

No. 26 of 2021.

*Controlled Substance Act 2021.*

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No. **26** of 2021.

AN ACT

entitled

***Controlled Substance Act 2021,***

Being a Act to -

- (a) provide for and regulate controlled substances to protect individuals and the society from its illicit and harmful effects; and
- (b) establish criminal offences relating to the use of illicit drugs and abuse of licit drugs and precursor chemicals and implements; and
- (c) give effect to any international convention relating to controlled substances, controlled plants and controlled precursors,

and for related purposes,

MADE by the National Parliament to come into operation in accordance with a notice in the National Gazette by the Head of State, acting with, and in accordance with, the advice of the Minister.

**PART I. - PRELIMINARY.**

**1. COMPLIANCE WITH CONSTITUTIONAL REQUIREMENTS.**

(1) This Act, to the extent that it regulates or restricts the exercise of a right or freedom referred to in Subdivision III.3.C. (*qualified rights*) of the *Constitution*, namely -

- (a) the right to liberty conferred by Section 42; and
- (b) the right to freedom from arbitrary search and entry conferred by Section 44; and
- (c) the right to freedom of expression and publication conferred by Section 46; and
- (d) the right to privacy conferred by Section 49; and
- (e) the right to freedom of information conferred by Section 51; and
- (f) the right of freedom of movement conferred by Section 52,

is a law that is made under Section 38 of the *Constitution* taking account of the National Goals and Directives Principles and the Basic Social Obligations, for the purposes of giving effect to the public interest in public order and public welfare.

(2) For the purposes of Section 41 of the *Organic Law on Provincial Governments and Local-level Governments*, it is declared that this law relates to a matter of national interest.

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### 2. INTERPRETATION.

In this Act, unless the contrary intention appears -

“advertisement” means any method of conveying or disseminating information or making any claim with regard to any controlled substances, controlled plants, controlled precursors and controlled drugs, prohibited drug or psychotropic substance whether orally, in writing or pictorially or by telephone, facsimile, radio, television or any other means of transmitting images or sounds or both in association or by label, letter, circular, pamphlet, book, magazine, newspaper, sign, poster, or otherwise;

“aircraft” includes -

- (a) any craft capable of self-sustained movement through the air or atmosphere; and
- (b) an aircraft as defined by the *Civil Aviation Act 2000*;

“analysis” for the purposes of this Act means any bacteriological, biological, chemical, electrical, electrochemical, microbiological, pathological, physical or other examination or test for ascertaining the presence or absence of any substance or organism or the composition or other qualities of that product;

“authorised officer” means -

- (a) an officer of the Royal Papua New Guinea Constabulary, referred to in this Act as a police officer; or
- (b) an officer of the Papua New Guinea Customs; or
- (c) an officer of the National Quarantine Inspection Authority; or
- (d) an officer of the Papua New Guinea Defence Force; or
- (e) any other officer designated by the Director General of the National Narcotics Bureau;

“Board” means the National Narcotics Control Board established under the Section 3 of the *National Narcotics Control Board Act 1992*;

“body cavity”, for the purposes of this Act means, any fluid-filled space in the human body, other than vessels (blood and lymph) and includes but not limited to the oral, rectal and other anal cavities, as well as the digestive, sexual organs, ears and nostrils;

“Bureau” means the National Narcotics Bureau established under Section 12 of the *National Narcotics Control Board Act 1992*;

“cannabis” means a cannabis plant, whether living or dead and includes flowering or fruiting top leaf, seed, stalk or any other part of a cannabis plant and mixture of parts of a cannabis plant, but does not include cannabis resin or cannabis fiber;

“cannabis fiber” means a substance consisting wholly or substantially of fiber from a cannabis plant but not containing any other material from cannabis plant;

“cannabis oil” means cannabis resin in a purified form;

“cannabis plant” means a plant of the Genus Cannabis;

“cannabis resin” means a substance consisting wholly or substantially of resin, whether crude, purified or any other form, from a cannabis plant;

“Coca bush” means the plant of any species of the Genus *Erythroxylum*;

“Coca leaf” means the leaf of the coca bush except a leaf from which all ecgonine, cocaine or any other ecgonine alkaloids have been removed;

“controlled drug” refers to a substance listed in Schedules I, II, III or IV;

“controlled plant” means a growing cannabis plant or a cutting of a cannabis plant or a growing coca plant or a cutting of a coca plant (provided that the cutting has been planted or otherwise placed in a growing medium) or any other plant listed in Schedules I, II, III, IV;

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“controlled precursor” refers to a substance listed in Schedules I, II, III or IV;

“controlled substance” means -

- (a) a substance, controlled drug, controlled plant or controlled precursor contained in Schedules I, II, III and IV of this Act; and
- (b) any narcotic drug or psychotropic substance listed in the Conventions and amendments, as adopted under Part VII of this Act;

“convention” means the *Single Convention on Narcotic Drugs 1961*, *Convention on Psychotropic Substances 1971* and other relevant multilateral international law instruments to which the Independent State of Papua New Guinea is a state party to;

“Director General” means the person appointed as Director General of the National Narcotics Bureau under Section 14 of the *National Narcotics Control Board Act 1992*;

“electronic system” for the purposes of this Act, means, an electronic system includes an information system, financial system, system used for the delivery of essential government services, system used for, or by an essential public utility, or system used for, or by a transport system;

“implement” means any equipment used in the manufacture, production, handling, mixing, storage, transportation or consumption of a controlled substance, controlled plant, controlled precursor or controlled drug under a Schedule of this Act;

“inspector” means a person designated as an inspector by the Board under Section 51;

“Interim Controlled Substance” is an un-identified substance that is not listed in a Schedule under this Act and is suspected of being a controlled substance and may be determined and temporarily gazetted as an Interim Controlled Substance, by a process set out under Parts II, III, IV and V of this Act;

“internal concealment” means the voluntary or through coercion, concealment of loosely wrapped prohibited substances in a body cavity with the aim of smuggling;

“licensing authority” means the National Narcotics Control Board;

“manufacture”, for the purposes of this Act, means to -

- (a) carry out any process by which a drug or substance is obtained; and
- (b) refine a drug or substance; and
- (c) transfer a drug or substance into another drug or dependence or prohibited substances; and
- (d) make or prepare, tablets, pills, capsules, vials or other dosage forms consisting of or containing a drug or substance; and
- (e) mix, compound, or formulate a drug or substance; and
- (f) pack or re-pack a drug or substance for the purpose of sale by wholesale or for use in connection with a profession, trade or industry;

“medical examination” means the examination of -

- (a) the human body; and
- (b) an animal,

and includes an external and internal examination including bodily fluids and including or using recognised medical investigation techniques with the purpose of determining whether the person or animal has a controlled substance or psychotropic substance on him or his body or to determine if the person or animal has consumed a controlled substance or psychotropic substance;

“medical practitioner” means any person registered as a medical practitioner under the *Medical Registration Act* (Chapter 398);

“narcotic drug” also means a narcotic substance or controlled substance in a schedule of this Act;



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- “offence” means an offence under this Act or under the regulations;
- “pharmacist” means any person registered as a Pharmacist under the *Medical Registration Act* (Chapter 398) and registered with the Pharmacy Board under the *Medicines and Cosmetics Act 1989*;
- “premises” means for the purposes of this Act, any land (registered or customary), building, structure or enclosure whether moveable or not, parts of a building (including the appertaining land) and any area on land or water;
- “prohibited substance” includes all substances under Schedule I;
- “property” means for the purposes of this Act, assets of every kind, whether tangible or intangible, corporeal or incorporeal, movable or immovable, however acquired including an enforceable right of action, and legal documents or instruments in any form including electrical or digital evidencing title to or interest in, such assets including but not limited to currency, bank credits, deposits and other financial resources, travellers cheques, bank cheques, money orders, shares, securities, bonds, drafts and letters of credit whether situated in Papua New Guinea or elsewhere and includes a legal or equitable interest, whether full or partial in any such assets;
- “psychotropic substance” means a controlled substance, whether natural or synthetic or any natural material in Schedules I, II, III or IV;
- “school zone” means the grounds of a primary or secondary school and the area within 500 metres of the boundary of the school;
- “substance”, for the purpose of this Act, means any gaseous, liquid, semi liquid or solid substance and includes a plant or fungus;
- “the Act” means this Act, the Schedules made under this Act and any Regulations made under this Act;
- “traffick” or “trafficking” means an offence under Part IV;
- “unit of measurement” means a definite magnitude of a quantity defined and adopted by this Act, that is used as a standard for measurement of the same kind of quantity;
- “vehicle”, for the purposes of this Act, means a thing whether self-propelled or motorised, that in or which any person or thing is, or maybe, carried, as a coach, carriage, wagon, cart, car, sleigh, bicycle or any self-propelled vehicle or means of conveyance upon land;
- “vessel” means any ship, boat or other water craft designed for water transportation.

### **3. APPLICATION OF THE ACT.**

- (1) Unless to the contrary, provisions of the *Criminal Code Act* (Chapter 262) relating to -
- (a) criminal practice and procedures; and
  - (b) jurisdiction, including Sections 12, 13 and 14; and
  - (c) punishments, including Sections 18 and 19,

apply to this Act.

(2) The provisions of this Act are in addition to the *Criminal Code Act* (Chapter 262) or any other law relating to criminal matters, and where there are any inconsistencies between the provisions of this Act and the *Criminal Code Act* (Chapter 262) or any other law relating to criminal matters, this Act shall apply.

(3) The provisions of this Act are in addition to the *Customs Act 1951* (Chapter 101) and shall apply to any controlled substance that is within a customs controlled area.

### **4. EFFECT OF CHANGES IN LAW.**

(1) A person shall not be punished for doing or omitting to do an act unless the act or omission constituted an offence under this Act in force when the offence occurred.

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(2) This Act does not have retrospective effect on past commissions or omissions of acts that constitute an offence under this Act.

### **5. AGE OF CRIMINAL CULPABILITY.**

(1) Section 30 of the *Criminal Code Act* (Chapter 262) applies in relation to an offence committed under this Act.

