

**VIRGIN ISLANDS**

**DRUGS (PREVENTION OF MISUSE)  
(AMENDMENT) ACT, 1992**

**ARRANGEMENT OF SECTIONS**

Section

1. Short title.
2. Amendment of section 2 of Act No. 9 of 1988.
3. Amendment of section 3 of the principal Act.
4. Amendment of section 5 of the principal Act.
5. Amendment of section 15 of the principal Act.
6. Amendment of section 16 of the principal Act.
7. Amendment of section 17 of the principal Act.
8. Insertion of new section 24A in the principal Act.
9. Amendment of section 28 of the principal Act.
10. Amendment of section 29 of the principal Act.
11. Amendment of the First Schedule to the principal Act.
12. Repeal and replacement of the Second Schedule to the principal Act.
13. Amendment of the Third Schedule to the principal Act.

No. 4 of 1992

**Drugs  
(Prevention of Misuse)  
(Amendment) Act, 1992**

**Virgin  
Islands**

**I Assent  
Peter A. Penfold  
Governor  
2nd June, 1992**

**VIRGIN ISLANDS**

**No. 4 of 1992**

An Act to amend the Drugs (Prevention of Misuse) Act, 1988\*.

[ Gazetted 10th July, 1992 ]

ENACTED by the Legislature of the Virgin Islands as follows

**1.** This Act may be cited as the Drugs (Prevention of Misuse) (Amendment) Act, 1992.

Short title.

**2.** Section 2 of the Drugs (Prevention of Misuse) Act, 1988\*, hereinafter referred to as the principal Act, is amended as follows-

Amendment of section 2 of Act No. 9 of 1988\*.

- (a) by deleting the definition of "the Advisory Council" and substituting therefor the following definition -

"the Advisory Council" means the National Drug Advisory Council established under this Act";

- (b) in sub-paragraph (i) of paragraph (d) in the definition of "drug trafficking" by deleting the words "or the" and substituting therefor the words "of the"; and

- (c) by deleting the definition of "drug trafficking offence" and substituting therefor the following definition

"drug trafficking offence" means-

- (a) an offence under section 5, 6 (2) or (3) or 7 (2) (where subsection (4) applies) or 7 (3), (Import, export, production, supply and possession for supply of controlled drugs);

- (b) an offence under section 17;

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\*Cap. 178 (Vol. III) in Revised Edition

- (c) an offence under section 21 (assisting in or inducing commission outside the Territory of an offence punishable under a corresponding law);
- (d) a conspiracy to commit any of those offences in paragraphs (a) to (c);
- (e) an offence of attempting to commit any of those offences in paragraphs (a) to (c);
- (f) an offence of inciting another to commit any of those offences in paragraphs (a) to (c); and
- (g) aiding, abetting, counselling or procuring the commission of those offences in paragraphs (a) to (c);".

Amendment of section 3 of the principal Act.

**3.** Section 3 of the principal Act is amended as follows -

- (a) by deleting the marginal note thereto, and substituting therefor the following-

"The National Drug Advisory Council"; and

- (b) in subsection (1) thereof, by deleting the words "an Advisory Council on the Misuse of Drugs" and substituting therefor the words "the National Drug Advisory Council".

Amendment of section 5 of the principal Act.

**4.** Subsection (3) of section 5 of the principal Act is amended by deleting the words "in section 28" and substituting therefor the words "in section 16".

Amendment of section 15 of the principal Act.

**5.** Section 15 of the principal Act is amended as follows -

- (a) by renumbering subsection (3) as subsection (4) thereof; and
- (b) by inserting immediately after subsection (2) thereof, the following subsection -

"(3)Where the Minister proposes to give a direction under subsection (1) or (2), he shall refer the case to the Advisory Council and it shall be the duty of the Advisory Council after affording the doctor or practitioner, as the case may be, an opportunity of appearing before and being heard by the Advisory Council, to consider the circumstances of the case, so far as known to it, and to report to the Minister whether the

information before the Advisory Council appears to it to afford reasonable grounds for thinking that there has been such conduct by the doctor or practitioner, as the case may be, as is mentioned in subsection (1) or (2); and the Minister shall not give any of such directions as aforesaid in respect of the doctor or practitioner, as the case may be, unless the Advisory Council reports that the information before it appears to it to afford reasonable grounds for so thinking".

