M O N T S E R R A T

DRUGS (PREVENTION OF MISUSE) (AMENDMENT) ACT 2024

No. 24 of 2024

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I ASSENT

Sarah Tucker
Governor

DATE:

M O N T S E R R A T

No. 24 of 2024

AN ACT TO AMEND THE DRUGS (PREVENTION OF MISUSE) ACT (CAP. 4.07).

BE IT ENACTED by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Assembly of Montserrat, and by the Authority of the same as follows:—

1. Short title

This Act may be cited as the Drugs (Prevention of Misuse) (Amendment) Act, 2024.

2. Interpretation

In this Act, **"principal Act"** means the Drugs (Prevention of Misuse) Act (Cap. 4.07).

3. Section 2 amended

Section 2 of the principal Act is amended by deleting the definitions of "cannabis" and "cannabis resin" and substituting the following—

"cannabis" means the flowering or fruiting tops and leaves of the cannabis plant, excluding the seeds when not accompanied by the tops, from which the cannabis resin has not been extracted, by whatever name they may be designated;

"cannabis plant" means any plant of the genus cannabis;

"cannabis resin" means the separated resin, whether crude or purified, obtained from the flowering or fruiting tops and leaves of the cannabis plant;

4. Section 5 amended

Section 5 of the principal Act is amended—

(a) in subsection (2) —

(i) in paragraph *(b)*, by deleting "." and substituting "; or"; and

(ii) by inserting immediately after paragraph *(b)*, the following as paragraph *(c)*—

"*(c)* to the importation of a product containing cannabinoid which has been adapted for medicinal use and is approved by the Chief Medical Officer for medicinal use."; and

(b) by inserting the following as subsection (2A)—

"**(2A)** For the purposes of this section, "**medicinal use**" means the treatment of—

(a) epilepsy;

(b) vomiting or nausea due to by chemotherapy;

(c) multiple sclerosis;

(d) cancer;

(e) asthma;

(f) Parkinson's disease;

(g) status of human immunodeficiency virus or acquired immune deficiency syndrome;

(h) damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity;

(i) post-traumatic stress disorder;

(j) rheumatoid arthritis or any similar chronic autoimmune inflammatory disorder with severe or debilitating conditions;

(k) autism;

(l) glaucoma;

(m) sickle cell anaemia;

(n) anxiety;

(o) sleep disorders;

(p) chronic pain;

(q) Alzheimer's disease;

(r) Crohn's disease;

(s) Hepatitis B;

(t) Dravet's syndrome;

(u) depression; or

(v) any other illness or condition as declared by the Minister, acting on the advice of the Advisory Council and the Chief Medical Officer, by order published in the *Gazette*.

5. Section 7 amended

Section 7 of the principal Act is amended by inserting the following as subsections (8), (9), (10) and (11)—

"**(8)** In a trial for a summary offence under subsection (2) or (3) relating to cannabis or cannabis resin of a quantity—

(a) not exceeding 10 grammes, if the Magistrate's Court is satisfied that the charge is proven but is of the opinion that it is inexpedient to convict the accused, the Court may, without proceeding to conviction, make an order dismissing the charge, but if the Court does not dismiss the charge, it shall not impose a penalty and may order the accused person to participate in a drug rehabilitation programme approved by the Minister;

(b) exceeding 10 grammes but not exceeding 30 grammes, if the Magistrate's Court is satisfied that the charge is proven but is of the opinion that it is inexpedient to convict the accused, the Court may, without proceeding to conviction, make an order dismissing the charge, but if the Court does not dismiss the charge, it shall proceed to impose a penalty in accordance with section 27.

(9) On successful completion by a person of a drug rehabilitation programme, the Magistrate shall expunge the conviction in respect of which the participation in the drug rehabilitation programme was ordered.

(10) Where a person is ordered to participate in a drug rehabilitation programme and the person, without reasonable excuse, fails to participate, the Magistrate may, on application, issue a warrant for committing the person to prison for a period not exceeding six months or if he considers it expedient so to do, postpone the issue of the warrant until such time and on such conditions, if any, as to him seem just.

(11) For the avoidance of doubt, subsection (8) does not apply in respect of an offence under subsection (2) or (3) relating to cannabis or cannabis resin of a quantity exceeding 30 grammes.".

6. Section 9 amended

Section 9(1)*(a)* of the principal Act is amended by deleting "except" and substituting "exempt".

7. Sections 27A inserted

The principal Act is amended by inserting immediately after section 27, the following as section 27A—

"27A. Treatment and programmes for child offenders

(1) If a child commits an offence under this Act, he shall participate in a drug counselling programme approved by the Minister.

(2) In this section, **"child"** means a person under the age of 18 years old.

8. Section 38 inserted

The principal Act is amended by inserting immediately after section 37, the following as section 38—

"**38. Expungement of criminal records**

A conviction notated on the criminal record of a person prior to the commencement of this section for an offence under this Act involving cannabis or cannabis resin in a quantity of thirty grammes or less, shall be regarded as spent and the criminal record relating to the offence shall be expunged.".