(2) The *Juvenile Justice Act 2014* shall apply to an offence committed by a child between the ages of 10 and 18 years.

### **6. COMMERCIAL QUANTITY OF A CONTROLLED SUBSTANCE.**

Commercial quantity of a controlled substance, controlled plant, controlled precursor and controlled drugs means -

- (a) in relation to a controlled drug or controlled precursor contained in a mixture -
  - (i) a quantity of the controlled substance, plant or precursor (as the case may be) in its pure form; or
  - (ii) a quantity of the mixture that equals or exceeds the amount prescribed as a commercial quantity for any mixture containing the controlled substance, plant or precursor (as the case may be); or
  - (iii) a number of discrete dosage units of the mixture that equals or exceeds the number of discrete dosage units prescribed as a commercial quantity for any mixture containing the drug or precursor (as the case may be); or
- (b) in relation to a controlled substance, plant or precursor that is not contained in a mixture - a quantity of the drug or precursor that equals or exceeds the amount prescribed as a commercial quantity for the drug or precursor (as the case maybe) in its pure form; or
- (c) in relation to a controlled plant -
  - (i) a number of the plant that equals or exceeds the number of plants prescribed as a commercial quantity for the plant as listed in Schedule VII; or
  - (ii) a weight of the plant (or an extract or derivative of the plant) that equals or exceeds the weight prescribed as a commercial quantity for the plant as listed in Schedule VII; or
- (d) in relation to the jurisdiction of the District Courts to decide on whether a matter may be heard summarily pursuant to Section 70, the commercial quantity of a substance must be -
  - (i) any quantity that exceeds two kilograms for Schedule I controlled substance or controlled precursor is an indictable offence; and
  - (ii) Schedule I controlled plant - five or more plants or seedlings, plant cuttings, saplings or less, is an indictable offence; and
  - (iii) Schedule II or IV controlled substance, or controlled precursor - any quantity, may be summarily dealt with; and
  - (iv) Schedule II controlled plant - any quantity, may be summarily dealt with; and
  - (v) Schedule III controlled substance or controlled precursor - any quantity as listed in Schedule VI (b), is an indictable offence and may be dealt with in accordance with Schedule VI.

### **7. MEDIUM TO LARGE MARKETABLE QUANTITY.**

Medium to large marketable quantity -

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- (a) in relation to the jurisdiction of the District Courts to decide on whether a matter may be heard summarily pursuant to Section 70, a medium to large marketable quantity of a substance must be for a -
- (i) Schedule I controlled substance or controlled precursor any quantity exceeding 10 grams and less than two kilograms, may be dealt with summarily in accordance with Schedule VII; and
  - (ii) Schedule I controlled plant - five or less plants, seedling, plant cuttings, saplings, any extract of the controlled plant, may be dealt with summarily in accordance with Schedule VII; and
  - (iii) Schedule III and Schedule IV controlled substance, or controlled precursor - any quantity, may be dealt with summarily in accordance with Schedule VII; and
  - (iv) Schedule II controlled plant - any quantity, may be dealt with summarily in accordance with Schedule VII; and
  - (v) Schedule III controlled substance or controlled precursor - any quantity as listed in Schedule VI (a), may be dealt with summarily in accordance with Schedule VII.

### **8. POSSESSION.**

(1) "Possession" means to have a controlled substance or plant or precursor in the possession of a person (natural or corporate) -

- (a) whether it be on this person; or
- (b) a chattel or personal possession; or
- (c) in animals or livestock both living and non-living; or
- (d) upon any land or premises occupied by him; or
- (e) is used and controlled by him in any place whatsoever; or
- (f) in the possession of a person under his control; or
- (g) in joint possession.

(2) "Possession" for the purposes of determining the quantity of a controlled substance, controlled precursor or controlled plant and in relation to the jurisdiction of the District Courts to decide on whether a matter may be heard summarily pursuant to Section 70, includes -

- (a) any substance, controlled plant or controlled precursor listed in Schedule I or Schedule II, within a quantity prescribed by Schedule VII as simple possession, may be dealt with summarily in accordance with Schedule VII; and
- (b) any substance or controlled precursor listed in Schedule III and any quantity of a substance as listed in Schedule VI (a), may be dealt with summarily in accordance with Schedule VII.

(3) Possession within the meaning of the above definition, with regard to the jurisdiction of the District Courts means simple possession.

## **PART II. - NATIONAL NARCOTICS CONTROL BOARD.**

### **9. ROLE OF THE BOARD.**

(1) In addition to its functions under the *National Narcotics Control Board Act 1992*, the functions of the Board for the purposes of this Act are -

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- (a) to review substances and devices that are provided for or controlled by Parts III and IV, subject to the advice of the Technical Advisory Panel or what the Board deems appropriate to control or regulate under the Act; and
- (b) to advise the Minister on measures, that in the opinion of the Board relate to -
  - (i) imposing; or
  - (ii) withdrawing; or
  - (iii) varying,controls in respect to any substance or device controlled or regulated by the Act; and
- (c) to monitor the administration of Part II; and
- (d) to perform other functions under the *National Narcotics Control Board Act 1992* or as the Minister may assign to the Board; and
- (e) to produce an annual report that is due at the end of the calendar year.

(2) Where the Board refuses to follow the advice of the Technical Advisory Panel, the Board shall provide justification or reason and may make this information known to affected persons upon request.

### **PART III. - TECHNICAL ADVISORY PANEL.**

#### **10. ESTABLISHMENT OF THE TECHNICAL ADVISORY PANEL.**

The Technical Advisory Panel is hereby established.

#### **11. FUNCTIONS OF THE TECHNICAL ADVISORY PANEL.**

- (1) The Technical Advisory Panel has the following functions:
  - (a) to provide technical and expert advice to the Board and the National Narcotics Bureau on any matter in relation to classification of substances under Part VII; and
  - (b) to provide -
    - (i) scientific advice to inform any decision making process related to the identification and a scientific composition of controlled substances within a schedule or a substance in general; and
    - (ii) advice on devices used, methods of administration of substances listed under this Act or in any other Act, and other standards for the use of a substance; and
  - (c) to provide general advice on all the schedules for the purposes of an offence committed under Part VII; and
  - (d) to provide any other necessary advice upon the request of the Board or the National Narcotics Bureau.

(2) The Technical Advisory Panel shall provide advice upon the request of the Board or the National Narcotics Bureau.

(3) The advice of the Technical Advisory Panel must be considered by the Board and used when making a decision.

#### **12. MEMBERSHIP OF THE TECHNICAL ADVISORY PANEL.**

- (1) The Technical Advisory Panel shall consist of the following members:
  - (a) an independent person with a medical degree, who is the nominee of the head of department responsible for health matters; and

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- (b) two persons who are scientists, nominated by the Pharmaceutical Board and have qualifications and extensive experience in the field of chemistry pharmacy, biochemistry or pharmacology; and
- (c) a person nominated by the department responsible for health matters, who has had extensive experience in the manufacture or sale of substances or devices to which this Act or any related laws that apply; and
- (d) a person who is a senior police officer nominated by the Commissioner for Police; and
- (e) a person who is a lawyer with a legal policy background, nominated by the head of the department responsible for justice matters; and
- (f) an independent person who is a scientist with a background in chemistry, biochemistry, pharmacy or pharmacology nominated by the Science and Technology Council of Papua New Guinea.

(2) The Technical Advisory Panel members under Subsection (1) must preferably be nationals.

### **13. APPOINTMENT OF MEMBERS OF THE TECHNICAL ADVISORY PANEL.**

The Chairman of the National Narcotics Control Board shall invite nominations from the respective agencies under Section 9 to be members of the Technical Advisory Panel.

### **14. TERM OF APPOINTMENT OF MEMBERS OF THE TECHNICAL ADVISORY PANEL.**

(1) The members of the Technical Advisory Panel under Section 12(a), (b), (c) and (f) shall hold office for a period of four years, and are eligible for reappointment for a second term.

(2) The members of the Technical Advisory Panel under Section 12(d) and (e) are *ex-officio* nominees of their respective departmental heads.

### **15. CHAIRPERSON OF THE TECHNICAL ADVISORY PANEL.**

Members of the Technical Advisory Panel under Section 9 may nominate and vote for the Chairperson of the Technical Advisory Panel.

### **16. MEETINGS OF THE TECHNICAL ADVISORY PANEL.**

(1) The Technical Advisory Panel shall meet as often as necessary to discharge its functions annually.

(2) The Chairperson of the Technical Advisory Panel -

- (a) presides at all meetings and where the Chairperson is not present at a meeting, the members present are to elect one of their members to preside as Chairperson; and
- (b) may convene such other meetings as the Chairperson considers necessary.

(3) The Technical Advisory Panel shall determine its own meeting procedures.

### **17. MEETING MINUTES, RESOLUTIONS, ETC., TO BE RECORDED.**

The Technical Advisory Panel must record and keep its meeting minutes, findings, resolutions, commitments etc., in such a manner as determined by the Technical Advisory Panel.

### **18. QUORUM.**

(1) The quorum for a meeting of the Technical Advisory Panel is four members and the quorum must be present at all times during the meeting.

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(2) A question arising at a meeting of the Technical Advisory Panel is to be determined by a majority of votes of the members present.

- (3) The person presiding at a meeting of the Technical Advisory Panel has -
- (a) a deliberate vote; and
  - (b) where necessary a casting vote.

### **19. ALLOWANCES FOR MEMBERS OF THE TECHNICAL ADVISORY PANEL.**

The members of the Technical Advisory Panel may be paid a sitting allowance according to the *Boards (Fees and Allowances) Act* (Chapter 299).

## **PART IV. - CLASSIFICATION OF CONTROLLED SUBSTANCES.**

### **20. DECLARATION OF CONTROLLED SUBSTANCES.**

- (1) The Board may declare, by an amendment to a Schedule -
- (a) any substance that is in the Board's opinion has the potential to be harmful to humans; or
  - (b) a substance to be a prescription drug; or
  - (c) a substance that is in the Board's opinion may lead to dependence in humans; or
  - (d) any substance that is in the Board's opinion may lead to dependency in humans or is of exceptional danger to humans; or
  - (e) a substance that is in the Board's opinion may be used in the manufacture of a controlled substance to be a controlled precursor; or
  - (f) a plant that is in the Board's opinion has the potential if it, or any product of it, is smoked or consumed by, or administered to humans may lead to dependence in humans,
- to be a controlled substance for the purposes of this Act.

