

Zambia

Dangerous Drugs Act, 1967

Chapter 95

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Zambia

Dangerous Drugs Act, 1967

Chapter 95

Commenced on 26 August 1967

[This is the version of this document at 31 December 1996.]

[42 of 1967; 19 of 1985; 2 of 1989; 13 of 1994]

An Act to control the importation, exportation, production, possession, sale distribution and use of dangerous drugs; and to provide for matters incidental thereto.

Part I – Preliminary

1. Short title

This Act may be cited as the Dangerous Drugs Act.

2. Interpretation

(1) In this Act, unless the context otherwise requires—

"**cannabis**" (except where used in the expression "cannabis resin") means the flowering or fruiting tops of any plant of the genus cannabis from which the resin has not been extracted, by whatever name they may be designated;

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

"**coca leaves**" means the leaves of any plant of the genus of the erythroxyllaceae from which cocaine can be extracted, either directly or by chemical transformation;

"**the Commission**" means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations;

"**corresponding law**" means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Zambia to be a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention, or a law providing for the control and regulation in that country of the manufacture, sale, use, export and import of drugs in accordance with the provisions of the Hague Convention, the Geneva Convention (No. 1) and the Geneva Convention (No. 2) as respectively amended by the Protocol;

"**the Geneva Convention (No. 1)**" means the international Opium Convention signed at Geneva on the 19th February, 1925;

"**the Geneva Convention (No. 2)**" means the Convention signed at Geneva on the 13th July, 1931, being the Convention for the purpose of supplementing the Geneva Convention (No. 1) and the Hague Convention;

"**the Hague Convention**" means the International Opium Convention signed at the Hague on the 23rd January, 1912;

"**inspector**" means a person appointed as an inspector under section sixteen;

"**medicinal opium**" means raw opium which has undergone the processes necessary to adapt it for medicinal use, 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*;

"**the Organisation**" means the World Health Organisation;

"**poppy-straw**" means all parts except the seeds of the opium poppy, after mowing;

"**the Protocol**" means the Protocol on Narcotic Drugs signed at Lake Success, New York, on the 11th December, 1946;

"**raw opium**" includes powdered or granulated opium, but does not include medicinal opium;

"**the Single Convention**" means the Single Convention on Narcotic Drugs signed at New York on the 30th March, 1961.

- (2) In any certificate referred to in the definition of "corresponding law" in subsection (1), a statement as to the effect of the law mentioned in such certificate or a statement in any such certificate that any facts constitute an offence against that law shall be conclusive.
- (3) The specification in paragraph 1 of the Schedule of a substance shall, if the existence of isomers of that substance is possible within the specific chemical designation thereof, be taken to comprehend the specification of any isomer of that substance whose existence is possible as aforesaid; and references in paragraphs 2, 3, 8, 13 and 14 of the Schedule to a substance for the time being specified in the said paragraph 1 shall be construed accordingly.
- (4) For the purposes of this Act, an article shall be deemed to be imported under licence or exported under licence if the importer or exporter, as the case may be, is the holder of a licence issued under this Act authorising the importation or exportation, as the case may be, of the article and complies with the conditions, if any, of the licence, but not otherwise.

Part II – Raw opium, coca leaves, poppy-straw, cannabis, etc.

3. Drugs to which Part II applies

The drugs to which this Part applies are raw opium, coca leaves, poppy-straw, cannabis, cannabis resin and all preparations of which cannabis resin forms the base.

4. Restriction of importation of drugs to which Part II applies

It shall not be lawful for a person to import into Zambia a drug to which this Part applies except under a licence granted by the Minister.

5. Restriction of exportation of drugs to which Part II applies

- (1) It shall not be lawful for a person to export from Zambia a drug to which this Part applies except under a licence granted by the Minister.
- (2) If at any time the importation into a foreign country of a drug to which this Part applies is prohibited or restricted by the laws of that country, there shall, while that prohibition or restriction is in force, be attached to every licence which is issued by the Minister under this Act authorising the export of that drug from Zambia such conditions as appear to him necessary for preventing or restricting, as the case may be, the exportation of that drug from Zambia to that country during such time as the importation of that drug into that country is so prohibited or restricted, and any such licence issued before the prohibition or restriction came into force shall, if the Minister by order so directs, be deemed to be subject to the like conditions.

6. Power to control production, sale, etc., of drugs to which Part II applies

The Minister may by regulations—

- (a) provide for controlling or restricting the production, possession, sale and distribution of drugs to which this Part applies;
- (b) provide for prohibiting the production, possession, sale or distribution of any drug to which this Part applies except by persons licensed or otherwise authorised in that behalf by the Minister, and the cultivation of plants from which such drugs are derived;
- (c) prescribe measures to be taken for the eradication of plants, to which regulations made under paragraph (b) apply, found to be growing wild.

