

Jersey Law 10/1978**MISUSE OF DRUGS (JERSEY) LAW, 1978.**

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A LAW to make new provision with respect to dangerous or otherwise harmful drugs and for matters connected therewith, sanctioned by Order of Her Majesty in Council of the

25th day of JULY, 1978.

(Registered on the 6th day of October , 1978).

STATES OF JERSEY.

The 8th day of November, 1977.

THE STATES, subject to the sanction of Her Most Excellent Majesty in Council, have adopted the following Law: -

ARTICLE 1

INTERPRETATION

(1) In this Law, unless the context otherwise requires –

“cannabis” (except in the expression “cannabis resin”) means any plant of the genus *Cannabis* or any part of any such plant, but 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.

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

“the Committee” means the Public Health Committee;

“controlled drug” has the meaning assigned thereto by Article 3 of this Law;

“Customs and Excise Law” means the Customs and Excise (General Provisions) (Jersey) Law, 1972;¹

“dentist” means a person registered as a dentist under the Dentists (Registration) (Jersey) Law, 1961;²

“doctor” means a registered person within the meaning of the Medical Practitioners (Registration) (Jersey) Law, 1960;³

“enactment” includes an enactment of the United Kingdom;

“Medical Officer of Health” means the person appointed as such under the “Loi (1934) sur la Santé Publique”;⁴

“person lawfully conducting a retail pharmacy business” means an authorised seller of poisons within the meaning of the Pharmacy, Poisons and Medicines (Jersey) Law, 1952;⁵

“pharmacist” means a registered person within the meaning of the Pharmacy, Poisons and Medicines (Jersey) Law, 1952;⁵

“practitioner” means a doctor, dentist or veterinary surgeon;

“premises” includes a vessel;

¹ Volume 1970–1972, page 451.

² Volume 1961–1962, page 135.

³ Volume 1957–1960, page 493 and Volume 1963–1965, page 421.

⁴ Tome VII, page 114.

⁵ Volume 1951–1953, page 321, Volume 1954–1956, page 215 and Volume 1957–1960, page 389.

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

“prescribed” means prescribed by Order;

“produce” where the reference is to producing a controlled drug, means producing it by manufacture, cultivation or any other method, and

“production” shall be construed accordingly;

“supplying” includes distributing;

“veterinary surgeon” means a person registered under the “Loi (1939) sur l’exercice de la médecine et la chirurgie vétérinaires dans cette Ile”;⁶

(2) References in this Law to misusing a drug are references to a person misusing it by taking it by way of any form of self-administration, whether or not involving assistance by another person.

(3) For the purposes of this Law any thing 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) Any reference in this Law to any other enactment shall be construed as a reference to that enactment as amended or extended by or under any other enactment.

ARTICLE 2

CONSTITUTION OF ADVISORY COUNCIL ON MISUSE OF DRUGS

(1) There shall be constituted in accordance with the First Schedule to this Law an Advisory Council on the Misuse of Drugs

⁶ Tome VII, page 293.

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(hereinafter in this Law referred to as “the 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 Council to keep under review the situation in the Bailiwick with respect to drugs which are, 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 the Committee, where either the Council considers it expedient to do so or it is consulted by the Committee, advice on the measures 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;
- (e) for 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) For the purposes of carrying out its functions under paragraph (2) of this Article, the Council may, from time to time, consult

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with the Advisory Council on the Misuse of Drugs set up by the Misuse of Drugs Act, 1971, of the United Kingdom.

(4) It shall also be the duty of the Council to consider any matter relating to drug dependance or the misuse of drugs which may be referred to it by the Committee and to advise the Committee thereon, and in particular to consider and advise the Committee with respect to any communication referred to it, being a communication relating to the control of any dangerous or otherwise harmful drug made by any organisation or authority established by or under any treaty, convention or other agreement or arrangement.

(5) The States may by Regulations amend the First Schedule to this Law.

ARTICLE 3

CONTROLLED DRUGS AND THEIR CLASSIFICATION

- (1) For the purposes of this Law –
- (a) the expression “controlled drug” means any substance or product for the time being specified in Parts I, II or III of the Second Schedule to this Law;
 - (b) the expressions “Class A drug”, “Class B drug” and “Class C drug” mean any of the substances and products for the time being specified respectively in Part I, Part II or Part III of that Schedule;

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

(2) The Committee may by Order make such amendments to the Second Schedule to this Law as may be requisite for the purpose of adding any substance or product to, or removing any substance or product from, any of Parts I to III of that Schedule.

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(3) An Order under this Article may amend Part IV of the Second Schedule to this Law, and may do so whether or not it amends any other part of that Schedule.