(2) The Minister may, acting on advice from the Board, publish a notice to advise on the declaration of a substance as a controlled substance."

### **21. DECLARATION OF INTERIM CONTROLLED SUBSTANCES.**

(1) The Minister may, acting on advice from the Board, declare a substance to be an Interim Controlled Substance by notice in the National Gazette.

- (2) The notice under Subsection (1) -
- (a) operates for a period specified in the notice and that period must not be more than 12 months; and
  - (b) may be varied or revoked anytime by the Minister, acting on the advice from the Board, by a notice in the National Gazette; and
  - (c) may refer to a substance by its trade name or any other manner.

(3) If after a period of 12 months the Interim Controlled Substance is still a danger to humans, the Minister may, acting on the advice of the Board, declare that substance to be a controlled substance under Section 20.

(4) The Minister may, acting on the advice of the Board, declare that a drug or substance is not a danger to humans and may under Subsection (2)(b) revoke the declaration of the Interim Controlled Substance.

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### **22. REMOVAL OF CONTROLLED SUBSTANCES OR PLANTS FROM THE SCHEDULES.**

(1) The Minister may, acting on the advice from the Board, remove a substance under Section 20 from being a controlled substance where it is determined that the substance does not pose a danger to humans by amendment to the Schedule.

(2) The Minister shall, acting on advice of the Board, cause a notice to be published in the National Gazette advising of the removal made in Subsection (1).

### **23. TRANSFER OF A CONTROLLED SUBSTANCE OR PLANT BETWEEN SCHEDULES.**

(1) The Minister may, acting on the advice from the Board, subject to Section 20, transfer a substance (from one schedule to another) between the different schedules by amendment to the Schedules.

(2) The Minister shall, acting on advice of the Board, cause a notice to be published in the National Gazette advising of the transfer made in Subsection (1).

### **24. PREPARATIONS AND MIXTURES CONTAINING CONTROLLED SUBSTANCES.**

Where a preparation or mixture of one or more controlled substances listed in Schedules I, II, III or IV are mixed, the result of that mixture shall be classified according to the most highly controlled substance that it contains, in accordance with -

- (a) Schedules I, II, III and IV; and
- (b) the definition of a commercial quantity under Section 2.

## **PART V. - LICENCES AND PERMITS.**

### *Division 1. - Licence to store on premises, handle and transport controlled substances.*

### **25. APPLICATION FOR A LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) A person may apply to the Board for a licence to store on premises, handle and transport a controlled substance for commercial purposes.

(2) An application under Subsection (1) must be -

- (a) in writing; and
- (b) accompanied by a proposed risk management plan as prescribed; and
- (c) accompanied by any other particulars as prescribed; and
- (d) accompanied by the prescribed application fee.

(3) An applicant under this section must be a fit and proper person according to the standards prescribed.

(4) For avoidance of doubt, a licence to store on premises, handle and transport controlled substances refers to the domestic transportation or movement of a controlled substance.

### **26. DETERMINING AN APPLICATION FOR A LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) Upon receiving an application under Section 25, the Board shall -

- (a) carry out any relevant inquiries to consider the application; and

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- (b) conduct an inspection of the premises; and
- (c) ensure that an application is in compliance with any prescribed security requirements.

(2) The Board shall notify the applicant in writing of its decision to grant or refuse to grant a licence.

(3) If the Board refuses to grant a licence, the Board shall include the reasons for the refusal.

### **27. TERMS AND CONDITIONS OF LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

A licence to store on premises, handle and transport controlled substances -

- (a) is issued for a term not exceeding three years; and
- (b) applies only to the specified premises described in the licence, and any aircraft, vehicle or vessel used for its transportation within Papua New Guinea; and
- (c) is subject to the condition that the licensee must only employ persons that are suitable to carry out activities under the licence; and
- (d) is subject to the condition that the licensee must comply with the risk management plan under the licence; and
- (e) is subject to any other terms and conditions set by the Board.

### **28. EMPLOYEE IDENTIFICATION CERTIFICATE.**

(1) An employee of the licensee shall be clearly identified through an identification certificate issued by the licensee.

(2) The identification certificate shall contain the following information:

- (a) the employee's name; and
- (b) a clear photograph of the employee; and
- (c) the employee's date of birth; and
- (d) the type of controlled substances which are handled by the employee; and
- (e) expiry date of the employee identification certificate.

(3) The licensee must submit a list of names of all its employees issued with an identification certificate to the Registrar of the Bureau.

### **29. LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES NOT TRANSFERABLE.**

A licence to store on premises, handle and transport controlled substances is not transferable to another person or entity.

### **30. APPLICATION FOR RENEWAL OF LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) A licensee may apply to the Board to renew a licence to store on premises, handle and transport controlled substances.

(2) An application to renew a licence to store on premises, handle and transport controlled substances must be made to the Board -

- (a) in writing; and



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- (b) with accompanying relevant requirements under Section 25(2) and (3); and
- (c) within two months before the expiration of the existing licence.

(3) Renewal of a licence under this section may be on the same terms and conditions as the original licence or, where the Board determines otherwise, on different conditions.

### **31. DETERMINING RENEWAL OF LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) In determining an application for renewal of a licence to store on premises, handle and transport controlled substances, the process under Section 26 shall be used.

(2) After considering an application for renewal, the Board shall determine the application within 60 working days of receiving the application.

(3) The Board shall notify the applicant in writing of its decision to grant or refuse to grant the licence.

(4) If the Board refuses to grant a licence, the Board shall include the reasons for the refusal.

### **32. REVOCATION OF A LICENCE TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) The Board may revoke the licence, by notice in writing to the licensee -

- (a) upon request by the licensee; or
- (b) where the licensee has not complied with the terms and conditions of the licence; or
- (c) where the licensee has failed to comply with any other conditions set by the Board.

### **33. BREACH OF LICENCE PROVISION TO STORE ON PREMISES, HANDLE AND TRANSPORT CONTROLLED SUBSTANCES.**

(1) A licensee that does not comply with any of the requirements under Section 18 is in breach of this Act and is liable to pay a fine prescribed in the regulations, within 14 working days of notice issued under Section 21.

(2) Any breach of the terms and conditions of licences and the payment of fines are to be prescribed.

## *Division 2. - Licence to cultivate a controlled plant.*

### **34. CONTROLLED PLANT.**

(1) A controlled plant that is listed under Schedule I is strictly prohibited under this Act and shall not be cultivated.

(2) The Board may, by notice in the National Gazette, authorise for controlled plants listed under Schedule II to be cultivated under a licence issued under this Part.

### **35. APPLICATION FOR A LICENCE TO CULTIVATE A CONTROLLED PLANT.**

(1) A person may apply to the National Narcotics Control Board for a licence to cultivate a controlled plant for commercial purposes or for scientific purposes.

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- (2) An application under Subsection (1) must be -
- (a) in writing; and
  - (b) accompanied by a proposed risk management plan as prescribed by Regulation; and
  - (c) accompanied by the prescribed fee; and
  - (d) accompanied with a copy of a contract with a licenced processor; and
  - (e) accompanied by any other particulars as prescribed.

(3) An applicant under Subsection (2) shall be recognised as a fit and proper person according to prescribed standards.

(4) Where an application is for scientific purposes, all requirements under Subsection (2) must be complied with except Paragraph (d).

(5) A licenced processor under Subsection (2)(d) is a person who, or body corporate, which undertakes a process which may result in the controlled plant changing its physical or chemical state through extraction, refining or manufacturing.

**36. DETERMINING APPLICATION FOR A LICENCE TO CULTIVATE A CONTROLLED PLANT.**

(1) Upon receiving an application under Section 35, the Board through the National Narcotics Bureau shall -

- (a) carry out any relevant inquiries to consider the application; and
- (b) conduct an inspection of the premises.

(2) After considering an application, the Board must determine the application within 60 working days of receiving the application and shall notify the applicant of its decision or determination in writing.

(3) The Board must notify the applicant in writing of its decision to grant or refuse to grant the licence.

(4) If the Board refuses to grant the licence, the Board must include the reasons for refusal.

**37. TERMS AND CONDITIONS OF A LICENCE TO CULTIVATE A CONTROLLED PLANT.**

A licence to cultivate a controlled plant -

- (a) is issued for a term, not exceeding three years, specified in the licence unless the licence is sooner suspended or cancelled; and
- (b) applies only to the specified premises described in the licence; and
- (c) is subject to the condition that the licensee must only employ persons that are suitable to carry out activities under the licence; and
- (d) is subject to the condition that a licence must comply with the risk management plan under the licences; and
- (e) is subject to any other terms and conditions set by National Narcotics Bureau.

**38. LICENCE TO CULTIVATE A CONTROLLED PLANT NOT TRANSFERABLE.**

A licence to cultivate a controlled plant is not transferable to another person.

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### **39. EMPLOYEE IDENTIFICATION CERTIFICATE.**

(1) An employee of the licensee shall be clearly identified through an identification certificate issued by the licensee.

(2) The employee identification certificate must contain the following:

- (a) the employee's name; and
- (b) a clear photograph of the employee; and
- (c) the employee's date of birth; and
- (d) the type of controlled plant under the Schedules which is cultivated by the employee; and
- (e) expiry date of the employee identification certificate.

(3) The licensee must submit a list of names of all its employees issued with an identification certificate to the Registrar of the Bureau.

### **40. APPLICATION FOR RENEWAL OF A LICENCE TO CULTIVATE A CONTROLLED PLANT.**

(1) A licensee may apply to the Board for a renewal of the licence to cultivate a controlled plant.

(2) A renewal application must be made to the Board -

- (a) in writing; and
- (b) be accompanied with any relevant requirements under Section 35(2) and (3).

(3) A renewal application must be made within two months before the expiration of the licence.