7. Penalisation of permitting premises to be used for smoking cannabis, etc.

If a person—

- (a) being the occupier of any premises, permits those premises to be used for the purpose of smoking cannabis or cannabis resin or of dealing in cannabis resin (whether by sale or otherwise); or
- (b) is concerned in the management of any premises used for any such purpose as aforesaid; he shall be guilty of an offence against this Act.

8. Penalisation of intentional cultivation of cannabis plant

A person who, except under a licence granted by the Minister, knowingly cultivates any plant of the genus cannabis shall be guilty of an offence against this Act.

Part III – Prepared opium

9. Prohibition of importation and exportation of prepared opium

It shall not be lawful for a person to import into, or to export from, Zambia, any prepared opium.

10. Penalisation of manufacture, sale, use, etc., of prepared opium

If a person—

- (a) manufactures, sells or otherwise deals in prepared opium; or
- (b) has in his possession any prepared opium; or
- (c) being the occupier of any premises, permits those premises to be used for the purpose of the preparation of opium for smoking or the sale or smoking of prepared opium; or
- (d) is concerned in the management of any premises used for any such purpose as aforesaid; or
- (e) has in his possession any pipes or other utensils for use in connection with the smoking of opium or any utensils used in connection with the preparation of opium for smoking; or
- (f) smokes or otherwise uses prepared opium or frequents a place used for the purpose of opium smoking;

he shall be guilty of an offence against this Act.

11. Meaning of "prepared opium"

In this Part, "prepared opium" means opium prepared for smoking, and includes dross and any other residues remaining after opium has been smoked.

Part IV – Other drugs and intermediate products of synthesis thereof

12. Restriction of importation and exportation of substances specified in Part I, but falling within Part II, of Schedule

It shall not, except under a licence granted by the Minister, be lawful for a person to import into, or to export from, Zambia a substance for the time being specified in Part I of the Schedule other than a preparation or other substance for the time being falling within Part II of the Schedule.

13. Power to control manufacture, sale, etc., of substances specified in Part I of Schedule

- (1) For the purpose of preventing the improper use of the substances for the time being specified in Part I of the Schedule, the Minister may by regulations provide for controlling the manufacture, sale, possession and distribution of those substances, and in particular, but without prejudice to the generality of the foregoing power, for—
 - (a) prohibiting the manufacture of a substance for the time being so specified except on premises licensed for the purpose by the Minister and subject to any conditions specified in the licence;
 - (b) prohibiting the manufacture, sale or distribution of a substance for the time being so specified except by persons licensed or otherwise authorised under the regulations by the Minister and subject to any conditions specified in the licence or authority;
 - (c) regulating the issue by any medical practitioner, dental surgeon or veterinary surgeon of prescriptions containing a substance for the time being so specified and the dispensing of any such prescriptions; and
 - (d) requiring persons engaged in the manufacture, sale or distribution of a substance for the time being so specified to keep such books and furnish such information either in writing or otherwise as may be prescribed by the regulations.
- (2) The regulations under this section shall provide for authorising a person lawfully carrying on business in accordance with the provisions of the Pharmacy and Poisons Act as an authorised seller of poisons—
 - (a) in the ordinary course of his retail business to manufacture, at any premises duly registered under Part II of the Pharmacy and Poisons Act, any preparation, admixture, or extract of a substance for the time being specified in Part I of the Schedule; or
[Cap. 299]
 - (b) to carry on at any such premises as aforesaid the business of retailing, dispensing or compounding any such substance;
subject to the power of the Minister to withdraw the authorisation in the case of a person who has been convicted of an offence against this Act and who cannot, in the opinion of the Minister, properly be allowed to carry on the business of manufacturing or selling or distributing, as the case may be, any such substance as aforesaid.

[Cap. 299]

- (3) Nothing in any regulations made under this section shall be taken to authorise the sale by retail of poisons by a person who is not qualified in that behalf under, or otherwise than in accordance with, the provisions of the Pharmacy and Poisons Act or to be in derogation of the provisions of the said Act for prohibiting, restricting or regulating the sale of poisons.

[Cap. 299]

14. Power of Minister to amend Schedule

If—

- (a) it appears to the Minister that a decision of the Commission or Organisation to alter any of the Schedules to the Single Convention or to apply to a substance measures of control applicable under that Convention to substances specified in the First Schedule thereto, requires the addition of a substance to, or the removal of a substance from, Part I or Part II of the Schedule to this Act or both the removal of a substance from Part I of that Schedule and the removal of a substance from Part II thereof; or
- (b) it appears to the Minister probable that there will be taken such a decision as aforesaid of the Commission or of the Organisation as will require the addition of a substance to Part I of the Schedule to this Act and that, in the circumstances of the case, it is expedient to anticipate the decision;

the Minister may, by statutory order, make the requisite modifications in the said Schedule.

