having in his possession, manufacturing, compounding and

supplying and from supervising and controlling the manufacture, compounding and supply of such controlled drugs as may be specified in the direction.

- (3) The Department may at any time give a direction cancelling or suspending any direction given by it under subsection (2) above, or cancelling any direction of its under this subsection by which a direction so given is suspended.<sup>45</sup>
- (4) The Department shall cause a copy of any direction given by it under this section to be served on the person to whom it applies, and shall cause notice of any such direction to be published in at least two newspapers printed and circulating in the Island.<sup>46</sup>
- (5) A direction under this section shall take effect when a copy of it is served on the person to whom it applies.
- (6) It is an offence to contravene a direction given under subsection (2) above.

### **13 Directions prohibiting prescribing, supply etc of controlled drugs by practitioners in other cases**

[P1971/38/13]

- (1) In the event of a contravention by a doctor of—
  - (a) regulations made in pursuance of section 10(2)(h) or (i) of this Act;
  - (b) regulations for the time being in force made in pursuance of section 10(2)(h) or (i) of the UK Act and applied to the Island by an order made under section 33 of this Act;
  - (c) the terms of a licence issued under regulations made in pursuance of section 10(2)(i) of this Act; or
  - (d) the terms of a licence issued under regulations for the time being in force made in pursuance of section 10(2)(i) of the UK Act and applied to the Island by an order made under section 33 of this Act,the Department may, subject to and in accordance with section 14 of this Act, give a direction in respect of the doctor concerned prohibiting him or her from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.<sup>47</sup>
- (2) If the Department is of the opinion that a practitioner is or has after the coming into operation of this subsection been prescribing, administering or supplying or authorising the administration or supply of any controlled drugs in an irresponsible manner, the Department may, subject to and in accordance with section 14 or 15 of this Act, give a direction in respect of the practitioner concerned prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.<sup>48</sup>

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

#### **14 Investigation where grounds for a direction under s 13 are considered to exist**

[P1971/38/14]

- (1) If the Department considers that there are grounds for giving a direction under subsection (1) of section 13 of this Act on account of such a contravention by a doctor as is there mentioned, or for giving a direction under subsection (2) of that section on account of such conduct by a practitioner as is mentioned in the said subsection (2), it may refer the case to a tribunal constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the tribunal to consider the case and report on it to the Department.<sup>49</sup>
- (2) In this Act, “the respondent”, in relation to a reference under this section, means the doctor or other practitioner in respect of whom the reference is made.
- (3) Where —
- (a) in the case of a reference relating to the giving of a direction under the said subsection (1), the tribunal finds that there has been no such contravention as aforesaid by the respondent or finds that there has been such a contravention but does not recommend the giving of a direction under that subsection in respect of the respondent; or
- (b) in the case of a reference relating to the giving of a direction under the said subsection (2), the tribunal finds that there has been no such conduct as aforesaid by the respondent or finds that there has been such conduct by the respondent but does not recommend the giving of a direction under the said subsection (2) in respect of him,
- the Department shall cause notice to that effect to be served on the respondent.<sup>50</sup>
- (4) Where the tribunal finds —
- (a) in the case of a reference relating to the giving of a direction under the said subsection (1), that there has been such a contravention as aforesaid by the respondent; or
- (b) in the case of a reference relating to the giving of a direction under the said section (2), that there has been such conduct as aforesaid by the respondent,

and considers that a direction under the subsection in question should be given in respect of him, the tribunal shall include in its report a recommendation to that effect indicating the controlled drugs which it

considers should be specified in the direction or indicating that the direction should specify all controlled drugs.

- (5) Where the tribunal makes such a recommendation as aforesaid, the Department shall cause a notice to be served on the respondent stating whether or not it proposes to give a direction pursuant thereto, and where it does so propose the notice shall —
  - (a) set out the terms of the proposed direction; and
  - (b) inform the respondent that consideration will be given to any representations relating to the case which are made by him in writing to the Department within the period of twenty-eight days beginning with the date of service of the notice.<sup>51</sup>
- (6) If any such representations are received by the Department within the period aforesaid, it shall refer the case to an advisory body constituted for the purpose in accordance with the following provisions of this Act; and it shall be the duty of the advisory body to consider the case and to advise the Department as to the exercise of its powers under subsection (7) below.<sup>52</sup>
- (7) After the expiration of the said period of twenty-eight days and, in the case of a reference to an advisory body under subsection (6) above, after considering the advice of that body, the Department may either —
  - (a) give in respect of the respondent a direction under subsection (1) or, as the case may be, subsection (2) of section 13 of this Act specifying all or any of the controlled drugs indicated in the recommendation of the tribunal; or
  - (b) order that the case be referred back to the tribunal, or referred to another tribunal constituted as aforesaid; or
  - (c) order that no further proceedings under this section shall be taken in the case.<sup>53</sup>
- (8) Where a case is referred or referred back to a tribunal in pursuance of subsection (7) above, the provisions of subsections (2) to (7) above shall apply as if the case had been referred to the tribunal in pursuance of subsection (1) above, and any finding, recommendation or advice previously made or given in respect of the case in pursuance of those provisions shall be disregarded.

## 15 Temporary directions under s 13(2)

[P1971/38/15]

- (1) If the Department considers that there are grounds for giving a direction under subsection (2) of section 13 of this Act in respect of a practitioner on account of such conduct by him as is mentioned in that subsection and that the circumstances of the case require such a direction to be given with the minimum of delay, it may, subject to the following provisions of this

section, give such a direction in respect of him by virtue of this section and a direction under section 13(2) given by virtue of this section may specify such controlled drugs as the Department thinks fit.<sup>54</sup>

- (2) Where the Department proposes to give such a direction as aforesaid by virtue of this section, it shall refer the case to a professional panel constituted for the purpose in accordance with the following provisions of this Act; and
  - (a) it shall be the duty of the panel, after affording the respondent an opportunity of appearing before and being heard by the panel, to consider the circumstances of the case, so far as known to it, and to report to the Department whether the information before the panel appears to it to afford reasonable grounds for thinking that there has been such conduct by the respondent as is mentioned in section 13(2) of this Act; and<sup>55</sup>
  - (b) the Department shall not by virtue of this section give such a direction as aforesaid in respect of the respondent unless the panel reports that the information before it appears to it to afford reasonable grounds for so thinking.<sup>56</sup>
- (3) In this Act, “the respondent”, in relation to a reference under subsection (2) above, means the practitioner in respect of whom the reference is made.
- (4) Where the Department gives such a direction as aforesaid by virtue of this section, it shall, if it has not already done so, forthwith refer the case to a tribunal in accordance with section 14(1) of this Act.<sup>57</sup>
- (5) Subject to subsection (6) below, the period of operation of a direction under section 13(2) of this Act given by virtue of this section shall be a period of six weeks beginning with the date on which the direction takes effect.
- (6) Where a direction under section 13(2) of this Act has been given in respect of a person by virtue of this section and the case has been referred to a tribunal in accordance with section 14(1), the Department may from time to time, by notice in writing served on the person to whom the direction applies, extend or further extend the period of operation of the direction for a further twenty-eight days from the time when that period would otherwise expire, but shall not so extend or further extend that period without the consent of that tribunal, or, if the case has been referred to another tribunal in pursuance of section 14(7) of this Act, of that other tribunal.<sup>58</sup>
- (7) A direction under section 13(2) of this Act given in respect of a person by virtue of this section shall (unless previously cancelled under section 16(3) of this Act) cease to have effect on the occurrence of any of the following events, that is to say —

- (a) the service on that person of a notice under section 14(3) of this Act relating to his case;
- (b) the service on that person of a notice under section 14(5) of this Act relating to his case stating that the Department does not propose to give a direction under section 13(2) of this Act pursuant to a recommendation of the tribunal that such a direction should be given;<sup>59</sup>
- (c) the service on that person of a copy of such a direction given in respect of him in pursuance of section 14(7) of this Act;
- (d) the making of an order by the Department in pursuance of section 14(7) that no further proceedings under section 14 shall be taken in the case;<sup>60</sup>
- (e) the expiration of the period of operation of the direction under section 13(2) given by virtue of this section.