### **41. DETERMINING RENEWAL OF A LICENCE.**

(1) In determining a renewal application for a licence to cultivate a controlled plant, the process under Section 27 shall be used.

(2) After considering an application for renewal, the Board shall determine the application within 60 working days of receiving the application.

(3) The Board shall notify the applicant of its decision in writing.

(4) If the Board refuses to grant the licence, the Board must include reasons for the refusal.

### **42. REVOCATION OF A LICENCE TO CULTIVATE A CONTROLLED PLANT.**

The Board may, by notice in writing to the licensee, revoke the licence -

- (a) upon request by the licensee; or
- (b) where the licensee has not complied with the terms and conditions; or
- (c) the licensee has failed to comply with any other conditions set by the Board.

### **43. BREACH OF LICENCE TO CULTIVATE A CONTROLLED PLANT.**

A licensee that does not comply with any of the requirements under Section 37, is liable to pay a fine prescribed in the regulations within 14 working days of notice issued under Section 42 of this Act.

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### *Division 3. - Interim Controlled Substance permit.*

#### **44. PERMIT TO POSSESS AN INTERIM CONTROLLED SUBSTANCE.**

Where a gazettal notice is issued under this Division for an Interim Controlled Substance, a permit to possess an Interim Controlled Substance may be issued by the Board.

#### **45. APPLICATION FOR AN INTERIM CONTROLLED SUBSTANCE.**

(1) A person may apply to the Board for a permit to possess an Interim Controlled Substance for commercial purposes.

(2) An application under Subsection (1) must be -

- (a) in writing as directed by Board; and
- (b) accompanied by a proposed 12 months risk management plan as prescribed; and
- (c) accompanied by any other particulars as directed by the Board.

(3) An applicant under Subsection (2) must be recognised to be a fit and proper person according to prescribed standards.

#### **46. DETERMINING AN INTERIM CONTROLLED SUBSTANCE PERMIT.**

(1) Upon receiving an application under Section 36, the Board through the National Narcotics Bureau -

- (a) shall carry out any relevant inquiries to consider the application; and
- (b) shall conduct an inspection of the premises.

(2) After considering an application, the Board shall determine the application within 14 days of receiving the application and must inform the applicant of its decision in writing.

(3) The Board must inform the applicant in writing of its decision.

(4) If the Board refuses to grant the licence, the Board must include reasons for the refusal.

#### **47. TERMS AND CONDITIONS OF AN INTERIM CONTROLLED SUBSTANCE PERMIT.**

An Interim Controlled Substance permit -

- (a) is issued for a term not exceeding 12 months in a notice issued under Section 44, specified in the Interim Controlled Substance permit; and
- (b) applies only to the specified premises described in it; and
- (c) is subject to the condition that the holder of the permit must only employ persons that are suitable to carry out activities under the permit; and
- (e) is subject to the condition that a permit holder of the permit must comply with the risk management plan under the permit; and
- (f) is subject to any other terms and conditions set by the Board.

#### **48. NOTICE TO CEASE PERMIT.**

A permit shall cease according to the date listed in the gazettal notice issued under Section 44.

#### **49. BREACH OF A PERMIT TO POSSESS AN INTERIM CONTROLLED SUBSTANCE.**

(1) A permit holder who does not comply with any of the requirements under Section 38 shall be issued a 14 days' notice under Section 51 notifying the permit holder that the permit will cease.

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- (2) All activities carried out under the permit must cease within 14 working days.

### **PART VI. - INSPECTION AND ENFORCEMENT.**

#### **50. LICENSING AUTHORITY TO CREATE STANDARD FOR LICENCES AND PERMITS.**

The Board as the licensing authority, shall establish standards for licences and permits issued under this part and the regulations.

#### **51. APPOINTMENT OF INSPECTORS.**

(1) The Board may authorise persons other than the National Narcotics Bureau officers to be inspectors for the purposes of all or any specified provisions of this Part, in addition to the inspectors appointed under the *National Narcotics Control Board Act 1992*.

(2) The licensing authority may, by notice in the National Gazette, appoint an officer of the public service other than officers employed by the National Narcotics Bureau or such other suitably qualified person to be an inspector for a period of two years for the purposes of this Act.

(3) The licensing authority shall provide an inspector with a certificate of appointment/identification.

#### **52. POWERS OF THE INSPECTOR.**

(1) An inspector appointed, upon reasonable suspicion, has the power to stop or seize -

(a) a document; or

(b) a substance; or

(c) a plant; or

(d) an object,

on the premises, vehicle, vessel, aircraft or equipment of a licensee or non-licensee.

(2) Any item seized by an inspector during inspection from the premises, vehicle, vessel, aircraft or equipment of a licensee or non-licensee must be seized according to the procedure under Section 54, and returned to its owner upon completion of testing, analysis or any other procedures used to determine the nature of the item, unless a Court order extends the time in which the inspector, police officer or National Narcotics Bureau is required to store the item, document, substance, plant or thing.

(3) Any inspection which occurs in a premises not under licence must be carried out under a search warrant with a police officer.

(4) Any item, document, substance or thing seized under an inspection under Subsection (3) must be treated and returned in accordance with Subsection (2).

#### **53. GENERAL POWERS OF INSPECTORS.**

(1) For the purposes of this Act, an inspector may -

(a) enter and inspect any premises at any time, other than the premises used or occupied as a residence by the licence or permit holder; or

(b) inspect, count, examine or mark for identification of any controlled plant or substance under licence or permit in the premises; or

(c) intercept, inspect and examine any vehicle, vessel, aircraft or equipment being used for the cultivation, harvest, storage, handling and transport of a controlled plant or substance; or

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- (d) require a person to produce any document that the inspector reasonably requires for ascertaining whether a licence or permit issued under this Part is being complied with and may -
  - (i) examine the document; and
  - (ii) make copies of the document or take extracts from it; and
  - (iii) remove the document where it is reasonably necessary to make copies or take extracts of it; or
- (e) take or remove for examination samples of specimens of soil, any controlled plant under licence or any other plant or crop to determine -
  - (i) whether the controlled plant has been cultivated in accordance with the relevant licence; or
  - (ii) that its possession is in accordance with the relevant licence; or
- (f) submit any sample or specimen taken in accordance with this Part to a laboratory or place approved by the National Narcotics Bureau for examination and analysis.

(2) An inspector shall not exercise any powers under this Part if the inspector fails to produce his identification certificate issued under Section 45(1) for inspection, upon request -

- (a) by the occupier of the premises; or
- (b) the person in charge or having control of the premises.

### **54. PROCEDURE ON STOPPING, SEIZING A DOCUMENT, SUBSTANCE OR A SAMPLE.**

(1) Subject to Sections 52 and 53, if an inspector seizes a document or thing or takes a sample of a thing at the premises occupied by a licensee or permit holder, the inspector shall give a detention or seizure receipt for the document, thing or sample to the licensee or permit holder.

(2) If an inspector is unable to give a detention or seizure receipt to the licensee or permit holder in respect of a document, thing or sample that was seized, the inspector shall -

- (a) post the detention and seizure receipt to the licensee or permit holder that occupies the premises from which the document, thing or sample was seized; and
- (b) if a document is seized, leave a copy of the document, if practicable, with, or post it to, the licensee or permit holder that occupies the premises from which the document was seized.

(3) A detention or seizure receipt must -

- (a) identify the seized document, thing or sample taken; and
- (b) state the name of the inspector who seized the document, thing or took the sample; and
- (c) state the reason why the document or thing was seized or the sample was taken.

(4) If an inspector proposes to take a sample under Section 53(1)(e), the inspector shall -

- (a) divide the sample into three parts; and
- (b) give one part to the licensee or permit holder, retain one part for examination or analysis and leave one part untouched for future comparison.

### **55. PERIOD OF INSPECTION.**

An inspection may take place -

- (a) three months from the date of issue of a licence or permit issued under Divisions 1, 2 or 3 of this part; and

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(b) must occur every three months from the date of the previous inspection.

### **56. INSPECTOR'S POSSESSION OF A CONTROL SUBSTANCE OR PLANT.**

An inspector is authorised to possess or hold a controlled substance or plant as part of his role as an inspector.

### **57. NOTICES.**

- (1) An inspector may give notice to a licensee or permit holder -
  - (a) to comply with the licence or permit of which the licensee or permit holder must take immediate action; and
  - (b) of any fee to be paid by a licensee or permit holder for non-compliance.
- (2) The fees apply if there was failure to -
  - (a) label a product, good or item that contains a controlled substance or has been in contact with a controlled substance or plant; and
  - (b) create a notice and erect a sign for the general public notifying the public that a premises, vehicle, vessel or aircraft is carrying a controlled substance; and
  - (c) issue an employee under Section 39, an employee identification certificate.
- (3) All notices and fines payable under this section shall be prescribed by the regulations.

## **PART VII. - OFFENCES.**

### **58. PROHIBITED SUBSTANCE, PLANT OR PRECURSOR OR DRUG.**

(1) Any controlled substance listed or declared under Schedule I is a controlled substance which is strictly prohibited under this Act.

(2) Any substance listed or declared under Schedule II, Schedule III and Schedule IV, which is not held under any licence issued by this Act and another Act is a "restricted" substance under this Act.

### **59. CULTIVATION OF A SCHEDULE I CONTROLLED PLANT.**

(1) A person who knowingly or unknowingly, cultivates a controlled plant listed in Schedule I, or a sapling, seedlings, or a plant cutting which will grow into a controlled plant listed in Schedule I, where the quantity being cultivated is of a -

- (a) medium to large marketable quantity; or
- (b) commercial quantity,

is guilty of an offence.

(2) A person who is guilty under Subsection (1), shall be penalised under the appropriate penalty prescribed under Schedule VII.

### **60. MANUFACTURE OR PRODUCTION ETC., OF A CONTROLLED SUBSTANCE.**

(1) A person who knowingly or unknowingly, produces a controlled substance that is of a -

- (a) medium to large marketable quantity; or
- (b) commercial quantity,

is guilty of an offence.

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(2) A person who is guilty under Subsection (1), shall be penalised under the appropriate penalty prescribed under Schedule VII.