ARTICLE 4

RESTRICTIONS ON IMPORTATION OR EXPORTATION OF CONTROLLED DRUGS

(1) Subject to the provisions of paragraph (2) of this Article the importation or exportation of a controlled drug is hereby prohibited.

(2) Paragraph (1) of this Article does not apply –

- (a) to the importation or exportation of a controlled drug which is for the time being exempted from the provisions of paragraph (1) of this Article by an Order made under Article 10 of this Law; or
- (b) to the importation or exportation of a controlled drug under and in accordance with the terms of a licence issued by the Committee and in compliance with any conditions attached thereto.

ARTICLE 5

RESTRICTIONS ON PRODUCTION AND SUPPLY OF CONTROLLED DRUGS

Subject to the provisions of any Order for the time being in force under Article 10 of this Law, it is an offence for a person –

- (a) to produce or be concerned in the production of a controlled drug; or
- (b) to supply or offer to supply a controlled drug to any person; or

- (c) to be concerned in the supplying of, or in the making of an offer to supply, a controlled drug to any person.

ARTICLE 6

RESTRICTIONS ON POSSESSION OF CONTROLLED DRUGS

(1) Subject to the provisions of any Order for the time being in force under Article 10 of this Law, it is an offence for a person to have a controlled drug in his possession.

(2) 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 person in contravention of sub-paragraph (b) of Article 5 of this Law.

(3) In any proceedings for an offence under paragraph (1) of this Article 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 connexion 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.

(4) The provisions of paragraph (3) of this Article shall apply in the case of proceedings for an offence under paragraph (4) of Article 19 of this Law as they apply in the case of proceedings for an

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offence under paragraph (1) of this Article, subject to the following modifications –

- (a) for the reference 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 sub-paragraphs (a) and (b) of the said paragraph (3) the words from “and that as soon as possible” to the end of those sub-paragraphs shall be omitted.

(5) Nothing in paragraph (3) of this Article shall prejudice any other defence which it is open to a person charged with an offence under this Article to raise.

ARTICLE 7

**PROHIBITION OF CERTAIN ACTIVITIES RELATING TO
OPIUM**

It is an offence for a person –

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

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- (ii) any utensils which have been used by him or with his knowledge and permission in connexion with the preparation of opium for smoking.

ARTICLE 8

PROHIBITION ON POSSESSION OF UTENSILS FOR THE PURPOSES OF COMMITTING AN OFFENCE

It is an offence for a person to have in his possession any needle, syringe or other utensil for the purposes of committing an offence against this Law.

ARTICLE 9

OCCUPIER OF PREMISES

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 –

- (a) producing or attempting to produce or supplying or attempting to supply a controlled drug in contravention of Article 5 of this Law;
- (b) preparing opium for smoking;
- (c) smoking cannabis, cannabis resin or prepared opium.

ARTICLE 10

AUTHORISATION OF ACTIVITIES OTHERWISE UNLAWFUL UNDER THIS LAW

- (1) The Committee may by Order –
 - (a) exempt from the provisions of sub-paragraph (a) of paragraph (2) of Article 4 or paragraph (1) of Article 6 of

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this Law such controlled drugs as may be specified in the Order;

- (b) make such other provision as it thinks fit for the purpose of making it lawful for persons to do things which under Article 5 or paragraph (1) of Article 6 of this Law it would otherwise be unlawful for them to do.

(2) Without prejudice to the generality of sub-paragraph (b) of paragraph (1) of this Article, any Order under this Article authorising the doing of any such thing as is mentioned in that sub-paragraph may in particular provide for the doing of that thing to be lawful –

- (a) if it is done in accordance with the terms of a licence granted by the Committee and in compliance with any conditions attached thereto; or
- (b) if it is done in compliance with such conditions as may be prescribed.

(3) Subject to the provisions of paragraph (4) of this Article, the Committee shall exercise its power to make Orders under sub-paragraph (b) of paragraph (1) of this Article so as to secure –

- (a) that it is not unlawful under Article 5 of this Law for a practitioner 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 his capacity as such, to manufacture, compound or supply a controlled drug;
- (b) that it is not unlawful under paragraph (1) of Article 6 of this Law for a practitioner, pharmacist or person lawfully conducting a retail pharmacy business to have a controlled drug in his possession for the purposes of acting in his capacity as such.

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(4) If in the case of any controlled drug the Committee 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 paragraph (3) of this Article except under a licence or other authority granted by the Committee;

it may, by Order, designate that drug as a drug to which this paragraph applies and while there is in force an Order under this paragraph designating a controlled drug as one to which this paragraph applies, paragraph (3) of this Article shall not apply in relation to that drug.

(5) In this Article references to a person's "doing" things include references to his having things in his possession.