Part V – General

15. Miscellaneous offences

A person—

- (a) who acts in contravention of, or fails to comply with, a regulation made under this Act; or
- (b) who acts in contravention of, or fails to comply with the conditions of a licence issued or authority granted under, or in pursuance of, this Act; or
- (c) who for the purpose of obtaining, whether for himself or for any other person, the issue, grant or renewal of any such licence or authority as aforesaid, makes a declaration or statement which is false in any particular, or knowingly utters, produces or makes use of any such declaration or statement or a document containing the same; or
- (d) who in Zambia aids, abets, counsels or procures the commission in a place outside Zambia of an offence punishable under the provisions of a corresponding law in force in that place, or does an act preparatory to, or in furtherance of, an act which if committed in Zambia would constitute an offence against this Act;

shall be guilty of an offence against this Act.

16. Appointment of inspectors

- (1) Subject to the provisions of subsection (2), the Minister may appoint inspectors for the purposes of this Act.
- (2) No person shall be appointed as an inspector unless he is a person authorised to compound or dispense poisons or drugs under the Pharmacy and Poisons Act.

[Cap. 299]

17. Powers of entry and inspection

- (1) An inspector shall, for the purpose of the execution of Parts II, III and IV, have power to enter the premises of a person carrying on the business of a producer, manufacturer, seller or distributor of any drugs to which Part II or III applies or any substances for the time being specified in Part I of the Schedule and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs or substances and to inspect any stocks of any such drugs or substances.
- (2) If a magistrate is satisfied by information on oath that there is reasonable ground for suspecting—
 - (a) that any drugs to which Part II or III applies or any substances for the time being specified in Part I of the Schedule are, in contravention of the provisions of this Act or any regulations made thereunder, in the possession or under the control of a person in any premises, place, receptacle, aircraft, boat, train or other vehicle of whatever description; or
 - (b) that a document directly or indirectly relating to, or connected with, a transaction or dealing which was, or an intended transaction or dealing which would if carried out be, an offence against this Act, or in the case of a transaction or dealing carried out or intended to be carried out in a place outside Zambia, an offence against the provisions of a corresponding law in force in that place, is in the possession or under the control of a person in any premises, place, receptacle, aircraft, boat, train or other vehicle of whatever description: he may grant a search warrant authorising any inspector, customs officer or police officer named in the warrant, at any time or times within one month from the date of the warrant, to enter, if need be by force, such premises, place, receptacle, aircraft, boat, train or other vehicle, as the case may be, and to search the same and any persons found therein and, if there is reasonable ground for suspecting that an offence against this Act has been committed in relation to any such drugs or substances as aforesaid which may be found in such premises, place, receptacle, aircraft, boat, train or other vehicle or in the possession of any such persons, or that a document which may be so found is such a document as is mentioned in paragraph (b), to seize and detain those drugs or substances or that document, as the case may be.
- (3) If a person wilfully delays or obstructs a person in the exercise of his powers under this section or fails to produce, or, conceals or attempts to conceal, any such books, stocks, drugs, substances or documents as aforesaid, he shall be guilty of an offence against this Act.

18. Power of arrest

A police officer may arrest without warrant a person who has committed or attempted to commit, or is reasonably suspected by the police officer of having committed or attempted to commit an offence against this Act, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to, and cannot be ascertained by, him.

19. Penalties and forfeiture

- (1) Every person guilty of an offence against this Act shall, in respect of each offence, be liable (subject to subsection (2)) on conviction to a fine not exceeding five thousand penalty units or to imprisonment for a period not exceeding three years, or to both.
- (2) No person shall, on conviction for an offence against this Act consisting in a contravention of, or failure to comply with, a regulation under this Act relating to the keeping of books or the issuing or dispensing of prescriptions containing drugs to which Part II or III applies or substances for the time being specified in Part I of the Schedule, be sentenced to imprisonment without the option of a fine or to pay a fine exceeding three thousand two hundred penalty units, if the court is satisfied that the offence was committed through inadvertence, and was not preparatory to, or committed in the course of, or in connection with, the commission or intended commission of any other offence against this Act.

- (3) A person convicted of an offence against this Act shall forfeit to the Republic all articles in respect of which the offence was committed, and the court before which he is convicted may order those articles to be destroyed or otherwise disposed of as the court thinks fit.