(3) A person who is, knowingly or unknowingly -

(a) in possession (including on his premises) of an equipment or an implement that can be used to produce a controlled substance that is of a -

(i) medium to large marketable quantity; or

(ii) commercial quantity; or

(b) allows his premises to be used for the production of a controlled substance that is of a -

(i) medium to large marketable quantity; or

(ii) commercial quantity,

is guilty of an offence.

(4) A person who is guilty under Subsection (3), shall be penalised under the appropriate penalty prescribed under Schedule VII.

### **61. SALE OF A CONTROLLED SUBSTANCE.**

(1) A person who sells a controlled substance listed in Schedules I, II, III or IV that is of a -

(a) medium to large marketable quantity; or

(b) commercial quantity,

is guilty of an offence.

(2) A person who is guilty under Subsection (1), shall be penalised under the appropriate penalty prescribed under Schedule VII.

### **62. DEALING WITH A CONTROLLED SUBSTANCE, PLANT OR PRECURSOR.**

(1) A person (whether natural or body corporate) who knowingly or unknowingly moves, transports, couriers or ships a controlled substance that is of a -

(a) medium to large marketable quantity; or

(b) commercial quantity,

within or outside of Papua New Guinea, is guilty of an offence.

(2) A person who is guilty under Subsection (1), shall be penalised under the appropriate penalty prescribed under Schedule VII.

(3) A person (whether natural or body corporate) who knowingly or unknowingly facilitates the movement, transportation, courier or shipment of a controlled substance that is of a -

(a) medium to large marketable quantity; or

(b) commercial quantity,

within Papua New Guinea or outside of Papua New Guinea, is guilty of an offence.

(4) A person who is guilty under Subsection (3), shall be penalised under the appropriate penalty prescribed under Schedule VII.

(5) A person (whether natural or body corporate) who knowingly or unknowingly uses a child or a person with mental disability to -

(a) move, transport, courier or ship a controlled substance that is of a -

(i) medium to large marketable quantity; or



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- (ii) commercial quantity; or
- (b) facilitate the movement, transportation, courier, shipment of a controlled substance that is of a -
  - (i) medium to large marketable quantity; or
  - (ii) commercial quantity,

within or outside of Papua New Guinea, is guilty of an offence.

- Penalty: (a) In the case of a natural person - a fine not exceeding K50,000.00 or imprisonment for a term not exceeding 25 years, or both; and  
(b) In the case of a body corporate - a fine not exceeding K100,000.00.

### **63. POSSESSION OF A CONTROLLED SUBSTANCE.**

(1) A person who knowingly or unknowingly possesses on a person or premises a controlled substance listed in Schedules II, III or IV, where the quantity of that controlled substance is defined as simple possession, is guilty of an offence.

(2) A person who is guilty under Subsection (1) shall be penalised under the appropriate penalty prescribed under Schedule VII.

- (3) A person who is in possession of a controlled substance listed in Schedule I -  
(a) that exceeds two kilograms; and  
(b) that person is within a school zone,

is guilty of an offence.

Penalty: A fine of not exceeding K50,000.00 or imprisonment for a term not exceeding two years, or both.

### **64. POSSESSION AND SALE OF IMPLEMENTS FOR THE CONSUMPTION OF A CONTROLLED SUBSTANCE.**

(1) A person who knowingly or unknowingly possesses on a person or premises and sells an implement or more than one implement used in consumption of a controlled substance, is guilty of an offence.

Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) For the purposes of Subsection (1), an implement for the consumption of a controlled substance under this Act is an instrument or piece of equipment used in connection with smoking, consuming or administration of a controlled substance.

### **65. FACILITATING THE USE OR CONSUMPTION OF A CONTROLLED SUBSTANCE.**

(1) A person who knowingly or unknowingly facilitates the use or consumption of a controlled substance by another person -

- (a) in any quantity; or
- (b) whether free or by any form of consideration, without medical supervision, or a medical prescription or the operation of another law,

is guilty of an offence.

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Penalty: A fine not exceeding K50,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) A person who knowingly or unknowingly facilitates the use or consumption of a controlled substance a child within a school zone -

(a) in any quantity; or

(b) whether free or by any form of consideration, without medical supervision, or a medical prescription or the operation of another law, is guilty of an offence.

Penalty: A fine not exceeding K100,000.00 or imprisonment for a term not exceeding two years, or both.

(3) If a minor commits this offence then the minor must be dealt with under the *Juvenile Justice Act 2014*.

### **66. INCITING THE USE OF A CONTROLLED SUBSTANCE.**

A person (whether natural or body corporate) who knowingly or unknowingly, encourages or incites the use or consumption of a controlled substance within Papua New Guinea through -

(a) the use of written or spoken words, pictures, lyrics, music, advertisement, branding; or

(b) through a person having control over another person, is guilty of an offence.

Penalty: A fine of K50,000.00 or imprisonment for a term not exceeding three months, or both.

### **67. SMUGGLING OF A CONTROLLED SUBSTANCE BY INTERNAL CONCEALMENT.**

(1) A person who knowingly conceals within his body, a controlled substance that is of a -

(a) simple possession; or

(b) medium to large marketable quantity; or

(c) commercial quantity,

with the intention of moving, transporting or transferring the controlled substance within his body from one place to another, is guilty of an offence.

(2) A person who is guilty under Subsection (1) shall be penalised under the appropriate penalty prescribed under Schedule VII.

### **68. TRAFFICKING A CONTROLLED SUBSTANCE.**

(1) A person (whether natural or body corporate) who -

(a) produces, cultivates, possesses on his premises; or

(b) moves, conveys or transports; or

(c) sells, retails or distributes,

a controlled substance listed in any of the Schedules that is of a medium to large marketable quantity or a commercial quantity, with the intention of receiving a financial benefit or any material benefit in kind, is guilty of an offence.

(2) A person who is guilty under Subsection (1) shall be penalised under the appropriate penalty prescribed under Schedule VII.

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(3) A person who, whether knowingly or unknowingly derives from a controlled substance listed in Schedules I, II, III or IV, a financial benefit, or in lieu of another material benefit, is guilty of an offence.

(4) A person who is guilty under Subsection (3) shall be penalised under the appropriate penalty prescribed under Schedule VII.

### **69. OPERATING A VEHICLE UNDER THE INFLUENCE OF A CONTROLLED SUBSTANCE.**

(1) A person who operates a vehicle, vessel, aircraft or any other craft or boat or any equipment on a premises while under the influence of a controlled drug, is guilty of an offence.

Penalty: A fine of K12,000.00 or imprisonment for a term not exceeding 12 months, or both.

(2) It is a defence if the person consumed a controlled substance listed in Schedule II, III or IV under medical supervision, in accordance with a medical prescription or by operation of another law.

(3) The Court may use its discretion to refer the person who commits an offence under this section for rehabilitation.

### **70. DEFENCE OF VULNERABLE PERSONS DEALING WITH CONTROLLED SUBSTANCE.**

(1) It is a defence if the person who commits an offence under this part, and who has possession of a controlled substance listed in Schedules II, III or IV is using the controlled substance under a prescribed medication.

(2) It is a defence if the person who commits an offence under this part, has been identified by a medical expert or by the assessment of an expert, that the person has special needs or a mental or physical disability.

## **PART VIII. - PROCEDURES IN SEARCH, EVIDENCE AND INVESTIGATION, ETC.**

### **71. CROSS VESTING OF POWERS.**

For the purposes of implementing any part of this Act, each of the following officer is an authorised officer -

- (a) police officer; and
- (b) customs officer; and
- (c) quarantine officer; and
- (d) officer of the Defence Force; and
- (e) any other government officer appointed by the Director General under regulations.

### **72. SEARCH AND SEIZURE.**

(1) Where an authorised officer who is also a police officer has reasonable grounds to suspect that a premises, vessel or aircraft or any equipment is being used in the commission of an offence under Part VII, the authorised officer may, under a warrant issued under Subsection (2) enter a premises to detain a vessel, vehicle or aircraft or any equipment and -

- (a) search the premises, vessel, vehicle, aircraft or equipment or person; and
- (b) seize any such substance, document, material or object; and

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(c) take any samples from a person or animal under Section 53.

(2) Where it appears to a Magistrate, by information on oath, that there are reasonable grounds to suspect that located on a private premises or within a vessel, vehicle, aircraft or any equipment there is substance, document, material and thing that may provide evidence of the commission of an offence under Part V, the Magistrate may issue a warrant directing a police officer to search a private premises, vessel, vehicle, aircraft or any equipment and seize any such substance, document, material or thing to take before the Magistrate to be deliberated upon in accordance with law.

(3) A warrant issued under Subsection (2) shall be executed by day, unless it is specified by the warrant that it may be executed by night.

(4) Any substance, document, material or thing seized under Subsection (2) may be detained by an authorised officer and when no longer required as evidence, it may be destroyed or returned to a person based on an order of a Magistrate.

### **73. PRODUCTION ORDER.**

(1) An authorised officer or police officer may, upon reasonable suspicion that an offence under this Act has been committed, apply to a Magistrate for a production order.

(2) An order issued under Subsection (1) shall be obtained using a process set out by regulations.

(3) Subsection (1) applies if -

- (a) a person has been convicted for an indictable offence and there are reasonable grounds to suspect that the person has possession or control of, or knowledge of a premises, aircraft, vehicle, vessel, or an electronic system or any equipment or device, object that is connected with an offence under this Act; and
- (b) there are reasonable grounds for suspecting that a person has committed an indictable offence and that a person has possession or control of, or knowledge of a premises, aircraft, vehicle, vessel or an electronic system or any equipment or device, or thing that is connected with an offence under the Act.

(4) A Magistrate may, if satisfied that there are reasonable grounds, make a production order requiring a person to -

- (a) produce to an authorised officer or police officer, at a specified time and place, any premises, aircraft, vehicle, vessel or an electronic system or any equipment or device, or thing mentioned in Subsection (3)(a) and (b) that are in the person's possession or control; or
- (b) make available to an authorised officer or police officer, for inspection, at a specified time and place, any premises, aircraft, vehicle, vessel or an electronic system or any equipment or device, or thing that are in a person's possession or control.