ARTICLE 11

POWERS OF COMMITTEE FOR PREVENTING MISUSE OF CONTROLLED DRUGS

(1) Subject to the provisions of this Law the Committee may by Order make such provision as appears to it necessary or expedient for preventing the misuse of controlled drugs.

(2) Without prejudice to the generality of paragraph (1) of this Article, any Order under this Article 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

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- 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 records kept in pursuance of any Order made under this Article;
 - (e) for regulating 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 Medical Officer of Health such information relating to those prescriptions as may be specified;
 - (h) for requiring any doctor who attends a person whom he considers, or has reasonable grounds to suspect, is addicted to such controlled drugs as may be prescribed to furnish to the Medical Officer of Health such particulars with respect to that person as may be specified;
 - (j) for prohibiting any doctor from administering, supplying, and authorising the administration and supply of controlled drugs 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 Committee.

ARTICLE 12

**SPECIAL PRECAUTIONS FOR SAFE CUSTODY OF
CONTROLLED DRUGS**

(1) Without prejudice to any requirement imposed by an Order made under sub-paragraph (a) of paragraph (2) of Article 11 of this Law, the Committee, or any person duly authorised in that behalf by the Committee, 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 or are proposed to be kept on those premises.

(2) Any person who contravenes or who fails to comply with any direction given under this Article shall be guilty of an offence.

ARTICLE 13

**POWER TO OBTAIN INFORMATION FROM PRACTITIONERS,
PHARMACISTS ETC**

(1) If it appears to the Committee that there exists in the Bailiwick a social problem caused by the misuse of dangerous or otherwise harmful drugs, it may, by notice in writing served on any practitioner or pharmacist or on any person lawfully conducting a retail pharmacy business, require that person to furnish to the Committee, with respect to any such drugs specified in the notice and as regards any period so specified, such particulars as may be specified relating to the quantities in which and the number and frequency of the occasions on which those drugs were prescribed, administered or supplied by him, as the case may be.

(2) A notice under this Article 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 lawfully conducting a retail pharmacy business, may require him to furnish the names and addresses of practitioners on whose prescriptions any dangerous or otherwise harmful drugs to which the notice relates

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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 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 imposed under this Article.

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

ARTICLE 14

**DIRECTIONS PROHIBITING PRESCRIBING, SUPPLYING,
ETC. OF CONTROLLED DRUGS BY PRACTITIONERS, ETC.
CONVICTED OF CERTAIN OFFENCES**

(1) Where a practitioner or pharmacist has after the coming into force of this Law been convicted –

- (a) of an offence under this Law or under the Dangerous Drugs (Jersey) Law, 1954⁷ or any enactment repealed by that Law; or
- (b) of an offence under Articles 23, 30 or 77 of the Customs and Excise Law,⁸ in connexion with a prohibition or restriction on importation or exportation of a controlled drug having effect by virtue of Article 4 of this Law or which had effect by virtue of any provision contained in or repealed by the Dangerous Drugs (Jersey) Law, 1954;⁷

the Committee may give a direction under paragraph (2) of this Article in respect of that person.

(2) A direction under this Article shall –

⁷ Volume 1954–1956, page 9 and Volume 1963–1965, page 511.

⁸ Volume 1970–1972, pages 468, 475 and 502.

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- (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) Where the Committee proposes to give a direction under this Article, it shall cause notice to this effect to be served on the person to whom it applies.

(4) Subject to the provisions of paragraph (2) of Article 16 of this Law –

- (a) a direction given under this Article shall take effect when a copy of it is served on the person to whom it applies; and
- (b) the Committee shall cause notice of any direction given by it under this Article to be published in the Jersey Gazette.

(5) The Committee may at any time, by notice in writing served on the person to whom it applies, cancel a direction given by it under this Article, and the provisions of sub-paragraph (b) of paragraph (4) of this Article shall apply in the case of any such cancellation as they apply to a direction.

(6) Any person who contravenes a direction given under this Article shall be guilty of an offence.

ARTICLE 15

**DIRECTIONS PROHIBITING PRESCRIBING, SUPPLY, ETC. OF
CONTROLLED DRUGS BY PRACTITIONERS IN OTHER
CASES**

- (1) The Committee may –
- (a) in the event of a contravention by a doctor of any Order made under sub-paragraph *(h)* or *(j)* of paragraph (2) of Article 11 of this Law, or of the terms of a licence issued by the Committee in pursuance of the said sub-paragraph *(j)* ;
 - (b) if it is of the opinion that a practitioner is or has been after the coming into force of this Law, prescribing, administering or supplying or authorising the administration and supply of, any controlled drug in an irresponsible manner,

subject to and in accordance with the following provisions of this Article, give a direction in respect of that person, prohibiting him from prescribing, administering and supplying and from authorising the administration and supply of such controlled drugs as may be specified in the direction.