**6.** Section 16 of the principal Act is amended as follows

Amendment of section 16 of the principal Act.

(1) in subsection (1) thereof-

- (a) by deleting the words "the offence of drug trafficking or of and substituting therefor the words "a drug trafficking offence or the offence of";
- (b) in sub-paragraph (ii) of paragraph (a), by deleting the words "shall not be less than five year" and substituting therefor the words "shall not be less than three years";
- (c) by repealing paragraph (b) and substituting therefor the following paragraph -

"(b) upon conviction on indictment -

- (i) to a fine of two hundred thousand dollars or where there is evidence of the street value of the controlled drug, three times the value of the controlled drug whichever is the greater; and
- (ii) to imprisonment for a term not exceeding fifteen years but which shall not be less than ten years"; and

(2) in subsection (2) thereof by deleting the words "the offence of drug trafficking" and substituting therefor the words a drug trafficking offence".

**7.** Paragraph (a) of subsection (3) of section 17 of the principal Act is amended by deleting the words "the proceedings" and substituting therefor the words "the proceeds".

Amendment of section 17 of the principal Act.

**8.** The principal Act is amended by the insertion immediately after section 24 of the following new section -

Insertion of new section 24A in the principal Act.

"Retention and disposal of seized controlled drug.

24A. Where any controlled drug seized under the provisions of this Act, exceeds a weight of 5 kilogrammes, the Magistrate may order that such portion, as may be specified by him of the seized controlled drug be retained-

- (a) for use as evidence at a trial for an offence;
- (b) for forensic examination or for other investigation in connection with an offence,

Amendment of section 28 of the principal Act.

**9.** Section 28 of the principal Act is amended as follows

(a) in subsection (5) thereof -

- (i) by deleting the words "an offence" and substituting therefor "any offence";
- (ii) by deleting the words "within twelve months" and substituting therefor the words "within two years"; and

(b) by inserting immediately after subsection (5) thereof, the following subsection -

"(6) Notwithstanding the provisions of any other law where any person is charged with an offence under this Act such offence shall be tried summarily or on indictment, at the election of the prosecution."

Amendment of section 29 of the principal Act.

**10.** Subsections (7) and (8) of section 29 of the principal Act are repealed and the following subsections substituted therefor -

"(7) Subject to subsection (5), forfeitures under this section may be applied to such purposes as may be determined by the Governor in Council.

(8) Controlled drugs forfeited under this section shall be disposed of in such manner as the Court may direct".

**11.** The First Schedule to the principal Act is amended as follows -

Amendment  
of the First  
Schedule to  
the principal  
Act.

- (a) by repealing paragraph 1 thereof and substituting therefor the following paragraph -

"1. (1) The Advisory Council shall consist of such number of members, but not exceeding twelve appointed by the Minister, representing relevant interest groups in the Territory including the following -

- (a) medical and health services;
- (b) education, sports and youth organisations;
- (c) police and public services;
- (d) legal profession; and
- (e) voluntary associations.

(2) The Minister shall appoint one of the members to be the Chairman of the Advisory Council.";

- (b) in paragraph 3 thereof, by deleting the words "the quorum shall be four," and substituting therefor the words "the quorum shall be five,"; and
- (c) by inserting after paragraph 3 thereof the following paragraph -

"4. The Minister shall have power to co-opt to the Council or any committee thereof any person whom he considers able to assist in their deliberation on any matter and any person so co-opted shall to all intents and purposes be a member for so long as he is co-opted save that such person shall have no vote and shall not be counted for the purpose of constituting a quorum".

**12.** The Second Schedule to the principal Act is repealed and the following Schedule substituted therefor -

Repeal and  
replacement  
of the  
Second  
Schedule to  
the principal  
Act.