## 16 Provisions supplementary to ss 14 and 15

[P1971/38/16]

- (1) The provisions of Schedule 3 to this Act shall have effect with respect to the constitution and procedure of any tribunal, advisory body or professional panel appointed for the purposes of section 14 or 15 of this Act, and with respect to the other matters there mentioned.
- (2) The Department shall cause a copy of any order or direction made or given by it in pursuance of section 14(7) of this Act or any direction given by it by virtue of the said section 15 to be served on the person to whom it applies and shall cause notice of any such direction, and a copy of any notice served under section 15(6) of this Act, to be published in at least two newspapers printed and circulating in the Island.<sup>61</sup>
- (3) The Department may at any time give a direction —
  - (a) cancelling or suspending any direction given by it in pursuance of section 14(7) of this Act or cancelling any direction of its under this subsection by which a direction so given is suspended; or<sup>62</sup>
  - (b) cancelling any direction given by it by virtue of section 15 of this Act,<sup>63</sup>and shall cause a copy of any direction of its under this subsection to be served on the person to whom it applies and notice of it to be published as aforesaid.<sup>64</sup>
- (4) A direction given under section 13(1) or (2) of this Act or under subsection (3) above shall take effect when a copy of it is served on the person to whom it applies.

## 17 Power to obtain information from doctors, pharmacists, etc in certain circumstances

[P1971/38/17]

- (1) If it appears to the Department that there exists in any area in the Island a social problem caused by the extensive misuse of dangerous or otherwise harmful drugs in that area, it may by notice in writing served on any doctor or pharmacist practising in or in the vicinity of that area, or on any person carrying on a retail pharmacy business within the meaning of the *Medicines Act 2003* at any premises situated in or in the vicinity of that area, require him to furnish to the Department, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be so specified relating to the quantities in which and the number and frequency of the occasions on which those drugs —
  - (a) in the case of a doctor, were prescribed, administered or supplied by him; or
  - (b) in the case of a pharmacist, were supplied by him; or
  - (c) in the case of a person carrying on a retail pharmacy business, were supplied in the course of that business at any premises so situated which may be specified in the notice.<sup>65</sup>
- (2) A notice under this section may require any such particulars to be furnished in such manner and within such time as may be specified in the notice and, if served on a pharmacist or person carrying on a retail pharmacy business, may require him to furnish the names and addresses of doctors on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates were supplied, but shall not require any person to furnish any particulars relating to the identity of any person for or to whom any such drug has been prescribed, administered or supplied.
- (3) A person commits an offence if without reasonable excuse (proof of which shall lie on him) he fails to comply with any requirement to which he is subject by virtue of subsection (1) above.
- (4) A person commits an offence if, in purported compliance with a requirement imposed under this section, he gives any information which he knows to be false in a material particular or recklessly gives any information which is so false.

### *Miscellaneous offences and powers*

## 18 Miscellaneous offences

[P1971/38/18]

- (1) It is an offence for a person to contravene any regulations other than —
  - (a) regulations made in pursuance of section 10(2)(h) or (i) of this Act;or

- (b) regulations for the time being in force made in pursuance of section 10(2)(h) or (i) of the UK Act and applied to the Island by an order made under section 33 of this Act.<sup>66</sup>
- (2) It is an offence for a person to contravene a condition or other term of—
  - (a) a licence issued under section 3 of this Act; or
  - (b) a licence or other authority issued under—
    - (i) regulations made under this Act; or
    - (ii) regulations for the time being in force applied to the Island by an order made under section 33 of this Act,not being a licence or authority issued under regulations made in pursuance of section 10(2)(i) or issued under regulations for the time being in force made in pursuance of section 10(2)(i) of the UK Act and applied to the Island by an order made under section 33 of this Act.<sup>67</sup>
- (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 or regulations for the time being in force applied to the Island by an order made under section 33 of 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.<sup>68</sup>
- (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 or regulations for the time being in force applied to the Island by an order made under section 33 of 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.<sup>69</sup>

## 19 Attempts etc to commit offences

[P1971/38/19]

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

## 20 **Assisting in or inducing commission outside the Island of offence punishable under a corresponding law**

[P1971/38/20]

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

## 21 **Offences by corporations**

[P1971/38/21]

Where an offence under 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 shall be guilty of that offence and shall be liable to be proceeded against accordingly.

## 22 **Further powers to make regulations**

[P1971/38/22]

- (1) Subject to subsections (2) and (3), the Department or the Commission 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 following provisions of the *Customs and Excise Management Act 1986*, that is to say, sections 47(1) to (4), 69(2) and (3) and 178, in so far as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of section 3 of this Act;<sup>70</sup>
  - (b) for applying any of the provisions of sections 14 to 16 of this Act and Schedule 3 thereto, with such modifications (if any) as may be prescribed —
    - (i) in relation to any proposal by the Governor to give a direction under section 12(2) of this Act; or
    - (ii) for such purposes of regulations under this Act as may be prescribed;
  - (c) for the application of any of the provisions of this Act or regulations or orders thereunder to servants or agents of the Crown, in right of the Government of the United Kingdom or of the Government of the Island, subject to such exceptions, adaptations and modifications as may be prescribed.<sup>71 72</sup>

- (2) The Department shall not make regulations under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin other than a cannabis-based product for medicinal use in humans.<sup>73</sup>
- (3) The Commission may make regulations under subsection (1) in respect of cannabinol, cannabinol derivatives, cannabis or cannabis resin, provided that the Commission shall not make such regulations in relation to a cannabis-based product for medicinal use in humans without the consent of the Department.<sup>74</sup>

*Law enforcement and punishment of offences*

### **23 Powers to search and obtain evidence**

[P1971/38/23]

- (1) A constable or other person authorised in that behalf by the Department 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 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.<sup>75</sup>
- (1A) A person authorised by the Commission 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 cannabinol, cannabinol derivatives, cannabis or cannabis resin 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.<sup>76</sup>
- (2) If a constable has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Act, of regulations made thereunder or of any regulations for the time being in force applied to the Island by an order made under section 33 of this Act, the constable may —
  - (a) search that person, and detain him for the purpose of searching him;
  - (b) search any vehicle or vessel in which the constable 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 constable to be evidence of any offence under this Act.