(2) Where the Committee considers that there are grounds for giving a direction under this Article, it shall forthwith request the Bailiff to constitute a Misuse of Drugs Tribunal (hereinafter referred to as “the Tribunal”) and the provisions of the Third Schedule to this Law shall have effect with respect to the constitution and procedure of the Tribunal, and with respect to the other matters there mentioned.

(3) When the Tribunal has been duly constituted the Committee shall refer the matter to the Tribunal, and it shall be the duty of the Tribunal to inquire into the matter and to recommend to the Committee whether –

- (a) no further proceedings should be taken in the matter; or

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(b) a direction under this Article should be given in respect of the person concerned.

(4) Where the Tribunal recommends the giving of a direction under this Article it shall state in its report the controlled drugs which it considers should be specified in the direction or may state that the direction should specify all controlled drugs.

(5) Where the Committee, having considered the recommendation of the Tribunal, decides that no further proceedings should be taken in the matter, it shall cause to be served on the person concerned a notice to this effect.

(6) Where the Committee, having considered the recommendation of the Tribunal, decides to give a direction under this Article, it shall cause notice to this effect to be served on the person to whom it applies.

(7) The provisions of paragraphs (4), (5) and (6) of Article 14 of this Law shall apply to a direction given under this Article, as they apply under that Article.

(8) The States may, by Regulations, amend the Third Schedule to this Law.

ARTICLE 16

RIGHT OF APPEAL

(1) A person in respect of whom a direction has been given under Article 14 or 15 of this Law may, within fourteen days of receipt of the notice, appeal to the Inferior Number of the Royal Court, either in term or in vacation, against the decision of the Committee on the grounds that, having regard to all the circumstances of the case, the decision of the Committee was unreasonable, and the decision of the Inferior Number of the Royal Court shall be final and without further appeal, but without prejudice to the right of the Inferior Number to refer the matter to the Superior Number of the Royal Court.

(2) Where notice of appeal has been given under this Article, the provisions of paragraph (4) of Article 14 of this Law shall not apply until the hearing has been abandoned or determined, as the case may be.

ARTICLE 17

POWER TO SEARCH FOR CONTROLLED DRUGS

(1) Any person duly authorised in writing in that behalf by the Committee shall, for the purposes of this Law, 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.

(2) If it appears to the Bailiff on information on oath that there is reasonable cause to suspect that –

- (a) a controlled drug is, in contravention of this Law, in the possession of a person in any premises; or
- (b) 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 Law, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside the Bailiwick, 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 issue a warrant authorising any police officer or other person named therein, at any time or times within one month from the date of the warrant, to enter, if need be by force, the premises specified 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 Law has been committed in relation to any controlled drugs found on the premises or in possession of any such persons, to seize and detain those drugs.

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(3) If a police officer has reasonable grounds to suspect that any person is in possession of a controlled drug in contravention of this Law or of any Order made thereunder, the police officer may –

- (a) search that person and detain him for the purpose of searching him:

Provided that no female shall be searched under this sub-paragraph except by another female;

- (b) search any vehicle or vessel in which the police officer suspects that the drug may be found, and for that purpose may require the person in control of the vehicle or vessel to stop it;
- (c) seize and detain, for the purposes of proceedings under this Law, anything found in the course of the search which appears to the police officer to be evidence of an offence under this Law.

(4) Nothing in this Article shall prejudice any power of search or any power to seize or detain property which is exercisable by a police officer apart from this Article.

- (5) Any person who –

- (a) intentionally obstructs a police officer or other person in the exercise of his powers under this Article; or
- (b) conceals from a police officer or other person exercising his powers under this Article, any such books, documents, stocks or drugs as are mentioned in paragraph (1) of this Article;
- (c) without reasonable excuse, proof of which shall lie on him, fails to produce any books or documents when requested so to do by a police officer or other person in the exercise of his powers under this Article,

shall be guilty of an offence.

(6) In this Article “vessel” includes an aircraft, hydrofoil and hovercraft.

ARTICLE 18

ACCESSORIES AND ABETTORS

Any person who knowingly and wilfully aids, abets, counsels, causes, procures or commands the commission of an offence punishable under this Law shall be liable to be dealt with, tried and punished as a principal offender.

ARTICLE 19

MISCELLANEOUS OFFENCES

(1) It is an offence for a person to contravene or to fail to comply with any Order under this Law, other than an Order under subparagraph (h) or (j) of paragraph (2) of Article 11 of this Law.

