VIRGIN ISLANDS

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

ARRANGEMENT OF SECTIONS

Section
1. Short title.
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.
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

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.

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

(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;

*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 (e);”.

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".

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".

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:

(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".

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

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."

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 -

(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 -
"SECOND SCHEDULE
CONTROLLED DRUGS

PART I

CLASS A DRUGS

1. The following substances and products, namely:

(a) Acetorphine
    Dihydromorphine
    Alphacetylmethadol
    Dimethoxybenzylmorphan-6, 14-diol
    Allylprodine
    Dimenoxadole
    Alphameprodine
    Dimepheptanol
    Alphaprodine
    Dimethylthiambutene
    Anileridine
    Dipipanone
    Benzethidine
    Drotebanol (3, 4-dimethoxy-17-methylmorphinan-6, 14-diol)
    Betacetylmethadol
    Betameprodine
derivative of ecgonine which is convertible to ecgonine or to cocaine
    Betamethadol
    Betaprodine
    Bezitramide
    Ectonitazene
    Bufotenine
    Ethylmethylthiambutene
    Cannabinol, except
    Cannabinol derivatives
    where contained
    in cannabis or cannabis resin
    Carfentanil
    Hydrocodone
    Clonitazene
    Hydromorphone
    Coca leaf
    Hydroxypethidine
    Cocaine
    Isomethadone
    Desomorphine
    Ketobemidone
    Dextromoramide
    Levemoramide
    Diamorphine
    Levophenacylmorphinan
    Diampromide
    Levophenacetylmorphinan
    Diethylthiambutene
    Levorphanol
    Difenoxin
    Lofentanil
    (1-3-cyano-3, 4-phenylpiperidine-4-carboxylic acid)
    Lysergamide
    Dihydrocodeinone
    Lysergide and other N-alkyl derivative of lysergamide
    O-carboxymethyloxime
    Metazocine
    Methadone
    Methadyl acetate
<table>
<thead>
<tr>
<th>Compound</th>
<th>Description</th>
</tr>
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<tbody>
<tr>
<td>Methyldesorphine</td>
<td>Properidine (1-methyl 4-phenyl-piperidine- carboxylic acid isopropyl ester)</td>
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<tr>
<td>Methylidihydro-mor-Phine (6-methylidihydro-morphine)</td>
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<tr>
<td>Metopon</td>
<td>Psilocin</td>
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<tr>
<td>Morpheridine</td>
<td>Racemethorphan</td>
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<tr>
<td>Morphine</td>
<td>Racernoramide</td>
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<tr>
<td>Morphinine methobromide, morphine</td>
<td>Racemorphan</td>
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<tr>
<td>N-oxide and other pentavalent nitrogen morphine derivatives</td>
<td>Sufentanil</td>
</tr>
<tr>
<td>Myrophine</td>
<td>Tilidate</td>
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<tr>
<td>Nicomorphine (3, 6-dinicotinoyl-morphine)</td>
<td>Trimeperidine</td>
</tr>
<tr>
<td>Noracymethadol</td>
<td>4-Bromo-2, 5-dimethoxy methylphenathyl</td>
</tr>
<tr>
<td>Norlevorphanol</td>
<td>lamine</td>
</tr>
<tr>
<td>Normethadone</td>
<td>4-Cyano-2-dimethoxy lamino-4, 4</td>
</tr>
<tr>
<td>Normorphine</td>
<td>diphenylbutane</td>
</tr>
<tr>
<td>Norpipanone</td>
<td>4-Cyano-1-methyl-4-phenyl-piperidine N, N-Diethyltryptamine</td>
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<tr>
<td>Opium, whether raw, prepared or medicinal</td>
<td>Oxycodone</td>
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<td>Oxymorphone</td>
<td>Oxymorphone</td>
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<tr>
<td>Pethidine</td>
<td>Pethidine</td>
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<td>Phenadoxone</td>
<td>Phenadoxone</td>
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<td>Phenampromide</td>
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<td>Phenazocine</td>
<td>Phenazocine</td>
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<td>Phenobonone</td>
<td>Phenobonone</td>
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<tr>
<td>Piminodine</td>
<td>Piminodine</td>
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<tr>
<td>Proheptazine</td>
<td>Proheptazine</td>
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</tbody>
</table>

(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, alkylenedioxy 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 phenthyl 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, alkylenedioxy, halogeno or haloalkyl groups;

(v) by substitution at the 4-position of the piperidine ring with any alkoxyalkyl or alkoxyalkylor 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
    Methylamphetamine
    Methylphenidate
    Amphetamine
    Methylenobarbitone
    Codeine
    Methylphenobarbitone
    Cannabis and
cannabis resin
    Nicocodeine
    Codeine
    Nicodicoine (6-nicot
    Dihydrocodeine
drocodeine)
    Ethylmorphine (3-eth-
ylmorphine)
    Norcodeine
    Gluthetbimide
    Noyldihy
    Pentazocine
    Lefetamine
    Phonmetrazine
    Mecloqualone
    Methylphenobarbitone
    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:

<table>
<thead>
<tr>
<th>Substance</th>
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<tbody>
<tr>
<td>Alprazolam</td>
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<tr>
<td>Halazepam</td>
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<tr>
<td>Benzphetamine</td>
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<tr>
<td>Haloxazolam</td>
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<tr>
<td>Bromazepam</td>
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<td>Ketazolam</td>
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<td>Buprenorphine</td>
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<td>Loprazolam</td>
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<td>Camazepam</td>
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<td>Lorazepam</td>
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<td>Cathine</td>
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<td>Lormetazepam</td>
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<td>Cathinone</td>
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<td>Mazindl</td>
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<tr>
<td>Chlordiazepoxide</td>
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<td>Medazepam</td>
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<td>Chlorphentermine</td>
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<tr>
<td>Mefenorex</td>
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<td>Clobazam</td>
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<tr>
<td>Mephenetermine</td>
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<tr>
<td>Clonazepam</td>
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<tr>
<td>Meprobamate</td>
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<tr>
<td>Clorazepic acid</td>
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<tr>
<td>Methyprylone</td>
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<td>Clotiazepam</td>
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<td>Nimetazepam</td>
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<td>Cloxazolam</td>
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<td>Nitrazepam</td>
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<td>Delorazepam</td>
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<td>Nordazepam</td>
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<td>Dextropropoxyphene</td>
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<td>Oxazepam</td>
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<td>Ethyl loflazepate</td>
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<td>Prazepam</td>
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<td>Propylhexedrine</td>
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<td>Fenproporex</td>
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<td>Pyrovalerone</td>
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<td>Fludiazepam</td>
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<td>Temazepam</td>
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<td>Flunitrazepam</td>
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<td>Tetrazepam</td>
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<td>Flurazepam</td>
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<tr>
<td>Triazolam</td>
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<tr>
<td>N-Ethylamphetamine</td>
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</tbody>
</table>

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 3alkyl 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 -
<table>
<thead>
<tr>
<th>Section</th>
<th>Production or being concerned in the production of a controlled drug.</th>
<th>Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another</th>
<th>Having possession of a controlled drug with intent to supply it to another</th>
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<tbody>
<tr>
<td>6 (2)</td>
<td>(a) Summary 3 years and 14 years and 14 years and 10 years and 10 years and</td>
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<td>(b) On indictment 3 years and 14 years and 14 years and 10 years and 10 years and</td>
<td>(b) On indictment 3 years and 14 years and 14 years and 10 years and 10 years and</td>
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Passed the Legislative Council this 15th day of May, 1992.

K. L. FLAX,
Speaker.

HUGH A. HODGE,
Clerk of the Legislative Council.