[As amended by Acts No. 19 of 1985, No. 2 of 1989 and No. 13 of 1994]

19A. Penalty for trafficking

Notwithstanding the penalties provided for in section nineteen, where a person is convicted of an offence under this Act, and the court is satisfied that the offence relates to trafficking in any drug to which Part II, III or IV of the Act applies, the offender shall be liable to an unlimited fine of not less than five hundred penalty units or to imprisonment for a period not exceeding fifteen years or to both, such fine and imprisonment.

[As amended by Acts No. 19 of 1985 and No. 13 of 1994]

20. Attempts, etc., to commit offences

If a person attempts to commit an offence against this Act, or solicits or incites, another person to commit such an offence, he shall, without prejudice to any other liability, be liable on conviction to the same punishment and forfeiture as if he had committed an offence against this Act.

21. Offences by companies

Where a person convicted of an offence against this Act is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

22. Licences and authorities

A licence or authority issued or granted for the purposes of this Act by the Minister may be issued or granted on such terms and subject to such conditions (including, in the case of a licence, the payment of a fee) as the Minister thinks proper.

Schedule (Sections 12, 13 and 14)

Substances dealings in which are subject to control under Part IV

Part I – Substances dealings in which are subject to control except, in the case of any specified in Part II, as regards importation and exportation

1. Acetorphine (M 183)
Acetyldihydrocodeine
Allylprodine
Alphacetylmethadol
Alphameprodine
Alphamethadol
Alphaprodine
Amphetamine

Anileridine
Benzethidine
Benzylmorphine (3-benzylmorphine)
Betacetylmethadol
Betameprodine
Betamethadol
Betaprodine
Clonitszene
Cocaine
Codeine
Desomorphine
Dexamphetamine
Dextromoramide
Diamorphine
Diampromide (n-(2-(N-methylphenethylamino)propyl)propionanilide
Diethylthiambutene
Dihydrocodeine
Dihydromorphine
Dimenoxadole
Dimepheptanol
Dimethylthiambutene
Dioxaphetyl butyrate
Diphenoxylate
Dipipanone
Egonine
Ethylmethylthiambutene
Ethylmorphine (3-ethylmorphine)
Eticyclidine
Etonitazene
Etorphine (M99)
Etoxidine
Fentanyl
Furethidine
Hydrocodone (dihydrocodsinone)
Hydromorphanol

Hydromorphone
Hydroxypethidine
Hydroxy-7,8,9,10-tetrahydro 6,6,9-trimethyl-dibenzo (b,d) pyran
Isomethadone
Ketobemidone
Levomethorphan
Levomoramide
Levophenacymorphan
Levorphanol
Mecloqualone
*Metaqualone
Metazocine
Methadone
Methadyl acetate
Methamphetamine
Methyldesorphine
Methyldihydromorphine (6-methyldihydromorphine)
Methypheridase
Metapon
Morpheridine
Morphine
Morphine methobromide, morphine-N-oxide and other pentavalent nitrogen morphine derivatives
Myrophine
Nicocodine
Nicodicodine
Nicomorphine (3,6-dinicotinoylmorphine)
Noracymethadol
[Please note: items omitted as in original.]

Part II – Preparations and other substance falling within Part I whose importation and exportation is excepted from control

9.

- (1) A preparation of not more than one of the substances to which this paragraph applies, when compounded with one or more other ingredients and containing not more than 100 milligrammes of the substance per dosage unit and with a concentration of not more than 2.5 *per centum* in undivided preparations.

- (2) The substances to which this paragraph applies are acetydihydro-eodeine, codeine, dihydrocodeine, ethylmorphine (3-ethylmorphine), norcodeine, pholeodine and their respective salts.
10. A preparation of cocaine containing not more than 0.1 *per centum* of cocaine calculated as cocaine base, being a preparation compounded with one or more other ingredients in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.
11. A preparation of medicinal opium or morphine containing (in either case) not more than 0.2 *per centum* of morphine calculated as anhydrous morphine base, being a preparation compounded with one or more other ingredients in such a way that the opium or, as the case may be, the morphine, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.
12. Preparations of diphenoxylate containing, per dosage unit, not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate.
13. Pulvis Ipecacuanhae et Opii Compositus:
10 *per centum* opium, in powder,
10 *per centum* Ipecacuanha root, in powder, well mixed with
80 *per centum* of any other powdered ingredient containing neither a drug to which Part II or III of this Act applies nor a substance for the time being specified in paragraph 1 of this Schedule or in any of paragraphs 2 to 8 thereof.
14. Mixtures containing not more than one of the preparations specified in paragraphs 9 to 13, being mixtures whereof none of the other ingredients is either a drug to which Part II or III of this Act applies or a substance for the time being specified in paragraph 1 of this Schedule or in any of paragraphs 2 to 8 thereof.