(2) It is an offence for a person to fail to comply with a condition or other term of a licence issued under Article 4 of this Law, not being a licence issued under any Order made in pursuance of subparagraph (j) of paragraph (2) of Article 11 of this Law.

(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 any Order made under this Law, he gives any information which he knows to be false in a material particular, or recklessly gives any such false information.

(4) It is an offence for a person to attempt to commit an offence under any provision of this Law or to incite or attempt to incite another to commit such an offence.

(5) A person commits an offence if in the Bailiwick he assists in or induces the commission in any place outside the Bailiwick of

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an offence punishable under the provisions of a corresponding law in force in that place.

(6) In this Article and in sub-paragraph (b) of paragraph (2) of Article 17 of this Law “corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside the Bailiwick to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March, 1961, or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and the States of Jersey are for the time being parties.

(7) A statement in any such certificate as is mentioned in paragraph (6) of this Article to the effect that any facts constitute an offence against the law mentioned in the certificate shall be evidence of the matters stated.

ARTICLE 20

OFFENCES BY CORPORATIONS

Where any offence under this Law 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.

ARTICLE 21

FURTHER POWER TO MAKE ORDERS

The Committee may by Order make further provision for excluding in such cases as may be prescribed –

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- (a) the application of any provision of this Law which creates an offence; or
- (b) the application of Articles 23, 30 and 77 of the Customs and Excise Law,⁹ insofar as they apply in relation to a prohibition or restriction on importation or exportation having effect by virtue of Article 4 of this Law.

ARTICLE 22

DEFENCES IN CERTAIN PROCEEDINGS

(1) This Article applies to offences under Article 5 and paragraph (1) of Article 6 of this Law.

(2) Subject to the provisions of paragraph (3) of this Article, in any proceedings for an offence to which this Article 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 Article 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 produce 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 –

⁹ Volume 1970–1972, pages 468, 475 and 502.

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- (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 Article applies.

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

ARTICLE 23

SERVICE OF DOCUMENTS

(1) Any notice or other document required or authorised by any provision of this Law to be served on any person may be served on him either by delivering it to him or by leaving it at his last known 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 or on such other person as may be deemed appropriate, having regard to the constitution and functions of the body corporate.

ARTICLE 24

PROVISIONS AS TO LICENCES

A licence issued by the Committee for the purposes of this Law or of any Order made thereunder may be, to any degree, general or specific, may be issued on such terms and subject to such conditions,

including the payment of such fee as may be prescribed, as the Committee thinks fit, and may be modified or revoked at any time.

ARTICLE 25

GENERAL PROVISIONS AS TO ORDERS

(1) Any Order made by the Committee under any provision of this Law –

- (a) may make different provision in relation to different controlled drugs, different classes of persons, different provisions of this Law or other different cases or circumstances;
- (b) may make the opinion, consent or approval of such authority as may be prescribed, or of any person authorised in such manner as may be prescribed, material for the purposes of any provision of the Order;
- (c) may contain such supplementary, incidental and transitional provisions as appear expedient to the Committee.

(2) No order shall be made under this Law except after consultation with, or on the recommendation of, the Council.

(3) The Subordinate Legislation (Jersey) Law, 1960¹⁰ shall apply to Orders made under this Law.

ARTICLE 26

PENALTIES

(1) The Fourth Schedule to this Law shall have effect in accordance with the following provisions of this Article, with respect to penalties for offences under this Law.

¹⁰ Volume 1957–1960, page 519 and Volume 1975–19 –, page 145.

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

- (a) the third, fourth and fifth columns show respectively the punishments which may be imposed on a person convicted of the offence, 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
- (b) the sixth column shows the punishments which may be imposed on a person convicted of an offence, 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.

ARTICLE 27

**INCREASE OF PENALTIES FOR CERTAIN OFFENCES UNDER
THE CUSTOMS AND EXCISE LAW**

(1) In relation to an offence in connexion with a prohibition or restriction on importation or exportation having effect by virtue of Article 4 of this Law, paragraph (2) of Article 23, paragraph (2) of Article 30 and Article 77 of the Customs and Excise Law¹¹ shall have effect subject to the modifications specified in whichever of paragraphs (2) or (3) of this Article is applicable in the case of that offence.

(2) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class A drug or a Class B drug, the said paragraph (2) of Article 23, paragraph (2) of Article 30, or Article 77,¹¹ as the case may be, shall have effect as if for the words from “shall be liable” to “or to both” there were substituted the words “shall be liable to a fine or to imprisonment for a term not exceeding fourteen years, or to both”.

¹¹ Volume 1970–1972, pages 468, 475 and 502.