(5) An authorised officer or police officer may do one or more of the following with an order issued under Subsection (1) -

- (a) access and search a premises, an aircraft, a vehicle, a vessel, an electronic system, an equipment, a device or object; or
- (b) obtain a sample of plant, material, substance, document or object; or

## ***Controlled Substance***

(c) obtain an output from any electronic system, equipment, device or object.

(6) A person who fails to comply with an order issued under Subsection (1) is guilty of committing an offence.

- Penalty: (a) In the case of a natural person, a fine not exceeding K10,000.00 or imprisonment for term not exceeding 12 months; and  
(b) in the case of a corporate body, a fine not exceeding K100,000.00.

### **74. ASSISTANCE.**

A police officer, may upon production of a search order issued under Section 63, require a person who is not a suspect of an offence but in possession or control of a premises, aircraft, vehicle, vessel or an electronic system or any equipment or device or thing that is reasonably required for the purposes of the investigation or proceedings, to enable or assist him to -

- (a) access and search a premises, an aircraft, a vehicle, a vessel, an electronic system, an equipment, a device or an object; or  
(b) obtain a sample of a plant, material, substance, document or object; or  
(c) obtain an output from any electronic system, equipment, device or object.

### **75. NOTICE TO PRESERVE EVIDENCE.**

(1) Where a specific substance, document, material or object is required for the purposes of an investigation or proceedings, the Court may, on application by a police officer or the Public Prosecutor, order -

- (a) a person in control of a premises, equipment, electronic system, substance, material or object; and  
(b) a corporate body who has control or access to information needed for the purpose under this section,

to produce the specific substance, document, material or object.

(2) A person who fails to follow an order issued under Subsection (1) is guilty of an offence.

- Penalty: (a) In the case of a natural person, a fine not exceeding K10,000.00 or imprisonment for term not exceeding 12 months, or both; and  
(b) In the case of a corporate body, a fine not exceeding K100,000.00.

### **76. PRESERVATION OF EVIDENCE.**

(1) Where a substance, material, document, item or thing has been seized under Section 63, it may be held as evidence in storage, or in a facility or a premises by the police, customs or the National Narcotics Bureau using a process under the regulations or by-laws.

(2) Any substance, material, document, item or thing held in storage shall be either returned or destroyed or dealt with upon completion of an investigation or proceeding, according to the orders of the Court under Section 75.

(3) An authorised officer, or any person who removes, destroys or tampers with any evidence that is in storage or in a storage facility, or in transit to storage or in a facility, is guilty of an offence.

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- Penalty: (a) In the case of a natural person, a fine not exceeding K10,000.00 or imprisonment for a term not exceeding 12 months; and  
(b) in the case of a corporate body, a fine not exceeding K50,000.00.

### **77. ANALYSIS.**

(1) The National Narcotics Bureau shall nominate designated laboratories within Papua New Guinea to be used for the purposes of analysis, testing, obtaining an output or examination of any substance, material, equipment or thing that has been obtained for the purposes of -

- (a) Part III, Division 4; and
- (b) an offence committed under Part IV; and
- (c) Part V; and
- (d) Part VI.

(2) The Minister may, by notice in the National Gazette nominate or revoke the name of a designated laboratory identified under Subsection (1).

(3) The regulations shall prescribe the standards, procedures and forms to be used by a nominated laboratory and an authorised officer, or a police officer for purposes of -

- (a) analysis of any substance, material, equipment, evidence or object; and
- (b) tendering of evidence sent for analysis prior to presentation before the Court; and
- (c) any other related purposes under this Act.

### **78. MEDICAL EXAMINATION AND TAKING OF SAMPLES.**

(1) An authorised officer or a police officer may request a suspicious person to voluntarily submit -

- (a) a sample of blood, urine or saliva for the purposes of Section 68; or
- (b) submit to a medical examination to be conducted by a certified medical professional.

(2) Where a suspicious person refuses to voluntarily comply with Subsection (1), a police officer may make an urgent application under Section 63 and produce a warrant to the person for purposes of examination for obtaining a sample.

### **79. EXAMINATION AND DETENTION OF AN ANIMAL.**

(1) For the purposes of examination of an animal that is accompanied by a person, an authorised officer or a police officer may request the person to hand in the animal for examination by an authorised officer or a veterinarian.

(2) The authorised officer or police officer under Subsection (1) may detain the animal and the person accompanying the animal.

### **80. DETENTION OF PERSONS.**

Subject to the *Search Act* (Chapter 341) and *Arrest Act* (Chapter 339), an authorised officer may detain a suspicious person and his luggage or property for the purposes of -

- (a) an examination under Section 69; and
- (b) an offence committed under this Act.

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### **81. COURT PROCEEDINGS.**

Subject to Schedule VII and Section 72, the District Court has increased jurisdiction to hear certain matters under Parts IV and V and to impose penalties for offences with prescribed penalties not exceeding K50,000.00 and imprisonment for a term not exceeding 10 years.

### **82. INDICTABLE OFFENCES TRIABLE SUMMARILY.**

Subject to Section 71, and for the purposes of this Act, where a person is charged with an offence listed in Parts IV, V and VII, the District Court may deal with the charge summarily according to the procedure set out in Section 421 of the *Criminal Code Act* (Chapter 262) and according to the quantity of the controlled substance listed in Schedule VII.

## **PART IX. - INTERNATIONAL COOPERATION.**

### **83. MUTUAL ASSISTANCE.**

For the purposes of facilitating international cooperation, the *Mutual Assistance in Criminal Matters Act 2005* shall apply.

### **84. EXTRADITION.**

For the purposes of facilitating matters related to extradition, the provisions of the *Extradition Act 2005* shall apply.

### **85. ADOPTION OF THE CONVENTION ON PSYCHOTROPIC SUBSTANCES 1971 AND SINGLE CONVENTION ON NARCOTIC DRUGS 1961.**

For the avoidance of doubt, any Schedule containing a controlled substance made under the *Single Convention on Narcotics Drugs 1961* as amended, from time to time and the *Convention on Psychotropic Substances 1971* as amended, from time to time is adopted as a Schedule under this Act, for the purposes of any offence committed under this Act.

## **PART X. - MISCELLANEOUS.**

### **86. PROCEDURES IN INVESTIGATION.**

A regulation shall prescribe specific powers and procedures related to -

- (a) controlled delivery; and
- (b) undercover investigations; and
- (c) related investigation matters.

### **87. CONFIDENTIALITY.**

(1) An authorised officer, or any other officer responsible for the enforcement of this Act shall keep information related to matters under this Act confidential.

(2) Where authorised officer, or any other officer responsible for the enforcement of this Act, intentionally or recklessly divulges information to a third party or the public, is guilty of an offence.

Penalty: A fine not exceeding K10,000.00 or imprisonment for a term not exceeding 12 months.

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**88. RULES, ETC.**

Rules or any form of subordinate enactment necessary for regulating practice and procedure under this Act, may be made prescribing all matters that are necessary or convenient for carrying out any function under this Act or giving effect to this Act.

**89. UNIT OF MEASUREMENT.**

For the purposes of this Act, the Metric System will be used as the standard unit of measure for a substance listed under the Schedules of this Act.

**90. REGULATIONS.**

The Head of State, acting on advice, may make regulations, not inconsistent with this Act, prescribing all matters that by this Act are required to carry out any function or give effect to this Act.



## *Controlled Substance*

### **SCHEDULE I.**

Substances in Schedule I have no medical value and have a high dependency and are strictly prohibited.

#### **Narcotic:**

Acetophine  
Canabis  
Canabis resin  
Canabis Oil  
Canabis Sativa Plants  
Coca plant  
Coca leaf  
Cocain  
Codeine  
Desomorphine  
Etorphine  
Heroin  
Ketobemidone  
Acetyl - alpha - methyl - fentanyl  
Alphacetylmethadol  
Alpha - methylfentanyl  
Beta - hydroxyfentanyl  
Methyl - 3 - fentanyl  
Methyl - 3 - thio - fentanyl  
1 - Methyl - 4 - phenyl - proprionoxy  
MPPO - (1 Methyl 1 - 4 - phenyl - 4 - propionoxypapenidine)  
Para - fluor fentanyl  
PEPAD (1 - Phenylethyl - 4 - phenyl - 4 - acetoxypiperidien)  
Thiofentanyl

#### **Psychotropic Substances.**

Brolamphetamine  
Cathinone  
DET (N, N) - DiethylTryptamine 2,5 – Dimethoxy - alpha - methy –  
DMA (phenylethylamine  
DMHP (3 - (1, 2, Dimethylheptyl - 1 - hydroxyl - 7, 8, 9 10, - tetrahydro - 6, 6, 9, trimethyl  
MDMA-(±) - N, alpha-dimethyl -3-4 (methylene - dioxy) phenethylamlamine  
MMDA - 2 - methoxy - alpha - methyl - 4-5- (methylenedioxy) phenethylamine  
LSD - 9, 10 - didehydro - N, N-diethyl -6-methylergoline - 8 beta - carboxamide.