9. Fourth Schedule amended

The principal Act is amended by deleting the Fourth Schedule and substituting the following—

"**FOURTH SCHEDULE**

(Section 27)

PROSECUTION AND PUNISHMENT OF OFFENCES

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
Section 5(3)	Importing and exporting controlled drugs	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $25,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	fourteen years and $200,000	
Section 6(2)	Production or being concerned in the production of a controlled drug other than cannabis or cannabis resin	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	fourteen years and $200,000	
	Production or being concerned in the production of cannabis or cannabis resin	*(a)* Summary		$50,000		
		(b) On indictment		$100,000		

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
Section 6(3)	Supplying or offering to supply a controlled drug or being concerned in the doing of either activity by another	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	ten years and $200,000	
	Supplying or offering to supply cannabis or cannabis resin or being concerned in the doing of either activity by another	*(a)* Summary		$100,000		
		(b) On indictment		$150,000		
Section 7(2)	Having possession of a controlled drug other than cannabis or cannabis resin	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	seven years and $200,000	seven years and $200,000	five years and $100,000	
	Having possession of	Summary		$1,000		

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
	cannabis or cannabis resin of more than 10 grammes but not exceeding 30 grammes					
	Having possession of cannabis or cannabis resin exceeding 30 grammes	On indictment		$50,000		
Section 7(3)	Having possession of a controlled drug other than cannabis or cannabis resin with intent to supply it to another	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	ten years and $200,000	
	Having possession of cannabis or cannabis resin of more than 10 grammes but not exceeding 30 grammes with intent to supply it to another	*(a)* Summary		$1,000		

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
	Having possession of cannabis or cannabis resin exceeding 30 grammes with intent to supply it to another	*(b)* On indictment		$50,000		
Section 8(2)	Cultivation of cannabis plant	*(a)* Summary				three years and $100,000
		(b) On indictment				Fourteen years and $200,000
Section 10	Being the occupier or concerned in the management of premises and permitting or suffering certain activities to take place there, other than the preparation of cannabis or cannabis resin for smoking, or smoking	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	ten years and $200,000	

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
	cannabis or cannabis resin					
	Being the occupier or concerned in the management of premises and permitting or suffering the preparation of cannabis or cannabis resin for smoking, or smoking cannabis or cannabis resin to take place there	*(a)* Summary		$50,000		
		(b) On indictment		$75,000		
Section 11	Offences relating to opium	*(a)* Summary				two years and $75,000
		(b) On indictment				fourteen years and $200,000
Section 13(2)	Contravention of directions relating to safe custody of controlled drugs	*(a)* Summary				three years and $100,000
		(b) On indictment				

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
						ten years or $200,000
Section 14(6)	Contravention of directions prohibiting practitioners, etc. from possessing, supplying, etc. controlled drugs	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	ten years and $200,000	
Section 15(3)	Contravention of directions prohibiting practitioners, etc. from prescribing, supplying, etc. controlled drugs	*(a)* Summary	three years and $100,000	three years and $100,000	two years and $75,000	
		(b) On indictment	fourteen years and $200,000	fourteen years and $200,000	ten years and $200,000	
Section 16(1)	Drug trafficking	*(a)* Summary	Ten years but not less than two years and $100,000	Ten years but not less than two years and $100,000	Ten years but not less than two years and $100,000	
		(b) On indictment	Life	Life	Life	
Section 16(2)	Trafficking in and drugs held out as controlled drug	*(a)* Summary				Two years and $5,000

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
		(b) On indictment				Five years and $25,000
Section 17(4)	Retention of and proceeds of drug trafficking	*(a)* Summary				Two years and $5,000
		(b) On indictment				Fourteen years and $50,000
Section 18(3)	Failure to comply with notice requiring information relating to prescribing, supply, etc., of drugs	Summary				$75,000
Section 18(4)	Giving false information in purported compliance with notice requiring information	*(a)* Summary				three years and $100,000
		(b) On indictment				ten years and $200,000

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
Section 19(1)	Contravention of regulations (other than regulations relating to addicts)	*(a)* Summary				three years and $100,000
		(b) On indictment				ten years and $200,000
Section 19(2)	Contravention of terms of licence authority	*(a)* Summary				ten years and $200,000
		(b) On indictment				
Section 19(3)	Giving false information on purported compliance with obligation to give information imposed under or by virtue of regulations	*(a)* Summary				three years and $100,000
		(b) On indictment				ten years and $200,000
Section 19(4)	Giving false information or producing document etc.,	*(a)* Summary				three years and $100,000

Section Creating Offence	**General Nature of Offences**	**Mode of Prosecution**	**Class A Drug Involved**	**Class B Drug Involved**	**Class C Drug Involved**	**General**
	containing false statement, etc., for purposes of obtaining issue or renewal of a licence or other authority	*(b)* On indictment				ten years and $200,000
Section 21	Assisting in or inducing commission outside Montserrat of an offence punishable under a corresponding law	*(a)* Summary				three years and $100,000
		(b) On indictment				fourteen years and $200,000
Section 24(7)	Obstructing exercise of powers of search, etc., failing to stop, preventing the person in charge from stopping, leaving a stopped vehicle, etc., or concealing books, drugs, etc	*(a)* Summary				three years or $100,000
		(b) On indictment				fourteen years and $200,000”

SPEAKER

Passed by the Legislative Assembly this 25th day of June, 2024.

CLERK OF THE LEGISLATIVE ASSEMBLY