(3) Where the controlled drug constituting the goods in respect of which the offence was committed was a Class C drug, the said paragraph (2) of Article 23, paragraph (2) of Article 30 or Article 77,¹¹ as the case may be, shall have effect as if for the words from “shall be liable” to “or to both” there were substituted the words “shall be liable to a fine or to imprisonment for a term not exceeding five years, or to both”.

ARTICLE 28

LEGAL PROCEEDINGS

(1) Any proceedings which may be taken against any person under this Law may be taken at any time within the period of twelve months next after the date of the commission of the alleged offence or within the period of three months next after the date on which evidence, sufficient in the opinion of the Attorney General to justify the proceedings, comes to the knowledge of the Committee, or, where the person in question was outside the Bailiwick at that date, within the period of twelve months from the date on which he first lands in the Bailiwick thereafter, whichever of the said periods last expires.

(2) For the purposes of paragraph (1) of this Article a certificate purporting to be signed on behalf of the Committee as to the date on which such evidence as aforesaid came to the knowledge of the Committee shall be sufficient evidence thereof.

ARTICLE 29

FORFEITURE

The Court before which a person is convicted of an offence under this Law may order anything shown to its satisfaction to relate to the offence, to be forfeited and either destroyed or dealt with in such manner as the Court may order.

ARTICLE 30

FINANCIAL PROVISIONS

All expenses incurred in the carrying into effect of this Law shall be defrayed out of the Annual Income of the States.

ARTICLE 31

SAVINGS AND TRANSITIONAL PROVISIONS

(1) Any Order made under Article 3 or 9 of the Dangerous Drugs (Jersey) Law, 1954,¹² or Article 2 of the Drugs (Prevention of Misuse) (Jersey) Law, 1964,¹³ and any licence issued, or other thing done under or by virtue of any provision of the said Articles, shall be deemed for the purposes of this Law to have been made, issued, or done, as the case may be, under the corresponding provisions of this Law.

(2) As from the coming into force of Article 4 of this Law any licence granted for the purposes of Article 5 of the Drugs (Prevention of Misuse) (Jersey) Law, 1964,¹⁴ or Articles 1, 2 or 8 of the Dangerous Drugs (Jersey) Law, 1954,¹⁵ shall have effect as if granted for the purposes of Article 4 of this Law.

(3) Subject to the provisions of paragraphs (1) and (2) of this Article, and without prejudice to the generality of sub-paragraph (c) of paragraph (1) of Article 25 of this Law, any Order made by the Committee under any provision of this Law may include such provision as the Committee thinks fit for effecting the transition from any provision made by or by virtue of the enactments repealed by this Law, and in particular may provide for the continuation in force, with or without modification, of any licence or other authority issued or having effect as if issued under or by virtue of any of those enactments.

¹² Volume 1954–1956, pages 10 and 13.

¹³ Volume 1963–1965, page 320.

¹⁴ Volume 1963–1965, page 324 and Volume 1970–1972, page 411.

¹⁵ Volume 1954–1956, pages 9, 10 and 13.

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(4) For the purposes of the enforcement of the enactments repealed by this Law 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.

ARTICLE 32

REPEALS

The enactments specified in the Fifth Schedule to this Law are hereby repealed.

ARTICLE 33

CITATION AND COMMENCEMENT

(1) This Law may be cited as the Misuse of Drugs (Jersey) Law, 1978.

(2) This Law shall come into force forthwith for the purposes of making Orders thereunder, and for all other purposes shall come into force on such date as the States may by Act appoint, and different dates may be appointed for different purposes.

*SCHEDULES**FIRST SCHEDULE***(Article 2)****CONSTITUTION OF ADVISORY COUNCIL ON MISUSE OF DRUGS**

1. The members of the Council, of whom there shall be not less than ten, shall be appointed by the Bailiff after consultation with the Committee and such other bodies as he considers appropriate, and shall include –

- (a) the Attorney General and the Medical Officer of Health;
- (b) in relation to each of the activities specified in paragraph (2) of this Schedule, at least one person appearing to the Bailiff to have wide and recent experience of that activity; and
- (c) persons appearing to the Bailiff to have wide and recent experience of social problems connected with the misuse of drugs.

2. The activities referred to in paragraph 1(b) of this Schedule 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).

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3. The Bailiff shall appoint one of the members of the Council to be chairman.

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

5. At a meeting of the Council the quorum shall be five.

6. Subject to the foregoing provisions of this Schedule the Council may determine its own procedure.

FINANCIAL PROVISIONS

7. The Committee may pay to the members of the Council such remuneration as may be prescribed and defray such expenses of the Council as the Committee may determine, and may provide such accommodation for the Council as it thinks fit.