In this subsection, “vessel” includes a hovercraft within the meaning of the Hovercraft Act 1968 (an Act of Parliament); and nothing in this subsection shall prejudice any power of search or any power to seize or

detain property which is exercisable by a constable apart from this subsection.<sup>77</sup>

- (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 are, in contravention of this Act, of regulations made thereunder or of any regulations for the time being in force applied to the Island by an order made under section 33 of this Act, in the possession of a person on any premises; or<sup>78</sup>
  - (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence under this Act, or in case of a transaction or dealing carried out or intended to be carried out in a place outside the Island, an offence against the provisions of a corresponding law in force in that place, is in the possession of a person on any premises,

he may grant a warrant authorising any constable, 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 under this Act has been committed in relation to any controlled drugs 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) above, to seize and detain those drugs or that document, as the case may be.

- (3A) The powers conferred under subsections (1) and (3) above shall apply in relation to the manufacture and supply of scheduled substances as they apply in relation to controlled drugs.<sup>79</sup>
- (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) or (1A) above any such books, documents, stocks or drugs as are mentioned in that subsection; or<sup>80</sup>
  - (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.

**24 [Repealed]<sup>81</sup>****25 Prosecution and punishment of offences**

[P1971/38/25]

- (1) Schedule 4 to this Act shall have effect, in accordance with subsection (2) below, with respect to the way in which offences under this Act are punishable on conviction.
- (2) In relation to an offence under a provision of this Act specified in the first column of the Schedule (the general nature of the offence being described in the second column) —
  - (a) the third column shows whether the offence is punishable on summary conviction or on information 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 information) 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 information), whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug;

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

- (3) An offence under section 19 of this Act shall be punishable on summary conviction, on information or in either way according to whether, under Schedule 4 to this Act, the substantive offence is punishable on summary conviction, on information or in either way; and the punishments which may be imposed on a person convicted of an offence under that section are the same as those which, under that Schedule, may be imposed on a person convicted of the substantive offence.

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 19 was directed.

- (4) Proceedings for an offence under this Act may be brought at any time within twelve months from the commission of the offence.

**26 [Repealed]<sup>82</sup>****27 Forfeiture**

[P1971/38/27]

- (1) Subject to subsection (2) below, the court by or before which a person is convicted of an offence to which this section applies 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.<sup>83</sup>
- (1A) This section applies to any offence which is either (or both) of the following –
  - (a) an offence under this Act;
  - (b) an offence falling within subsection (3).<sup>84</sup>
- (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.
- (3) An offence falls within this subsection if it is an offence which is specified in –
  - (a) paragraph 1 of Schedule 3 to the *Proceeds of Crime Act 2008* (drug trafficking offences); or
  - (b) so far as it relates to that paragraph, paragraph 11 of that Schedule.<sup>85</sup>

*Miscellaneous and supplementary provisions***28 Proof of lack of knowledge etc to be a defence in proceedings for certain offences**

[P1971/38/28]

- (1) This section applies to offences under any of the following provisions of this Act, that is to say, section 4(2) and (3), section 5(2) and (3), section 6(2) and section 9.
- (2) Subject to subsection (3) below, 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.

## 29 Service of documents

[P1971/38/29]

- (1) Any notice or other document required or authorised by any provision of this Act to be served on any person may be served on him either by delivering it to him or by leaving it at his proper address or by sending it by post.
- (2) Any notice or other document so required or authorised to be served on a body corporate shall be duly served if it is served on the secretary or clerk of that body.
- (3) For the purposes of this section, the proper address of any person shall, in the case of the secretary or clerk of a body corporate, be that of the registered or principal office of that body, and in any other case shall be the last address of the person to be served which is known to the Department or the Commission, as the case may be.<sup>86</sup>
- (4) Where any of the following documents, that is to say —
  - (a) a notice under section 11(1) or section 15(6) of this Act; or
  - (b) a copy of a direction given under section 12(2), section 13(1) or (2) or section 16(3) of this Act,

is served by sending it by registered post or by the recorded delivery service, service thereof shall be deemed to have been effected at the time when the letter containing it would be delivered in the ordinary course of post.

### 30 Licences and authorities

- (1) A licence or other authority issued by the Department for the purposes of this Act, of regulations made under this Act or of any regulations for the time being in force applied to the Island by an order made under section 33 of 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 Department thinks proper, and may be modified or revoked by it at any time.
- (2) A licence issued by the Commission for the purposes of this Act, of regulations made under this Act or of any regulations for the time being in force applied to the Island by an order made under section 33 of this Act may be, to any degree, general or specific, issued on such terms and subject to such conditions (including, the payment of a prescribed fee to the Treasury) as the Commission thinks proper, and may be modified or revoked by it at any time.<sup>87</sup>

### 30A Regulations about scheduled substances

- (1) The Department may by regulations make provision —
  - (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.
- (2) Regulations made by virtue of subsection (1)(b) above may, in particular, require —
  - (a) the notification of the proposed exportation, or removal from the Island to the United Kingdom, of substances specified in Table I in Schedule 2A to this Act 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 69 of the *Customs and Excise Management Act 1986* (offences relating to exportation of prohibited or restricted goods) 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 if it is exported without the requisite notification having been given.

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

- (a) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding £5,000 or both;
  - (b) on conviction on information to imprisonment for a term not exceeding 2 years or a fine or both.
- (4) No information obtained pursuant to the regulations shall be disclosed except for the purposes of criminal proceedings or of proceedings under the provisions of the *Proceeds of Crime Act 2008*.<sup>88</sup>

### 31 General provisions as to regulations

[P1971/38/31]

- (1) Regulations made by the Department or the Commission under any provision of this Act –
  - (a) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Act or other different cases or circumstances; and
  - (b) may make the opinion, consent or approval of a prescribed authority or of any person authorised in a prescribed manner material for purposes of any provision of the regulations; and
  - (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Department or the Commission, as the case may be.<sup>89 90</sup>
- (2) Neither the Department nor the Commission shall make any regulations under this Act except after consultation with the Advisory Council.<sup>91</sup>
- (3) Regulations under this Act shall not have effect until they have been approved by Tynwald.