*Controlled Substance*

**SCHEDULE II.**

**Narcotic Drugs.**

Acetylmethadol  
Acetyldihydrocodeine  
Alfentanil  
Allylprodine  
Alphameprodine  
Alphamethadol  
Alphamethylthiofentanyl  
Alphaprodine  
Amphetamine  
Anileridine  
Benzethidine  
Benzylmorphine  
Betacetylmethadol  
Betameprodine  
Betamethadol  
Betaprodine  
Bezitramide  
Clonitazene  
Codeine  
Codoxime  
Concentrate of Poppy Straw  
Dextromoramide  
Detropropoxyphene  
Diapromide  
Difenoxin  
Dihydrocodeine  
Dihydromorphine  
Dimenoxadol  
Dimepheptanol  
Dimethylthiambutene  
Dioxaphetyl butyrate  
Diphenoxylate  
Dipipanone  
Drotebanol  
Ecgonine its esters and derivatives  
Ethylmethyl - thiambutene  
Ethylmorphine  
Etonitazene  
Etoxidine  
Fentanyl  
Furethidine  
Hydrocodone  
Hydromorphanol  
Hydromorphone

*Controlled Substance*

Hydroxypethidine  
Isoethadone  
Ketamine  
Levometharphan  
Levomoramide  
Levophenacymorphine  
Levorphanol  
Metazocine  
Methadone  
Methadone intermediate  
(4-cyano-2-dimethyl-amino-4, 4-diphenyl-butene)  
Methyldesorphine  
Methyldihydromorphine  
Metopon  
Moramide  
Morpheridine  
Morphine  
Morphine methobromide and other pentavalent nitrogen morphine derivatives  
Morphine - N - oxide  
Myrophine  
Nicodine  
Nicomorphine  
Noracymethadol  
Norcodeine  
Poppy plant (Papaver Sommierum)  
Poppy seed  
Poppy Plant  
Poppy flower

*Controlled Substance*

Acetylmethadol  
Acetyldihydrocodeine  
Alfentanil  
Allylprodine  
Alphameprodine  
Alphamethadol  
Alphamethylthiofentanyl  
Alphaprodine  
Anileridine  
Benzethidine  
Benzylmorphine  
Betacetylmethadol  
Betameprodine  
Betamethadol  
Betaprodine  
Bezitramide  
Clonitazene  
Codeine  
Coca (leaf)  
Cocaine  
Codoxime  
Concentrate of Poppy Straw  
Dextromoramide  
Detropropoxyphene  
Diapromide  
Difenoxin  
Dihydrocodeine  
Dihydromorphine  
Dimenoxadol  
Dimepheptanol  
Dimethylthiambutene  
Dioxaphetyl butyrate  
Diphenoxylate  
Dipipanone  
Drotebanol  
Ecgonine its esters and derivatives  
Ethylmethyl - thiambutene  
Ethylmorphine  
Etonitazene  
Etoxerridine  
Fentanyl  
Furethidine  
Hydrocodone  
Hydromorphanol  
Hydromorphone  
Hydroxypethidine  
Isomethadone

*Controlled Substance*

Levometharphan  
Levomoramide  
Levophenacylmorphine  
Levorphanol  
Metazocine  
Methadone  
Methadone intermediate  
(4-cyano-2-dimethyl-amino-4, 4-diphenyl-butene)  
Methyldesorphine  
Methyldihydromorphine  
3,4-methylenedioxy-N-methylamphetamine  
Metopon  
Moramide  
Morpheridine  
Morphine  
Morphine methobromide and other pentavalent nitrogen morphine derivatives  
Morphine - N - oxide  
Myrophine  
N-methylamphetamine  
Nicodine  
Nicomorphine  
Noracymethadol  
Norcodeine

*Controlled Substance*

**SCHEDULE III.**

**Psychotropic Substances.**

Allobarbitol	Ketakolam
Alprazolam	Lefetamine
Amobarbital	Loprazolam
Amphepramone	Lorazepam
Barbital	Lormetazepam
Benzphtamine	Mazindol
Bromazepan	Medazepam
Butalbital	Mefonoroex
Butobarbital	Meprobamaty
Buprenorphine	Methylpheno – barbital
Camazepan	Methylprylon
Cathine	Midazolam
Chlorodiazepoxide	Nimetazepam
Clobazam	Nitrazepam
Clonazepan	Nordazepam
Clorazepate	Oxazepam
Clotiazepam	Oxazolam
Cloxazolam	Pemoline
Cyclobarbitol	Pentazocine
Delorazepam	Pentazocine
Dazepam	Pentobarbital
Estazolam	Phendimetrazine
Ethychlorvynol	Phentermine
Ethinamate	Pipradol
Ethyl loflazepate	Prazepam
Etilamphetamine	Pyrovalerone
Fencamfamin	Secbutabarbitol
Fenproporex	Temazepam
Fludiazepam	Tetrazepam
Flunitrazepam	Triazolam
Flurazepam	Vinylbital
Glutethimide	
Halazepam	
Haloxazolam	

*Controlled Substance*

**SCHEDULE IV.**

This schedule includes:

- the following substances, designated by their international non-proprietary names or names used in the international convention in force; and
- the salts of these substances, whenever the existence of such salts is possible, with the exceptions of sulphuric acid and hydrochloride acid.

Ephedrine  
Ergometrine  
Ergotamine  
Lysergic Acid  
1 - phenyl - 2 - propane  
Pseudoephedrine  
N - acetylanthronilic Acid  
Isosafrole  
3, 4 - methylenedioxy phenyl - 2 - propane  
Piperonal  
Safrole  
Acetic anhydride  
Acetone  
Anthranilic acid  
Ethyl ether  
Phenylacetic acid  
Piperidine  
Hydrochloric Acid  
Methyl ethyl Ketone  
Potassium permanganate  
Sulphuric acid  
Toluene

*Controlled Substance*

**SCHEDULE V.**

**Part A. Substance in Schedule I.**

**Narcotic Drugs**

Acetophine	2.0 gram
Cannabis	100 gram
Cannabis Resin	20.0 gram
Cannabis Oil	2.0 gram
Cannabis Sativa Plants	20.0 gram
Coca leaf	250.0 gram
Cocaine	20 gram
Desomorphine	2.0 gram
Etorphine	5.0 gram
Heroin	2.0 gram
Ketobemidone	2.0 gram
Acetyl - alpha - methyl - fentanyl	0.005 gram
Alphacetylmethadol	10.0 gram
Alpha - methylfentanyl	0.005 gram
Beta - hydroxyfentanyl	0.005 gram
Methyl - 3 - fentanyl	0.0005 gram
Methyl - 3 - thio - fentanyl	0.0005 gram
1 - Methyl - 4 phenyl - proprionoxy	2.0 gram
MPPO (1 Methyl 1 - 4 - phenyl - 4 - propionoxypapendidine	2.0 gram
Para - fluor fentanyl	0.005 gram
PEPAD (1 - Phenylethyl - 4 - Phenyl - 4 - acetoxypiperidien	2.0 gram
Thiofentanyl	0.005 gram
Methyl - 4 aminorex	2.0 gram
MMDA (5, Methoxy - 3, 4 methylenedioxy - alpha methylphenylethylamino)	0.5 gram
3, 4 Methylenedioxyamphamine (N, ethyl MDA)	0.5 gram
MDA (N - hydroxy)	0.5 gram
Parahexyl	2.0 gram
PMA (Amphetamine Variants)	2.0 gram
Psilocin, psilotsin (3, - (2 D, methyl amiopthyl - 4 - hydroxindole	2.0 gram
Roli's cyclidine	2.0 gram
STP, DOM (2 Amino - 1 - (2, 5 - dimethoxy - 4 - methyl phenylpropane	0.5 gram
Tenamphetamine	2.0 gram
TCP (Tenocyclidine)	2.0 gram
Tetrahydrocannabinol	2.0 gram
TMA (3, 4, 5 - Trimethoy - alpha - methylphenylethy - lamine)	0.5 gram



*Controlled Substance*

**Part B. Substances in Schedule II.**

**Narcotic Drugs**

Acetylmethadol	2.0 gram
Acetyldidycrocodeine	2.0 gram
Alfentanil	0.005 gram
Allylprodine	2.0 gram
Alphameprodine	2.0 gram
Alphamethadol	0.2 gram
Alphamethylthiofentanyl	0.005 gram
Alphaprodine	25.0 gram
Anileridine	25.0 gram
Benzethidine	10.0 gram
Benzylmorphine	5.0 gram
Betacetylmethadol	5.0 gram
Betameprodine	5.0 gram
Betamethadol	5.0 gram
Betaprodine	5.0 gram
Bezitramide	5.0 gram
Clonitazene	5.0 gram
Codeine	10.0 gram
Codoxime	10.0 gram
Concentrate of Poppy Straw	250.0 gram
Dextromoramide	2.0 gram
Detropoxyphene	27.0 gram
Diapromide	5.0 gram
Difenoxin	2.0 gram
Dihydrocodeine	10.0 gram
Dihydromorphine	10.0 gram
Dimenoxadol	10.0 gram
Dimepheptanol	10.0 gram
Dimethylthiambutene	20.0 gram
Dioxyaphetyl butyrate	2.0 gram
Diphenoxylate	2.0 gram
Dipipanone	10.0 gram
Drotebanol	2.0 gram
Ecgonine its esters and derivatives	10.0 gram
Ethylmethyl - thiambutene	10.0 gram
Ethylmorphine	2.0 gram
Etonitazene	5.0 gram
Etoxadine	5.0 gram
Fentanyl	0.005 gram
Furethidine	1.0 gram
Hydrocodone	2.0 gram
Hydromorphanol	2.0 gram
Hydromorphone	2.0 gram

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Hydroxypethidine	5.0 gram
Isomethadone	2.0 gram
Levometharphan	2.0 gram
Levomoramide	2.0 gram
Levophencylmorphine	2.0 gram
Levorphanol	1.0 gram
Metazocine	7.0 gram
Methadone	2.0 gram
Methadone intermediate (4 - cyano - 2 - dimethyl - amino - 4, 4 - dipheyl - butane	2.0 gram
Methyl-desorphine	2.0 gram
Methyldihydromorphine	2.0 gram
Metopon	2.0 gram
Moramide	2.0 gram
Morpheridine	2.0 gram
Morphine	2.0 gram
Morphine methobromide and other pentavalent nitrogen morphine derivatives	2.0 gram
Morphine - N - oxide	2.0 gram
Myrophine	20.0 gram
Nicodine	2.0 gram
Nicomorphine	2.0 gram
Noracymethadol	2.0 gram
Norcodeine	2.0 gram
Norlevorphanol	2.0 gram
Normethadone	2.0 gram
Normorphine	20.0 gram
Norpipannone	10.0 gram
Opium	10.0 gram
Oxycodone	5.0 gram
Oxymorphone	2.0 gram
Pethidine	10.0 gram
Pethidine intermediate A (4, cyano - Imethyl - 4 phenyl - piperidine)	10.0 gram
Pethidine intermediate B (4, phenyl piperdine - 4 carboxylic acidethyl ester)	10.0 gram
Pethidine intermediate C 1 - methyl - 4 - phenyl piperidine - 4 - carboxylic acid)	10.0 gram
Phenadoxone	10.0 gram
Phenampramide	10.0 gram
Phenazocine	1.0 gram
Phenomorphin	5.0 gram
Phenoperidine	1.0 gram
Pholcodine	5.0 gram
Piminodine	10.0 gram
Piritramide	1.0 gram
Proheptazine	1.0 gram
Properidine	25.0 gram
Propiram	10.0 gram
Racemethorphan	2.0 gram
Racemoramide	2.0 gram
Racemorphan	2.0 gram