*SECOND SCHEDULE***(Article 3)****CONTROLLED DRUGS***PART I**CLASS A DRUGS*

1. The following substances and products, namely –
 - (a) Acetorphine.
Allylprodine.
Alphacetylmethadol.
Alphameprodine.
Alphamethadol.
Alphaprodine.
Anileridine.
Benzethidine.
Benzylmorphine (3-benzylmorphine).
Betacetylmethadol.
Betameprodine.
Betamethadol.
Betaprodine.
Bufotenine.
Cannabinol, except where contained in cannabis or cannabis resin.
Cannabinol derivatives.
Clonitazene.
Coca Leaf.
Cocaine.
Desomorphine
Dextromoramide.
Diamorphine.
Diampromide.
Diethylthiambutene.
Difenoxin (1-(3-cyano-3, 3-diphenylpropyl)-

4(phenyl-piperidine-4-carboxylic acid).
Dihydrocodeinone. O-carboxymethyloxime.
Dihydromorphine.
Dimenoxadole.
Dimepheptanol.
Dimethylthiambutene.
Dioxaphetyl butyrate.
Diphenoxylate.
Dipipanone.
Drotebanol (3, 4-dimethoxy-17-methylmorphinan-6B, 14-diol).
Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine.
Ethylmethylthiambutene.
Etonitazene.
Etorphine.
Etoxidine.
Fentanyl.
Furethidine.
Hydrocodone.
Hydromorphanol.
Hydromorphone.
Hydroxypethidine.
Isomethadone.
Ketobemidone.
Levomethorphan.
Levomoramide.
Levophenacymorphan.
Levorphanol.
Lysergamide.
Lysergide and other N-alkyl derivatives of lysergamide.
Mescaline.
Metazocine.
Methadone.
Methadyl acetate.
Methyldesorphine.
Methyldihydromorphine (6-methyldihydromorphine).

Metopon.
Morpheridine.
Morphine.
Morphine methobromide, morphine N-oxide and
other pentavalent nitrogen morphine derivatives.
Myrophine.
Nicomorphine (3, 6-dinicotinoylmorphine).
Noracymethadol.
Norlevorphanol.
Normethadone.
Normorphine.
Norpipanone.
Opium, whether raw, prepared or medicinal.
Oxycodone.
Oxymorphone.
Pethidine.
Phenadoxone.
Phenampramide.
Phenazocine.
Phenomorphane.
Phenoperidine.
Piminodine.
Piritramide.
Poppy-straw and concentrate of poppy-straw.
Proheptazine.
Propiridine (1-methyl-4-phenylpiperidine-4-
carboxylic acid isopropyl ester).
Psilocin.
Racemethorphan.
Racemoramide.
Racemorphan.
Thebacon.
Thebaine.
Trimeperidine
4-Bromo-2, 5-dimethoxy- α -methylphenethylamine.
4-Cyano-2-dimethylamino-4, 4-diphenylbutane.
4-Cyano-1-methyl-4-phenylpiperidine.
N, N-Diethyltryptamine.
N, N-Dimethyltryptamine.

2, 5-Dimethoxy- α , 4-dimethylphenethylamine.
1-Methyl-4-phenylpiperidine-4-carboxylic acid.
2-Methyl-3-morpholino-1, 1-diphenylpropanecarboxylic acid.
4-Phenylpiperidine-4-carboxylic acid ethyl ester.

- (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ring-hydroxy tryptamine by substitution at the nitrogen atom of the sidechain with one or more alkyl substituents but no other substituent;
- (c) any compound (not being methoxyphenamine or a compound for the time being specified in sub-paragraph (a) above) structurally derived from phenethylamine, an N-alkylphenethylamine, α -methylphenethylamine, an N-alkyl- α -methylphenethylamine, α -ethylphenethylamine, or an N-alkyl- α -methylphenethylamine by substitution in the ring to any extent with alkyl, alkoxy, alkylendioxy or halide substituents, whether or not further substituted in the ring by one or more other univalent substituents.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 above not being dextromethorphan or dextrorphan.

3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 above, not being a substance for the time being specified in Part II of this Schedule.

4. Any salt of a substance for the time being specified in any of paragraphs 1 to 3 above.

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

6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

CLASS B DRUGS

1. The following substances and products, namely –

Acetyldihydrocodeine.	Methylphenidate.
Amphetamine.	Nicocodine.
Cannabis and cannabis resin.	Nicodicodine (6-nicotinoyl-dihydrocodeine).
Codeine.	Norcodeine.
Dexamphetamine.	Phenmetrazine.
Dihydrocodeine.	Pholcodine.
Ethylmorphine (3-ethylmorphine).	Propiram.
Methylamphetamine.	

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

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

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

PART III

CLASS C DRUGS

1. The following substances, namely –

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Benzphetamine.