### 32 Power to amend Act by order

[1971/29/102]

- (1) The Department or the Commission, as the case may be may, from time to time by order, amend, vary or repeal any provision of this Act in such manner as may appear to it expedient for the purpose of making this enactment correspond (subject to such modifications or adaptations as it may consider appropriate) with the like enactments from time to time operating in the United Kingdom.<sup>92</sup>
- (2) Any order made under subsection (1) above shall have effect as if the order were an Act of Tynwald.
- (3) Neither the Department nor the Commission shall make an order under subsection (1) above except after consultation with the Advisory Council.<sup>93</sup>

### 33 Application of UK orders, regulations and directions

[1971/29/104(1) and (2)]

- (1) Without prejudice to the other powers of the Department or the Commission to make orders or regulations under this Act, the Department or the Commission (as the case may be) may, subject to such modifications or adaptations, or both, as may be specified in the order, by order apply to the Island the provisions of any order or regulations made under any like enactments to this Act from time to time in force in the United Kingdom.<sup>94</sup>
- (1A) An order under subsection (1) may apply any such order or regulations made under those enactments as may from time to time be in force in the United Kingdom (that is, any regulations or order made after as well as before the making of the order under subsection (1)).<sup>95</sup>
- (2) Any order or regulations (whether made before or after this section takes effect) applied by an order under subsection (1) above may be amended, varied or revoked by an order or, as the case may be, regulations made under this Act.
- (3) Without prejudice to the power of the Department to give directions under section 12 or 13 of this Act, the Department may, where the Secretary of State has given a direction in respect of –
  - (a) any practitioner or pharmacist under section 12; or
  - (b) any doctor under section 13(1); or
  - (c) any practitioner under section 13(2),of the UK Act direct that that direction shall have effect in relation to that practitioner, pharmacist or doctor, as the case may be, as if the direction had been duly given by the Department under section 12 or 13(1) or (2), as the case may be, of this Act, and any direction given under this subsection shall have effect accordingly from the date upon which it is given.<sup>96</sup>
- (4) Neither the Department nor the Commission shall make any order under subsection (1) above except after consultation with the Advisory Council.<sup>97</sup>

### 34 Orders under ss 32 and 33 to be subject to approval of Tynwald

An order made under section 32 or 33 of this Act shall not have effect until it has been approved by Tynwald

### 35 Research

[P1971/38/32]

The Department may conduct or assist in conducting research into any matter relating to the misuse of dangerous or otherwise harmful drugs.<sup>98</sup>

### 36 Financial provisions

[P1971/38/35]

There shall be defrayed out of money provided by Tynwald any expenses incurred by any Department or the Commission under or in consequence of this Act.<sup>99</sup>

### 37 Meaning of “corresponding law”, and evidence of certain matters by certificate

- (1) In this Act, “**corresponding law**” means —
- (a) a law providing for the control and regulation in a country outside the Island 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
  - (b) 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 a certificate purporting to be issued by or on behalf of the government of a country outside the Island to the effect that —
- (a) a law mentioned in the certificate is a corresponding law; or
  - (b) any facts constitute an offence against the law mentioned in the certificate,
- shall be evidence of the matters stated.<sup>100</sup>

### 38 Interpretation

[P1971/38/37]

- (1) In this Act, except in so far as the context otherwise requires —
- “**the Advisory Council**” means the Advisory Council on the Misuse of Drugs established under this Act;
- “**cannabis**” (except in the expression “cannabis resin”) means any plant of the genus Cannabis or any part of any such plant (by whatever name designed) except that it does not include cannabis resin or any of the following products after separation from the rest of the plant, namely —
- (a) mature stalk of any such plant;
  - (b) fibre produced from mature stalk of any such plant; and
  - (c) seed of any such plant;<sup>101</sup>

- “**cannabis resin**” means the separated resin, whether crude or purified, obtained from any plant of the genus *Cannabis*;
- “**cannabinol derivatives**” has the same meaning as in Part IV of Schedule 2 (controlled drugs) to the UK Act;<sup>102</sup>
- “**the Commission**” means the Isle of Man Gambling Supervision Commission;<sup>103</sup>
- “**contravention**” includes failure to comply, and “**contravene**” has a corresponding meaning;
- “**controlled drug**” has the meaning assigned by section 2 of this Act;
- “**corresponding law**” has the meaning assigned by section 37(1) of this Act;
- “**the Customs and Excise Act**” means the Customs and Excise Act 1952 (an Act of Parliament) as it had for the time being effect in the Island (whether by virtue of section 308 thereof or by virtue of an order made under section 1 of the *Customs and Excise Acts (Application) Act 1975*;<sup>104</sup>
- “**the Customs and Excise Management Act**” means the Customs and Excise Management Act 1979 (an Act of Parliament) as it has effect for the time being in the Island by virtue of an order made under section 1 of the said Act of 1975;<sup>105</sup>
- “**dentist**” means a person registered in the dentists register under the Dentists Act 1984 (an Act of Parliament);<sup>106</sup>
- “**the Department**” means the Department of Health and Social Care;<sup>107</sup>
- “**the DHSS**” [Repealed]<sup>108</sup>
- “**doctor**” means a registered medical practitioner;<sup>109</sup>
- “**person lawfully conducting a retail pharmacy business**”, subject to subsection (6) below, means a person lawfully conducting such a business in accordance with section 35 of the *Medicines Act 2003*;<sup>110</sup>
- “**pharmacist**” has the same meaning as in the *Medicines Act 2003*;<sup>111</sup>
- “**practitioner**” means a doctor, dentist or veterinary surgeon;<sup>112</sup>
- “**prepared opium**” means opium prepared for smoking and includes dross and any other residues remaining after opium has been smoked;
- “**prescribed**” means prescribed by regulations made by the Department or the Commission under this Act;<sup>113</sup>
- “**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;
- “**relevant secondary legislation**” means any of the following instruments as for the time being in force —
- (a) any regulations under section 7 of this Act;

- (b) any order under section 33 of this Act; and
- (c) any order or regulations applied to the Island by an order made under section 33 of this Act;<sup>114</sup>

“**scheduled substance**” has the meaning assigned by section 4A(3) of this Act;<sup>115</sup>

“**supplying**” includes distributing;

“**UK Act**” means the Misuse of Drugs Act 1971 (an Act of Parliament);<sup>116</sup>

“**veterinary practitioner**” [Repealed]<sup>117</sup>

“**veterinary surgeon**” has the meaning given by section 1(1) of the *Veterinary Surgeons Act 2005*.<sup>118</sup>

- (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 any thing subject to his control which is in the custody of another.
- (4) Except in so far as the context otherwise requires, any reference in this Act to an enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.
- (5) Sections 182 and 183 of the *Customs and Excise Management Act 1986* (removal to or from the Island not to be exportation or importation) shall, for the purposes of this Act, apply to the removal to or from the United Kingdom from or to the Island as it applies for the purposes of that Act.<sup>119</sup>
- (6) [Repealed]<sup>120</sup>

### 39 Savings and transitional provisions

[P1971/38/39]

- (1) The savings and transitional provisions contained in Schedule 5 to this Act shall have effect.
- (2) [Repealed]<sup>121</sup>

### 40 Short title and commencement

- (1) This Act may be cited as the Misuse of Drugs Act 1976.
- (2) This Act shall, subject to subsection (3) below, come into operation when the Royal Assent thereto has been by the Governor announced to Tynwald and a certificate thereof has been signed by the Governor and the Speaker of the House of Keys.
- (3) This section shall take effect on the coming into operation of this Act and the remaining provisions of this Act shall take effect on such day or days

as the Governor may by order appoint, and different dates may be appointed under this subsection for different purposes.<sup>122</sup>