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Sufentanil	0.0005 gram
Thebacon	2.0 gram
Tilidine	20.0 gram
Trimeperidine	10.0 gram

**Psychotropic Substance**

Amphetamine	2.0 gram
Dexamphetamine	2.0 gram
Fenetylline	2.0 gram
Leramphetamine	2.0 gram
Mecloqualone	60.0 gram
Methamphetamine	2.0 gram
Methamphetamine racemate	2.0 gram
Methaqualone	50.0 gram
Methylphenidate (PCP)	2.0 gram
Phencyclidine	2.0 gram
Phenmetrazine	5.0 gram
Secobarbital	20.0 gram

**SCHEDULE VI.**

This Schedule contains the amount of a Controlled Substance of Schedule III denoting the offence of possession or trafficking according to the following formula:

- (a) if the amount is less than ten (10) times the standard daily dosage as recommended by the manufacturer or accepted medical practice for human usage, the offence is one of possession; and
- (b) if the amount is ten (10) times or more the standard daily dosage as recommended by the manufacturer or accepted medical practice for human usage, the offense is one of trafficking.

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**SCHEDULE VII.**

Quantity and Sentencing Table based on the quantity of a substance found in the offender's possession at commission of offence.

**PART A.**

**Quantity and Penalty Table for Substances Identified as a Schedule I and Schedule II Controlled Substance, Controlled Plant and Controlled Precursor.**

<b>Substance</b>	<b>Quantity</b>	<b>Penalty</b>	<b>Notes on Quantity</b>
<b>Schedule I</b>			
<b>Schedule I Substance and Precursor</b>	10 grams or less	A term of imprisonment not exceeding 2 years or a fine not exceeding K15,000.00, or both.	Simple Possession.  As defined by Section 8.
	Exceeding 10 grams, and Less than 2 kilograms	A term of imprisonment not exceeding 15 years or a fine not exceeding K25,000.00, or both.	Medium to Large Marketable Quantity.  As defined by Section 8.
	Any amount exceeding 2 kilograms	A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.	Commercial Quantity.  As defined by Section 6.

***Controlled Substance***

<b>Schedule I Plant</b>	Less than 5 plants (including; seed lings, cuttings, saplings, seeds, leaves or plant extract).	A term of imprisonment not exceeding 2 years or a fine not exceeding K15,000.00 fine, or both.	Simple Possession. As defined by Section 8.
	More than 5 plants (including; seedlings, cuttings, saplings, seeds, leaves or plant extract)	A term of Imprisonment not exceeding 15 years or a fine not exceeding K25,000.00, or both.	Medium to Large Marketable Quantity. As defined by Section 7.
	More than 20 plants (including; seedlings, cuttings, saplings, seeds, leaves or plant extract)	A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.	Commercial Quantity. As defined by Section 6.
<b>Schedule II</b>			
<b>Schedule II Substance and Precursor</b>	10 grams or less	A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both.	Simple Possession. As defined by Section 8.
	Exceeding 10 grams, and Less than 2 kilograms	A term of imprisonment not exceeding 12 months or a fine not exceeding K10,000.00, or both.	Medium to Large Marketable Quantity. As defined by Section 7.
	Any amount exceeding 2 kilograms	A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00 fine, or both.	Commercial Quantity. As defined by Section 6.

**Controlled Substance**

<b>Schedule II Plant</b>	Less than 5 plants (including; seedlings, cuttings, saplings, seeds, leaves or plant extract.	A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both.	Simple Possession.  As defined by Section 8.
	More than 5 plants (including; seedlings, cuttings, saplings, seeds, leaves or plant extract)	A term of imprisonment not exceeding 12 months or a fine not exceeding K10,000.00, or both.	Medium to Large Marketable Quantity.  As defined by Section 7.
	More than 20 plants (including; seedlings, cuttings, saplings, seeds, leaves or plant extract)	A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00, or both.	Commercial Quantity.  As defined by Section 6 .

**PART B.**

**Quantity and Penalty Table for a Substances identified as a Schedule III and Schedule IV Controlled Substances, Controlled Plant and Controlled Precursor.**

<b>Schedule</b>	<b>Quantity</b>	<b>Penalty</b>	<b>Notes on Quantity</b>
<b>Schedule III</b>	10 grams or less	K2,000.00 fine and community service, or both.	Simple Possession
<b>Schedule IV</b>			As defined by Section 8.
<b>Substance and Precursor</b>	Exceeding 10 grams and Less than 2 kilograms	K7,000.00 fine and community service, or both.	Medium to Large Marketable Quantity.  As defined by Section 7.
	Any amount exceeding 2 kilograms	K12,000.00 fine and community service, or both.	Medium to Large Marketable Quantity.  As defined by Section 7.

**Notes:**

Units of measurement for controlled substance is as per the physical state of the substance:

Solids - Kilograms

Liquids and semi liquids - Millilitres

Other types of Solids - As per the method of preparation and administration (pills, tablets, powder, patches, squares, etc)

Controlled substances in "gaseous state" not included.

*Controlled Substance*

Quantity and Sentencing Tables based on the quantity of a substance found in the offender’s possession at commission of offence.

**PART C.**

**“Quantity and Sentencing Table for Controlled Substances and Cannabis Derivatives based on method of administration”.**

<b>Method used to administer Substance</b>	<b>Amount</b>	<b>Penalty</b>
Powder	20 grams and below  <b>(Simple Possession)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 2 years or a fine not exceeding K15,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both.</p> <p><u>Schedule II, IV Controlled Substance</u> K2,000.00 fine and community service, or both.</p>
	20 grams to 2.5 kg  <b>(Medium to Large Marketable Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 15 years or a fine not exceeding K25,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 12 months or a fine not exceeding K10,000.00, or both.</p> <p><u>Schedule II, IV Controlled Substance</u> K7,000.00 fine and community service, or both.</p>

***Controlled Substance***

	2.5 kg and above  <b>(Commercial Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00, or both.</p> <p><u>Schedule II, IV Controlled Substance</u> K12,000.00 fine and community service, or both.</p>
Pill or Tablet	5 tables or less  <b>(Simple Possession)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 2 years or a fine of K15,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both.</p> <p><u>Schedule II, IV Controlled Substance</u> K2,000.00 fine and community service, or both.</p>
	100 tables or less  <b>(Medium to Large Marketable Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of not exceeding 15 years imprisonment or K25,000.00 fine.</p> <p><u>Schedule II Controlled Substance</u> A term not exceeding 12 months imprisonment or K10,000.00.</p> <p><u>Schedule II, IV Controlled Substance</u> K7,000.00 fine and community service, or both.</p>
	More than 100 tablets  <b>(Commercial Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00, or both.</p> <p><u>Schedule II, IV Controlled Substance</u> K12,000.00 fine and community service, or both.</p>



***Controlled Substance***

Liquid or Semi-Liquid	1000 millilitres or less  <b>(Simple Possession)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 2 years or a fine not exceeding K15,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both</p> <p><u>Schedules III, IV Controlled Substance</u> K2,000.00 fine and community service, or both.</p>
	5000 millilitres or less (5litres or less)  <b>(Medium to Large Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 15 years or a fine not exceeding K25,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 12 months or a fine not exceeding K5,000.00, or both.</p> <p><u>Schedules III, IV Controlled Substance</u> K7,000.00 fine and community service, or both.</p>
	More than 5000 millilitres (any amount exceeding 5 Litres)  <b>(Commercial Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00, or both</p> <p><u>Schedules III, IV Controlled Substance</u> K12,000.00 fine and community service, or both.</p>

***Controlled Substance***

Other solid substances and Plants.	10 squares or less <b>(Simple Possession)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 2 years or a fine not exceeding K15,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 6 months or a fine not exceeding K5,000.00, or both.</p> <p><u>Schedules III, IV Controlled Substance</u> K2,000.00 fine and community service, or both.</p>
	50 squares or less <b>(Medium to Large Marketable Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment not exceeding 15 years or a fine not exceeding K25,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 12 months or a fine not exceeding K10,000.00, or both.</p>
	50 patches or less <b>(Medium to Large Marketable Quantity)</b>	<p><u>Schedules III, IV Controlled Substance</u> K7,000.00 fine and community service, or both.</p>
More than 50 squares <b>(Commercial Quantity)</b>	<p><u>Schedule I Controlled Substance</u> A term of imprisonment from 16 years to life imprisonment or a fine from K26,000.00 to not exceeding K2,000,000.00, or both.</p> <p><u>Schedule II Controlled Substance</u> A term of imprisonment not exceeding 18 months or a fine not exceeding K12,000.00, or both.</p>	
More than 50 patches <b>(Commercial Quantity)</b>	<p><u>Schedules III, IV Controlled Substance</u> K12,000.00 fine and community service, or both.</p>	

## *Controlled Substance*

### Notes:

Units of measurement for controlled substance is as per the physical state of the substance:

Solids - Kilograms

Liquids and semi liquids - Millilitres

Other types of Solids - As per the method of preparation and administration (pills, tablets, powder, patches, squares, etc)

Controlled substances in "gaseous state" not included.

I hereby certify that the above is a fair print of the *Controlled Substance Act 2021*, which has been made by the National Parliament.

Clerk of the National Parliament.

7 FEB 2022

I hereby certify that the *Controlled Substance Act 2021*, was made by the National Parliament on 2 December 2021, by an absolute majority in accordance with the *Constitution*.

Speaker of the National Parliament.

7 FEB 2022