Methaqualone.

Chlorphentermine.

Phendimetrazine.

Mephentermine.

Pipradrol.

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

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

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

5. Barbituric acid; its salts; derivatives of barbituric acid; their salts; compounds of barbituric acid; its salts; its derivatives; their salts, with any other substance.

PART IV

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule the following expressions have the meanings hereby assigned to them respectively, that is to say –

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

“coca leaf” means the leaf of any plant of the genus *Erythroxylon* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy-straw” means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

“medicinal opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substances;

“opium poppy” means the plant of the species *Papaver somniferum L.*;

“poppy straw” means all parts, except the seeds, of the opium poppy, after mowing;

“raw opium” includes powdered or granulated opium but does not include medicinal opium.

THIRD SCHEDULE**(Article 15)****CONSTITUTION OF TRIBUNAL**

1. The Tribunal shall consist of –
 - (a) an advocate or solicitor of the Royal Court of not less than five years standing, appointed by the Bailiff to be the chairman of the Tribunal; and
 - (b) at least two members of the respondent's profession, appointed by the Bailiff, after consultation with the Committee and such other bodies as he considers appropriate.

PROCEDURE

2. Upon receiving a reference from the Committee the Tribunal shall cause to be served on the respondent a notice setting out the details of the matter which has been referred to it, and appointing a time and place for the hearing.
3. The respondent shall be entitled to appear before and be heard by the Tribunal either in person or through his advocate or solicitor.
4. Proceedings before the Tribunal shall be held in private unless the respondent requests otherwise and the Tribunal accedes to the request.
5. Following the decision of the Committee whether or not to give a direction under Article 15 of this Law, the Tribunal shall be discharged of its duties.
6. Subject to the foregoing provisions of this Schedule, the Tribunal may regulate its own procedure.

FINANCIAL PROVISIONS

7. The Committee may pay to the members of the Tribunal such remuneration as may be prescribed and defray such expenses of the Tribunal as the Committee may determine, and may provide such accommodation for the Tribunal as it thinks fit.

8. If the Tribunal recommends to the Committee 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 Committee may, if it thinks fit, make to the respondent such payments in respect of those expenses as it considers appropriate.

INTERPRETATION

9. In this Schedule “respondent” means the practitioner in respect of whom the reference has been made to the Tribunal.

*Jersey Law 10/1978 Misuse of Drugs (Jersey) Law, 1978***FOURTH SCHEDULE****(Article 26)****PENALTIES**

First column	Second column	Third column	Fourth column	Fifth column	Sixth column
Article Creating Offence	General Nature of Offence	Punishment			
		Class A drug involved	Class B drug involved	Class C drug involved	General
Article 5	Producing, supplying or being concerned in the production, supplying or offering to supply a controlled drug.	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Article 6(1)	Having possession of a controlled drug.	7 years or a fine, or both.	5 years or a fine, or both.	2 years or a fine, or both.	
Article 6(2)	Having possession of a controlled drug with intent to supply it to another.	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Article 7	Offences relating to opium.				14 years or a fine, or both.

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Article 8	Having possession of utensils for the purposes of committing an offence.				14 years or a fine, or both.
Article 9	Being the occupier, or concerned in the management, of premises and permitting certain activities to take place there.	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Article 12	Contravention of directions relating to safe custody of controlled drugs.				2 years or a fine, or both.
Article 13(3)	Failure to comply with notice requiring information relating to prescribing supply etc. of drugs.				£200.
Article 13(4)	Giving false information.				2 years or a fine, or both.
Articles 14(6) 15(7)	Contravention of direction prohibiting practitioner or pharmacist from possessing, supplying, controlled drugs.	14 years or a fine, or both.	14 years or a fine, or both.	5 years or a fine, or both.	
Article 17(5)	Obstructing exercise of powers of search etc. or concealing books, drugs, etc.				2 years or a fine, or both.
Article 19(1) (2)	Miscellaneous offences.				2 years or a fine, or both.

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(3) and (4)					
Article 19(5)	Assisting in or inducing commission of an offence outside the Island.				14 years or a fine, or both.

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FIFTH SCHEDULE

(Article 32)

ENACTMENTS REPEALED¹⁶

Dangerous Drugs (Jersey) Law, 1954.

Dangerous Drugs (Amendment) (Jersey) Law, 1965.

Drugs (Prevention of Misuse) (Jersey) Law, 1964.

Drugs (Prevention of Misuse) (Amendment) (Jersey) Law, 1972.

R.S. GRAY,

Deputy Greffier of the States.

¹⁶ Volume 1954–1956, page 9, Volume 1963–1965, pages 319 and 511 and Volume 1970–1972, page 411.