**SCHEDULE 1****CONSTITUTION ETC. OF ADVISORY COUNCIL ON THE  
MISUSE OF DRUGS**

## Section 1 [P1971/38/Sch 1]

1. (1) The members of the Advisory Council, of whom there shall be not less than eight, shall be appointed by the Department after consultation with such organisations as it considers appropriate, and shall include —
  - (a) in relation to each of the activities specified in sub-paragraph (2) below, at least one person appearing to the Department to have wide and recent experience of that activity; and<sup>123</sup>
  - (b) persons appearing to the Department to have wide and recent experience of social problems connected with the misuse of drugs.<sup>124</sup>
- (2) The activities referred to in sub-paragraph (1)(a) above are —
  - (a) the practice of medicine (other than veterinary medicine);
  - (b) the practice of dentistry;
  - (c) the practice of veterinary medicine;
  - (d) the practice of pharmacy;
  - (e) chemistry other than pharmaceutical chemistry.
- (3) The Department shall appoint one of the members of the Advisory Council to be chairman of the Council.<sup>125</sup>
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 it by the Council.
3. At meetings of the Advisory Council the quorum shall be five, and subject to that the Council may determine its own procedure.
4. The Treasury may, by order, prescribe the remuneration (if any) and the travelling and other allowances which may be paid to the members of the Advisory Council but no such order shall have effect until it has been approved by Tynwald.<sup>126</sup>
5. Any expenses incurred by the Advisory Council with the approval of the Treasury shall be defrayed by the Treasury.<sup>127</sup>

**SCHEDULE 2<sup>128</sup>****SCHEDULE 2A<sup>129</sup>****SUBSTANCES USEFUL FOR MANUFACTURING  
CONTROLLED DRUGS**

Section 4A [Sch 2A inserted by Criminal Justice Act 1991 Sch 3.]

TABLE I

Ephedrine  
Ergometrine  
Ergotamine  
Lysergic acid  
Norephedrine  
1-Phenyl-2-propanone  
Pseudoephedrine  
N-Acetylanthranilic acid  
Isosafrole  
3,4-Methylene-dioxyphenyl-2-propanone  
Piperonal  
Safrole

The salts of the substances listed in this Table whenever the existence of such salts is possible.<sup>130</sup>

TABLE II

Acetic anhydride  
Acetone  
Anthranilic acid  
Ethyl ether  
Phenylacetic acid  
Piperidine  
Hydrochloric acid  
Methyl Ethyl Ketone (also referred to as 2-Butanone or M.E.K.)  
Potassium Permanganate  
Sulphuric Acid  
Toluene

The salts of the substances listed in this Table except hydrochloric acid and sulphuric acid whenever the existence of such salts is possible.<sup>131</sup>

## SCHEDULE 2B<sup>132</sup>

### ENFORCEMENT POWERS IN RESPECT OF SHIPS

#### Section 9D

##### *Preliminary*

1. (1) In this Schedule “**an enforcement officer**” means —
  - (a) a constable;
  - (b) a proper officer within the meaning of the *Customs and Excise Management Act 1986*; and
  - (c) any other person of a description specified in an order made for the purposes of this Schedule by the Chief Minister.
- (2) An order under sub-paragraph (1)(c) shall be laid before Tynwald.
- (3) 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 a port in the Island and detain it there.
  - (2) Where an enforcement officer is exercising his powers with the authority of the Chief Minister given under section 9D of this Act the officer may require the ship to be taken to a port in the Convention state in question or, if that state has so requested, in any other country or territory willing to receive it.
  - (3) For any of those purposes he may require the master or any member of the crew to take such action as may be necessary.
  - (4) If an enforcement officer detains a vessel 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 9B or 9C of this Act 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 person; and
  - (b) any equipment or materials.
- (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.
- (2) A person is guilty of an offence if, in purporting to give information required by an officer for the performance of those functions, he —
- (a) 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
  - (b) intentionally fails to disclose any material particular.
- (3) A person guilty of an offence under this paragraph is liable on summary conviction to a fine not exceeding £5,000.

**SCHEDULE 3****TRIBUNALS, ADVISORY BODIES AND PROFESSIONAL  
PANELS**

Section 16 [P1971/38/Sch 3]

**PART I – TRIBUNALS***Membership*

1. (1) A tribunal shall consist of five persons of whom —
- (a) one shall be an advocate, barrister or solicitor of not less than seven years' standing appointed by the Department to be the chairman of the tribunal; and<sup>133</sup>
  - (b) the other four shall be persons appointed by the Department from among members of the respondent's profession nominated for the purposes of this Schedule by any of the relevant bodies mentioned in sub-paragraph (2) below, but at least two of those persons shall be members of the respondents profession not residing in the Island.<sup>134</sup>
- (2) The relevant bodies aforesaid are —
- (a) where the respondent is a doctor, the Isle of Man Medical Society;
  - (b) where the respondent is a dentist, the Isle of Man Dental Association;

- (c) where the respondent is a veterinary surgeon, the Royal College of Veterinary Surgeons and the British Veterinary Association.<sup>135</sup>

*Procedure*

2. The quorum of a tribunal shall be the chairman and two other members of the tribunal.

3. Proceedings before a tribunal shall be held in private unless the respondent requests otherwise and the tribunal accedes to the request.

4. (1) Subject to paragraph 5 below, the Deemsters may make rules as to the procedure to be followed, and the rules of evidence to be observed, in proceedings before tribunals, and in particular —

- (a) for securing that notice that the proceedings are to be brought shall be given to the respondent at such time and in such manner as may be specified by the rules;
- (b) for determining who, in addition to the respondent, shall be a party to the proceedings;
- (c) for securing that any party to the proceedings shall, if he so requires, be entitled to be heard by the tribunal;
- (d) for enabling any party to the proceedings to be represented by an advocate.

(2) Rules under this paragraph shall not have effect until they have been approved by Tynwald.

5. Subject to the foregoing provisions of this Schedule, a tribunal may regulate its own procedure.

6. The validity of the proceedings of a tribunal shall not be affected by any defect in the appointment of a member of the tribunal or by reason of the fact that a person not entitled to do so took part in the proceedings.

*Financial provisions*

7. The Treasury may pay to any member of a tribunal fees and travelling and other allowances in respect of his services in accordance with such scales and subject to such conditions as the Treasury may determine.<sup>136</sup>

8. The Treasury may pay to any person who attends as a witness before the tribunal sums by way of compensation for the loss of his time and travelling and other allowances in accordance with such scales and subject to such conditions as may be determined as aforesaid.<sup>137</sup>

9. If a tribunal recommends to the Department that the whole or part of the expenses properly incurred by the respondent for the purposes of proceedings before the tribunal

should be defrayed out of public funds, the Treasury shall make to the respondent such payments in respect of those expenses as the Treasury considers appropriate.<sup>138</sup>

10. Any expenses incurred by a tribunal with the approval of the Treasury shall be defrayed by the Treasury.<sup>139</sup>

### *Supplemental*

11. The Department shall make available to a tribunal such accommodation, the services of such officers and such other facilities as it considers appropriate for the purpose of enabling the tribunal to perform its functions.<sup>140</sup>

## **PART II – ADVISORY BODIES**

### *Membership*

12. An advisory body shall consist of three persons of whom —

- (a) one shall be a Deemster, or a person who is counsel to Her Majesty, and is appointed by the Governor to be the Chairman of the advisory body;
- (b) another shall be a medical practitioner appointed by the Governor from a list of such practitioners compiled by a Government Department;<sup>141</sup>
- (c) the other shall be a person appointed by the Governor from among the members of the respondent's profession nominated as mentioned in paragraph 1 above.