## "SECOND SCHEDULE

### CONTROLLED DRUGS

#### PART I

#### CLASS A DRUGS

1. The following substances and products, namely-

(a) Acetorphine	Dihydromorphine
Alfentanil	Dimenoxadole
Allylprodine	Dimepheptanol
Alphacetylmethadol	Dimethylthiambutene
Alphameprodine	Dioxaphetylbutyrate
Alphamethadol	Diphenoxylate
Alphaprodine	Dipipanone
Anileridine	Drotebanol (3,
Benzethidine	4-dimethoxy-
Benzylmorphine	17-methylmorphi-
(3-benzylmor-	nan-6, 14-diol)
phine)	Ecgonine, and any
Betacetylmethadol	derivative of ecgo-
Betameprodine	nine which is con-
Betamethadol	vertible to ecgo-
Betaprodine	nine or to cocaine
Bezitramide	EthyImethylthiam-
Bufotenine	butene
Cannabinol, except	Eticyclidine
where contained	Etonitazene
in cannabis or	Fentanyl
cannabis resin	Furethidine
Cannabinol deriva-	Hydrocodone
tives	Hydromorphinol
Carfentanil	Hydromorphone
Clonitazene	Hydroxypethidine
Coca leaf	Isomethadone
Cocaine	Ketobemidone
Desomorphine	Levomethorphan
Dextromoramide	Levomoramide
Diamorphine	Levophenacylmor-
Diampromide	phan
Diethylthiambutene	Levorphanol
Difenoxin	Lofentanil
(1-3-cyano-3,	Lysergamide
3-diphenylpropyl)-	Lysergide and other
4-phenylpiperi-	N-alkyl derivative
dine-4-	of lysergamide
carboxylic acid)	Mescaline
Dihydrocodeinone	Metazocine
O-carboxymethy-	Methadone
loxime	Methadyl acetate

Methyldesorphine	Properidine (1-methyl 4-phenyl-piperi- dine- -carboxylic acid isopropyl ester)
Methyldihydro-mor- phine (6- methyldihydro- morphine)	
Metopon	Psilocin
Morpheridine	Racemethorphan
Morphine	Racernoramide
Morphine methobro- mide, morphine	Racemorphan
N-oxide and other pentavalent nitro- gen morphine derivatives	Rolicyclidine
Myrophine	Sufentanil
Nicomorphine (3, 6-dinicotinoyl- morphine)	Tenocyclidine
Noracymethadol	Thebacon
Norlevorphanol	Thebaine
Normethadone	Tilidate
Normorphine	Trimeperidine
Norpipanone	4-Bromo-2, 5-dimethoxy methylphenathy lamine
Opium, whether raw, prepared or medic- mal	4-Cyano-2-dimethy lamino-4, 4 diphenylbutane
Oxycodone	4-Cyano-1-methyl-4 phenyl-piperidine
Oxymorphone	N, N-Diethyltrypta mine
Pethidine	N, N-Dimethyltrypta mine
Phenadoxone	2, 5-Dimethoxy-, 4-dimethyl phenethylamine
Phenamipromide	1-Methyl-4-phenylip iperidine-4-car boxylic acid
Phenazocine	2-Methyl-3-morpholi no-1; 1-diphenyl propanecarboxylic acid
Phencyclidine	4-phenylpiperidine-4 carboxylic acid ethyl ester
Phenomorphin	
Phenoperidine	
Piminodine	
Proheptazine	

