

ANTIGUA AND BARBUDA



THE MISUSE OF DRUGS (AMENDMENT) BILL, 2017

No. of 2017

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ARRANGEMENT OF CLAUSES

Clauses

1. Short title
2. Interpretation
3. Amendment of section 2 – Interpretation
4. Amendment of the principal Act
5. Amendment of the principal Act
6. Amendment of the principal Act

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THE MISUSE OF DRUGS (AMENDMENT) BILL, 2017
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AN ACT to amend The Misuse of Drugs Act, Cap. 283

ENACTED by the Parliament of Antigua and Barbuda as follows:

1. Short title

This Act may be cited as The Misuse of Drugs (Amendment) Act 2017.

2. Interpretation

In this Act, “principal Act” means the Misuse of Drugs Act, Cap. 283

3. Amendment of section 2 – Interpretation

The principal Act is amended in section 2 by inserting in its correct alphabetical position the following –

“public place” includes any public highway, street, road, square, court, alley, land, bridleway, foot-path, parade, wharf, jetty, quay, bridge, public garden or open square, and every theatre, place of public entertainment of any kind, or other place of general resort, admission to which is obtained by payment, or to which the public have access;

“violation ticket” means a ticket issued pursuant to section 13A to a person in possession of 10 grams or less of cannabis or cannabis resin contrary to the Act;

4. Amendment of the principal Act

The principal Act is amended by inserting after section 6, the new sections 6A, 6B and 6C to read as follows –

“6A. Exemption of criminal liability for a specified quantity of cannabis or cannabis resin

(1) Notwithstanding section 6, it shall be lawful for a person aged 18 years and over to have in his possession a maximum of 10 grams of the controlled drug cannabis or cannabis resin.

(2) Subject to section 6B no penalty capable of being imposed under this Act shall apply where the controlled drug is cannabis or cannabis resin of a quantity of 10 grams or less.

6B. Restrictions on possession etc. of 10 grams or less of cannabis or cannabis resin

(1) Notwithstanding section 6A, a person who –

- (a) smokes any part of the plant genus Cannabis in a public place commits an offence; or
- (b) being the owner, occupier or concerned with the management of premises knowingly permits another to sell, supply or smoke cannabis, cannabis resin.

(2) A person who contravenes this section commits an offence and—

- (a) on the first occasion of such contravention be liable to a warning from the police;
- (b) on a second occasion be issued with a violation ticket pursuant to section 13A;
- (c) on a third or subsequent occasion be liable on summary conviction to a fine not exceeding \$1,500.

(3) A penalty imposed under subsection (2) shall not form a part of the criminal record of the person.

6C. Treatment and programmes for child offenders

(1) In this section, “child” means a person under the age of 18 years old.

(2) Where a person found in possession of cannabis or cannabis resin is a child, he shall be required to participate in a drug counseling programme approved by the Minister, and the child or his parent or guardian may be required to make such financial contribution to the programme as the Minister may determine.”

5. Amendment of the principal Act

The principal Act is amended by inserting after section 13 the following new section —

“13A. Regulations for violation tickets

The Minister may make regulations to provide for the issue of controlled drug violation tickets, and without limiting the generality of the foregoing, the regulations may provide for all or any of the following matters –

- (a) the type of offences for which a controlled drug violation ticket may be issued;
- (b) the form of the violation ticket;
- (c) the fine to be stated on the violation ticket;
- (d) persons by whom the violation ticket may be issued;
- (e) the place or places where the fine stated on the violation ticket may be paid;
- (f) the time for paying such fines;

EXPLANATORY MEMORANDUM

This Bill seeks to decriminalize small quantities of cannabis by amending the Misuse of Drugs (Amendment) Act Cap 283 to revise the existing provisions which prohibit the possession of cannabis and allowing the possession of up to 10 grams of the controlled drug.

This Bill further seeks to free the Royal Police Force of Antigua and Barbuda from the burden of spending much needed time and effort in the pursuit of trivial crimes and concentrate more on crimes of a serious nature. The Government also recognizes that the time has come to decriminalize the possession of small quantities of cannabis to allow those who use the drug in the shadows to come out openly. It may also allow the Rastafarians to use the cannabis in a lawful way during sacred ritual ceremonies of the Rastafarians.

The amendments, however, places certain restrictions on the possession of cannabis. For example, the use of cannabis is prohibited in public places, such as schools, places of entertainment and such other places as the Minister may designate.

A major factor which initiated the passage of this Bill, is to protect the livelihood and future of young persons under the age of 18 by requiring such persons to participate in drug treatment or drug counselling programmes when found in possession of cannabis

Clause 2 amends section 6 by inserting additional subsections which decriminalize the possession of cannabis or cannabis resin up to 10 grams. The additional provisions within this clause allow persons who contravene the provision in that section to be given a warning on the first occasion of the contravention. On the second contravention of section 6(7), a violation ticket will be given

Clause 3 amends section 2 by defining what is a “public place” as referred to in the Bill when prohibiting persons from smoking cannabis in public places and gives the definition of a “violation ticket” as referred to in the new section 13A which provides for the Minister to make regulations for the issue of controlled drug violation tickets.

Clause 4 inserts the new section 6A which decriminalizes the possession of cannabis up to the quantity of 10 grams. Clause 4 further introduces section 6B which provides for the prohibition of smoking cannabis in public places and for the action which will be taken for persons who contravene section 6. Section 6A provides for first occasion offenders to be issued a warning, for

second occasion offenders to be issued a ticket and for third or subsequent occasion offenders to be liable on summary conviction to a fine not exceeding \$1500. Clause 4 also introduces section 6C which provides for any person under the age of 18 years of age to be required to participate in a drug counselling programme approved by the Minister. This will give young persons below the age of 18 years to have an opportunity to correct their behaviour rather than a criminal record which can possibility that person's future opportunities in areas such as employment, migration and so forth.

Clause 5 inserts the new sections, 13A which provides for the Minister to make Regulations for violation tickets

Clause 6 provides for the expungement of convictions for offences involving involving 10 grams or less of cannabis or cannabis resin from the criminal of persons convicted prior to the passing of this Bill.

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Hon. Steadroy O. Benjamin
Attorney General
Minister of Justice, Legal Affairs,
Public Safety and Labour