### *Procedure*

13. The respondent shall be entitled to appear before, and be heard by, the advisory body either in person or by an advocate.

14. Subject to the provisions of this Part of this Schedule, an advisory body may regulate its own procedure.

### *Application of provisions of Part I*

15. Paragraphs 3, 6, 7 and 9 to 11 above shall apply in relation to an advisory body as they apply in relation to a tribunal.

## PART III – PROFESSIONAL PANELS

### *Membership*

16. A professional panel shall consist of a chairman and two other persons appointed by the Department from among the members of the respondent's profession after consultation with such one or more of the relevant bodies mentioned in paragraph 1(2) above as the Department considers appropriate.<sup>142</sup>

### *Procedure*

17. The respondent shall be entitled to appear before, and be heard by, the professional panel either in person or by an advocate.

18. Subject to the provisions of this Part of this Schedule, a professional panel may regulate its own procedure.

### *Application of provisions of Part I*

19. Paragraphs 3, 6 and 7 above shall apply in relation to a professional panel as they apply in relation to a tribunal.

## SCHEDULE 4

### PROSECUTION AND PUNISHMENT OF OFFENCES

Section 25 [P1971/38/Sch 4]<sup>143</sup>

Section Creating Offence	General Nature of Offence	Mode of Production	Punishment			
			Class A Drug involved	Class B Drug involved	Class C Drug involved	General
Section 4(2)	Production, or being concerned in the production, of a controlled drug.	(a) Summary (b) On information	12 months or £5,000, or both. Life or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	
Section 4(3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another.	(a) Summary (b) On information	12 months or £5,000, or both. Life or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	
Section 5(2)	Having possession of a controlled drug.	(a) Summary (b) On information	12 months or £5,000, or both. 7 years or a fine, or both.	6 months or £5,000, or both. 5 years or a fine, or both.	6 months or £2,500, or both. 2 years or a fine, or both.	

Section Creating Offence	General Nature of Offence	Mode of Production	Punishment			
			Class A Drug involved	Class B Drug involved	Class C Drug involved	General
Section 5(3)	Having possession of a controlled drug with intent to supply it to another.	(a) Summary (b) On information	12 months or £5,000, or both. Life or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	
Section 6(2)	Cultivation of cannabis plant.	(a) Summary (b) On information	— —	— —	— —	12 months or £2,500, or both. 14 years or a fine, or both.
Section 8	Being the occupier, or concerned in the management, of premises and permitting or suffering certain activities to take place there.	(a) Summary (b) On information	12 months or £5,000, or both. 14 years or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	
Section 9	Offences relating to opium	(a) Summary (b) On information	— —	— —	— —	12 months or £5,000, or both. 14 years or a fine, or both.
Section 9A	Prohibition of supply etc. of articles for administering controlled drugs.	(a) Summary	—	—	—	6 months or £5,000, or both.
Section 11(2)	Contravention of directions relating to safe custody of controlled drugs.	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.
Section 12(6)	Contravention of direction prohibiting practitioner etc. from possessing, supplying etc. controlled drugs.	(a) Summary (b) On information	12 months or £2,500, or both. 14 years or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	
Section 13(3)	Contravention of direction prohibiting practitioner etc. from prescribing, supplying etc. controlled drugs.	(a) Summary (b) On information	12 months or £5,000, or both. 14 years or a fine, or both.	12 months or £5,000, or both. 14 years or a fine, or both.	6 months or £2,500, or both. 14 years or a fine, or both.	

Section Creating Offence	General Nature of Offence	Mode of Production	Punishment			
			Class A Drug involved	Class B Drug involved	Class C Drug involved	General
Section 17(3)	Failure to comply with notice requiring information relating to prescribing, supply etc. of drugs.	(a) Summary	—	—	—	£1,000
Section 17(4)	Giving false information in purported compliance with notice requiring information relating to prescribing, supply etc. of drugs.	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.
Section 18(1)	Contravention of regulations (other than regulations relating to addicts).	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.
Section 18(2)	Contravention of terms of licence or other authority (other than licence issued under regulations relating to addicts).	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.
Section 18(3)	Giving false information in purported compliance with obligation to give information imposed under or by virtue of regulations.	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.
Section 18(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 information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.

Section Creating Offence	General Nature of Offence	Mode of Production	Punishment			
			Class A Drug involved	Class B Drug involved	Class C Drug involved	General
Section 20	Assisting in or inducing commission outside the Island of an offence punishable under a corresponding law.	(a) Summary (b) On information	— —	— —	— —	12 months or £5,000, or both. 14 years or a fine, or both.
Section 23(4)	Obstructing exercise of powers of search etc. or concealing books, drugs etc.	(a) Summary (b) On information	— —	— —	— —	6 months or £5,000, or both. 2 years or a fine, or both.

## SCHEDULE 5

### SAVINGS AND TRANSITIONAL PROVISIONS

#### Section 39(1) [P1971/38/Sch 5]

1. (1) Any addiction regulations which could have been made under this Act shall not be invalidated by any repeal effected by this Act but shall have effect as if made under the provisions of this Act which correspond to the provisions under which the regulations were made; and the validity of any licence issued under any such addiction regulations shall not be affected by any such repeal.

(2) Any order, rule or other instrument or document whatsoever made or issued, any direction given, and any other thing done, under or by virtue of any of the following provisions of the *Dangerous Drugs Act 1971* that is to say section 1(2), 2 or 3 or the Schedule, shall be deemed for the purposes of this Act to have been made, issued or done, as the case may be, under the corresponding provision of this Act; and anything begun under any of the said provisions of that Act may be continued under this Act as if begun under this Act.

(3) In this paragraph, “addiction regulations” means any regulations made under section 11 of the *Dangerous Drugs Act 1966* which include provision for any of the matters for which regulations may be so made by virtue of section 1(1) of the said Act of 1971.

2. As from the coming into operation of section 3 of this Act, any licence granted for the purpose of section 5 of the *Drugs (Prevention of Misuse) (Isle of Man) Act 1965* or sections 2, 3 or 10 of the said Act of 1966 shall have effect as if granted for the purpose of section 3(2) of this Act.

3. (1) The Governor may, at any time before the coming into operation of section 12 of this Act, give a direction under subsection (2) of that section in respect of any practitioner or pharmacist whose general authority under the Dangerous Drugs Regulations is for the time being withdrawn; but a direction given by virtue of this subparagraph shall not take effect until section 12 comes into operation, and shall not take effect at all if the general authority of the person concerned is restored before that section comes into operation.

(2) No direction under section 12(2) of this Act shall be given by virtue of subparagraph (1) above in respect of a person while the withdrawal of his general authority under the Dangerous Drugs Regulations is suspended; but where, in the case of any practitioner or pharmacist whose general authority has been withdrawn, the withdrawal is suspended at the time when section 12 comes into operation, the Governor may at any time give a direction under section 12(2) in respect of him by virtue of this subparagraph unless the Governor has previously caused to be served on him a notice stating that he is no longer liable to have such a direction given in respect of him by virtue of this subparagraph.

(3) In this paragraph, “the Dangerous Drugs Regulations” means the Dangerous Drugs Regulations 1965.