- (b) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from tryptamine or from a ringhydroxy 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, -methylphenethylamine, an N-alkyl- -methylphenethylamine, -ethylphenethylamine, or an N-alkyl- -ethyl-phenethylamine 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.
- (d) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from fentanyl by modification in any of the following ways, that is to say,
- (i) by replacement of the phenyl portion of the phenethyl group by any heteromonocycle whether or not further substituted in the heterocycle;
  - (ii) by substitution in the phenethyl group with alkyl, alkenyl, alkoxy, hydroxy, halogeno, haloalkyl, amino or nitro groups;
  - (iii) by substitution in the piperidine ring with alkyl or alkenyl groups;
  - (iv) by substitution in the aniline ring with alkyl, alkoxy, alkylendioxy, halogeno or haloalkyl groups;
  - (v) by substitution at the 4-position of the piperidine ring with any alkoxy-carbonyl or alkoxyalkyl or acyloxy group;
  - (vi) by replacement of the N-propionyl group by another acyl group;
- (e) any compound (not being a compound for the time being specified in sub-paragraph (a) above) structurally derived from pethidine by modification in any of the following ways, that is to say,
- (i) by replacement of the 1-methyl group by an acyl, alkyl whether or not unsaturated, benzyl or phenethyl group, whether or not further substituted;
  - (ii) by substitution in the piperidine ring with alkyl or alkenyl groups or with a propano bridge, whether or not further substituted;

- (iii) by substitution in the 4-phenyl ring with alkyl, alkoxy, aryloxy, halogeno or haloalkyl groups;
- (iv) by replacement of the 4-ethoxycarbonyl by any other alkoxy carbonyl or any alkoxyalkyl or acyloxy group;
- (v) by formation of an N-oxide or of a quaternary base.

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

**3.** An 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 -

(a) Acetyldihydro- codeine	Methaqualone
Amphetamine	Methylamphetamine
Cannabis and cannabis resin	Methylphenidate
Codeine	Methylphenobarbitone
Dihydrocodeine	Nicocodine
Ethylmorphine (3-eth- ylmorphine)	Nicodicodine (6-nicoti noyldihy drocodeine)
Gluthetbimide	Norcodeine
Lefetamine	Pentazocine
Mecloqualone	Phonmetrazine
	Pholcodine
	Propiram

(b) any 5, 5 disubstituted barbituric acid.

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

Alprazolam	Halazepam
Benzphetamine	Haloxazolam
Bromazepam	Ketazolam
Buprenorphine	Loprazolam
Camazepam	Lorazepam
Cathine	Lormetazepam
Cathinone	Mazindl
Chlordiazepoide	Medazepam
Chlorphentermine	Mefenorex
Clobazam	Mephenterime
Clonazepam	Meproamate
Clorazepic acid	Methyprylone
Clotiazepam	Nimetazepam
Cloxazolam	Nitrazepam
Delorazepam	Nordazepam
Dextropropoxyphene	Oxazepam
Diazepam	Oxazolam
Diethylpropion	Pemoline
Estazolam	Phendimetrazine
Ethchlorvynol	Phentermine
Ethinamate	Pinazepam
Ethyl loflazepate	Pipradrol
Fencamfamin	Prazepam
Fenethylamine	Propylhexedrine
Fenproporex	Pyrovalerone
Fludiazepam	Temazepam
Flunitrazepam	Tetrazepam
Flurazepam	Triazolam
	N-Ethylamphetamine

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part of this Schedule not being phenylpropanolamine.

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

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

## PART IV

### MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purpose of this Schedule the following expressions (which are not among those defined in section 37(1) of this Act) have the meanings hereby assigned to them respectively, that is to say-

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

"coca leaf" means the leaf of any plant of 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."

**13.** The Third Schedule to the principal Act is amended by deleting the following items -

Amendment  
of the Third  
Schedule to  
the principal  
Act.

“Section 6 (2)	Production or being concerned in the production of a controlled drug.	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On indictment	14 years and \$200,000	14 years and \$200,000	14 years and \$200,000
Section 6(3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On indictment	14 years and \$200,000	14 years and1 \$200,000	10 years and \$200,000
Section	Having possession of a controlled drug with intent ot supply it to another	(a) Summary	3 years and \$100,000	3 years and \$100,000	2 years and \$75,000
		(b) On indictment	14 years and \$200,000	14 years and \$200,000	10 years and \$200,000

Passed the Legislative Council this 15 th day of May,1992.

K. L. FLAX,  
Speaker.

HUGH A. HODGE,  
Clerk of the Legislative Council.