4. Subject to paragraphs 1 to 3 above, and without prejudice to the generality of section 31(1)(c) of this Act, regulations made by the Governor under any provision of this Act may include such provision as the Governor thinks fit for effecting the transition from any provision made by or by virtue of any of the enactments repealed by this Act to any provision made by or by virtue of this Act, and in particular may provide for the continuation in force, with or without modifications, of any licence or other authority issued or having effect as if issued under or by virtue of any of those enactments.

5. For purposes of the enforcement of the enactments repealed by this Act as regards anything done or omitted before their repeal, any powers of search, entry, inspection, seizure or detention conferred by those enactments shall continue to be exercisable as if those enactments were still in force.

6. The mention of particular matters in this Schedule shall not prejudice the general application of section 10(2) of the *Interpretation Act 1970* with regard to the effect of repeals.

## SCHEDULE 6<sup>144</sup>

## ENDNOTES

### Table of Legislation History

Legislation	Year and No	Commencement

### Table of Renumbered Provisions

Original	Current

### Table of Endnote References

<sup>1</sup> Subs (3) amended by Transfer of Governor's Functions Act 1992 s 1 and Sch 1, by SD582/99, by SD155/10 Sch 4 and by SD2014/08.

<sup>2</sup> Subs (4) substituted by Education Act 2001 Sch 10 and amended by SD155/10 Sch 10, by SD2017/0325 and by SD2020/0547.

<sup>3</sup> Subs (5) added by Misuse of Drugs (Amendment) Act 2010 s 3.

<sup>4</sup> Subs (6) added by Misuse of Drugs (Amendment) Act 2010 s 3.

<sup>5</sup> Para (a) substituted by SD309/13 and amended by SD2020/0038.

<sup>6</sup> S 2 substituted by Misuse of Drugs (Amendment) Act 2010 s 4.

<sup>7</sup> Para (a) amended by SD2020/0038.

<sup>8</sup> Para (b) substituted by SD2020/0547.

<sup>9</sup> Subs (2A) inserted by SD2020/0547.

<sup>10</sup> Subs (1) amended by SD2020/0038.

<sup>11</sup> S 4A inserted by Criminal Justice Act 1991 Sch 3.

<sup>12</sup> Subs (1) amended by SD2020/0038.

<sup>13</sup> Subs (1) amended by SD2020/0038.

<sup>14</sup> Para (b) amended by Interpretation Act 1976 s 16A.

<sup>15</sup> Subs (1) amended by GC55/88 and by SD2020/0547.

<sup>16</sup> Subs (1A) inserted by SD2020/0547.

<sup>17</sup> Subs (1B) inserted by SD2020/0547.

<sup>18</sup> Subs (2) repealed by SD2020/0547.

<sup>19</sup> Subs (2A) inserted by SD2020/0547.

<sup>20</sup> Para (a) amended by Veterinary Surgeons Act 2005 Schs 2 and 3.

<sup>21</sup> Para (b) amended by Veterinary Surgeons Act 2005 Schs 2 and 3.

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<sup>22</sup> Subs (3) amended by GC55/88, by Interpretation Act 1976 s 16A and by SD2020/0547.

<sup>23</sup> Para (b) amended by GC55/88 and by SD2020/0547.

<sup>24</sup> Subs (4) amended by GC55/88, by Interpretation Act 1976 s 16A, by SD2020/0038 and by SD2020/0547.

<sup>25</sup> Subs (5) amended by GC55/88 and by SD2020/0547.

<sup>26</sup> Subs (5A) inserted by SD2020/0547.

<sup>27</sup> Subs (5B) inserted by SD2020/0547.

<sup>28</sup> S 9A inserted by Drugs Trafficking Offences Act 1987 s 26.

<sup>29</sup> S 9B inserted by Criminal Justice Act 1991 Sch 3.

<sup>30</sup> S 9C inserted by Criminal Justice Act 1991 Sch 3.

<sup>31</sup> S 9D inserted by Criminal Justice Act 1991 Sch 3.

<sup>32</sup> Subs (1) amended by Statute Law Revision Act 1997 Sch 1.

<sup>33</sup> Definition of “drug trafficking offence” substituted by Proceeds of Crime Act 2008 Sch 7.

<sup>34</sup> S 9E inserted by Criminal Justice Act 1991 Sch 3.

<sup>35</sup> Cross-heading amended by SD2020/0547.

<sup>36</sup> Subs (1) amended by GC55/88, by Interpretation Act 1976 s 16A and by SD2020/0547.

<sup>37</sup> Subs (1A) inserted by SD2020/0547.

<sup>38</sup> Subs (1B) inserted by SD2020/0547.

<sup>39</sup> Para (i) amended by SD582/99.

<sup>40</sup> Subs (1) substituted by SD2020/0038 and amended by SD2020/0547.

<sup>41</sup> Subs (1A) inserted by SD2020/0547.

<sup>42</sup> Subs (1B) inserted by SD2020/0547.

<sup>43</sup> Para (b) amended by GC38/79 and by Customs and Excise Management Act 1986 Sch 4.

<sup>44</sup> Subs (1) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.

<sup>45</sup> Subs (3) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99.

<sup>46</sup> Subs (4) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99.

<sup>47</sup> Subs (1) substituted by SD2020/0038.

<sup>48</sup> Subs (2) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.

<sup>49</sup> Subs (1) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99.

<sup>50</sup> Subs (3) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.

<sup>51</sup> Subs (5) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99. Para (b) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.

<sup>52</sup> Subs (6) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99.

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- <sup>53</sup> Subs (7) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>54</sup> Subs (1) amended by Transfer of Governor's Functions Act 1992 s 1 and Sch 1 and by SD582/99.
- <sup>55</sup> Para (a) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>56</sup> Subs (2) amended by Transfer of Governor's Functions Act 1992 s 1 and Sch 1 and by SD582/99. Para (b) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>57</sup> Subs (4) amended by Transfer of Governor's Functions Act 1992 s 1 and Sch 1 and by SD582/99.
- <sup>58</sup> Subs (6) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>59</sup> Para (b) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>60</sup> Para (d) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>61</sup> Subs (2) amended by Transfer of Governor's Functions Act 1992 s 1 and by SD582/99.
- <sup>62</sup> Para (a) amended by Transfer of Governor's Functions Act 1992 s 1.
- <sup>63</sup> Para (b) amended by Transfer of Governor's Functions Act 1992 s 1.
- <sup>64</sup> Subs (3) amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>65</sup> Subs (1) amended by Transfer of Governor's Functions Act 1992 s 1 and Sch 1, by SD582/99 and by Medicines Act 2003 Sch 3.
- <sup>66</sup> Subs (1) substituted by SD2020/0038.
- <sup>67</sup> Subs (2) substituted by SD2020/0038.
- <sup>68</sup> Subs (3) amended by SD2020/0038.
- <sup>69</sup> Subs (4) amended by SD2020/0038.
- <sup>70</sup> Subpara (ii) amended by Customs and Excise Management Act 1986 Sch 4.
- <sup>71</sup> Subs (1) amended by SD2020/0547.
- <sup>72</sup> S 22 amended by GC55/88 and text renumbered as subs (1) by SD2020/0547.
- <sup>73</sup> Subs (2) inserted by SD2020/0547.
- <sup>74</sup> Subs (3) inserted by SD2020/0547.
- <sup>75</sup> Subs (1) amended by Statute Law Revision Act 1997 Sch 1.
- <sup>76</sup> Subs (1A) inserted by SD2020/0547.
- <sup>77</sup> Subs (2) amended by SD2020/0038.
- <sup>78</sup> Para (a) amended by SD2020/0038.
- <sup>79</sup> Subs (3A) inserted by Criminal Justice Act 1991 Sch 3 and amended by Proceeds of Crime Act 2008 Sch 9.
- <sup>80</sup> Para (b) amended by SD2020/0547.
- <sup>81</sup> S 24 repealed by Police Powers and Procedures Act 1998 Sch 5.
- <sup>82</sup> S 26 repealed by GC38/79.
- <sup>83</sup> Subs (1) amended by Criminal Justice Act 1990 s 31.

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- <sup>84</sup> Subs (1A) inserted by Criminal Justice Act 1990 s 31. Para (b) substituted by Proceeds of Crime Act 2008 Sch 7.
- <sup>85</sup> Subs (3) added by Proceeds of Crime Act 2008 Sch 7.
- <sup>86</sup> Subs (3) amended by Transfer of Governor's Functions Act 1992 Sch 1, by SD582/99 and by SD2020/0547.
- <sup>87</sup> S 30 substituted by SD2020/0547.
- <sup>88</sup> S 30A inserted by Criminal Justice Act 1991 Sch 3. Subs (4) amended by Proceeds of Crime Act 2008 Sch 7.
- <sup>89</sup> Para (c) amended by GC55/88 and by SD2020/0547.
- <sup>90</sup> Subs (1) amended by GC55/88 and SD2020/0547.
- <sup>91</sup> Subs (2) substituted by SD2020/0547.
- <sup>92</sup> Subs (1) amended by GC55/88, by Interpretation Act 1976 s 16A and by SD2020/0547.
- <sup>93</sup> Subs (3) inserted by SD2020/0038 and substituted by SD2020/0547.
- <sup>94</sup> Subs (1) amended by Transfer of Governor's Functions Act 1992 Sch 1, by GC55/88 and by SD2020/0547.
- <sup>95</sup> Subs (1A) inserted by Statute Law Revision Act 1992 Sch 1.
- <sup>96</sup> Subs (3) amended by Transfer of Governor's Functions Act 1992 Sch 1, by SD582/99 and by Misuse of Drugs (Amendment) Act 2010 s 5(2).
- <sup>97</sup> Subs (4) inserted by SD2020/0038 and amended by SD2020/0547.
- <sup>98</sup> S 35 amended by Transfer of Governor's Functions Act 1992 Sch 1 and by SD582/99.
- <sup>99</sup> S 36 amended by Statute Law Revision Act 1997 Sch 1 and by SD2020/0547.
- <sup>100</sup> S 37 substituted by Anti-Terrorism and Crime Act 2003 Sch 14.
- <sup>101</sup> Definition of "cannabis" substituted by GC14/78.
- <sup>102</sup> Definition of "cannabinol derivatives" inserted by SD2020/0547.
- <sup>103</sup> Definition of "the Commission" inserted by SD2020/0547.
- <sup>104</sup> Definition of "the Customs and Excise Act" substituted by GC38/79.
- <sup>105</sup> Definition of "the Customs and Excise Management Act" inserted by GC38/79.
- <sup>106</sup> Definition of "dentist" amended by Dental Act 1985 Sch 1.
- <sup>107</sup> Definition of "the Department" substituted by GC582/99 and amended by Misuse of Drugs (Amendment) Act 2010 s 5(1), by SD359/11 and by SD2014/08.
- <sup>108</sup> Definition of "the DHSS" repealed by SD582/99.
- <sup>109</sup> Definition of "doctor" substituted by Health Care Professionals Act 2014 s 14.
- <sup>110</sup> Definition of "person lawfully conducting a retail pharmacy business" amended by Medicines Act 2003 Sch 3.
- <sup>111</sup> Definition of "pharmacist" amended by Medicines Act 2003 Sch 3.
- <sup>112</sup> Definition of "practitioner" substituted by Veterinary Surgeons Act 2005 Sch 2.
- <sup>113</sup> Definition of "prescribed" amended by GC55/88 and by SD2020/0547.
- <sup>114</sup> Definition of "relevant secondary legislation" inserted by SD2020/0038.
- <sup>115</sup> Definition of "scheduled substance" inserted by Criminal Justice Act 1991 Sch 3.
- <sup>116</sup> Definition of "UK Act" inserted by Misuse of Drugs (Amendment) Act 2010 s 5(1).
- <sup>117</sup> Definition of "veterinary practitioner" repealed by Veterinary Surgeons Act 2005 Schs 2 and 3.]

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- <sup>118</sup> Definition of “veterinary surgeon” substituted by Veterinary Surgeons Act 2005 Sch 2.
- <sup>119</sup> Subs (5) amended by Customs and Excise Management Act 1986 Sch 4.
- <sup>120</sup> Subs (6) repealed by Statute Law Revision Act 1997 Sch 2.
- <sup>121</sup> Subs (2) repealed by Statute Law Revision Act 1983 Sch 2.
- <sup>122</sup> ADO (whole Act except this section) 1/2/1978 (GC16/78).
- <sup>123</sup> Item (a) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>124</sup> Subpara (1) amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99. Item (b) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>125</sup> Subpara (3) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>126</sup> Para 4 amended by Treasury Act 1985 Sch 2.
- <sup>127</sup> Para 5 amended by Treasury Act 1985 Sch 2.
- <sup>128</sup> Sch 2 repealed by Statute Law Revision Act 1992 Sch 2.
- <sup>129</sup> Sch 2A inserted by Criminal Justice Act 1991 Sch 3
- <sup>130</sup> Table I amended by SD440/96 and by SD2020/0038.
- <sup>131</sup> Table II amended by SD440/96 and by SD2020/0038.
- <sup>132</sup> Sch 2B inserted by Criminal Justice Act 1991 Sch 3.
- <sup>133</sup> Item (a) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>134</sup> Item (b) amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>135</sup> Item (c) amended by Veterinary Surgeons Act 2005 Schs 2 and 3.
- <sup>136</sup> Para 7 amended by Treasury Act 1985 Sch 2.
- <sup>137</sup> Para 8 amended by Treasury Act 1985 Sch 2.
- <sup>138</sup> Para 9 amended by Treasury Act 1985 Sch 2, by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>139</sup> Para 10 amended by Treasury Act 1985 Sch 2.
- <sup>140</sup> Para 11 amended by Transfer of Governor’s Functions Act 1992 s 1 and Sch 1 and by SD582/99.
- <sup>141</sup> Item (b) substituted by Manx Care Act 2021 Sch 5.
- <sup>142</sup> Para 16 amended by Transfer of Governor’s Functions Act 1992 Sch 1 and by SD582/99.
- <sup>143</sup> Sch 4 amended by Drug Trafficking Offences Act 1987 s 26 and s 29 and by SD309/13.
- <sup>144</sup> Sch 6 repealed by Statute Law Revision Act 1983 Sch 2.