

GOVERNMENT OF ZAMBIA

ACT

No. 37 of 1993

Date of Assent: 26th August, 1993.

An Act to continue the Drug Enforcement Commission; revise and consolidate the law relating to narcotic drugs and psychotropic substances; incorporate into Zambian law certain international Conventions governing illicit drugs and psychotropic substances; control the importation, exportation, production, possession, sale, distribution and use of narcotic drugs and psychotropic substances; provide for the seizure and forfeiture of property relating to, or connected with, unlawful activities involving narcotic drugs and psychotropic substances; repeal the Dangerous Drugs (Forfeiture of Property) Act, 1989; and provide for matters connected with or incidental to the foregoing.

[8th September, 1993

ENACTED by the Parliament of Zambia.

Enactment

PART I

PRELIMINARY

1. This Act may be cited as the Narcotic Drugs and Psychotropic Substances Act, 1993, and shall come into operation on such date as the Minister may, by statutory instrument, appoint.

Short title and
commence-
ment

2. In this Act, unless the context otherwise requires—

Interpreta-
tion

“bank” has the meaning assigned thereto in any written law governing the licensing of banks and includes a bank established by or under a written law;

“banker’s books” includes ledgers, day books, cash books, accounts books and all other books and documents used in the ordinary course of the business of a bank;

“Commission” means the Drug Enforcement Commission continued under section *four*;

“Commissioner” means the person appointed Commissioner under paragraph 1 of the First Schedule;

“conviction” includes a conviction by a court outside Zambia and any conviction where a conditional or unconditional discharge is ordered;

“corresponding foreign law” means the provision of any law which is similar in whole, or in part, or in substance, to Zambian law;

“Deputy Commissioner” means the person appointed Deputy Commissioner under paragraph 2 of the First Schedule;

“illegal property” means any property, whether within or outside Zambia which—

(a) is wholly or substantially derived or obtained from, or by means of, any prohibited activity carried out by any person;

(b) is the income, earnings or assets wholly or substantially derived or obtained from or by means of any property referred to in paragraph (a);

(c) is wholly or substantially derived or obtained from or by means of any property referred to in paragraph (a) or (b);

(d) is wholly or substantially traceable or attributable to any property referred to in paragraph (a), (b) or (c) or to any income, earnings or assets of any such property;

(e) is or was used to assist or facilitate any prohibited activity;

(f) is the subject-matter of an offence under this Act;

(g) due to any circumstances such as, but not limited to, its nature, value, location or place of discovery, or the time, manner or place of its acquisition, or the person from whom it was acquired, or its proximity to other property referred to in the foregoing paragraphs, can be reasonably believed to be property falling within the scope of any of the foregoing paragraphs;

“manufacture” in relation to narcotic drugs or psychotropic substances includes all processes by which such drugs or substances may be obtained, refined, transformed or prepared;

“narcotic drug” means any substance in Part II of the Second Schedule;

“officer” means a person appointed under section *eight* of this Act;

“property” means any movable or immovable property and legal documents evidencing title to, or interest in, such property;

**NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES ACT, 1993**

w.e.f. 1/11/93

PART I

PRELIMINARY

1. Short title and commencement
2. Interpretation
3. Application

PART II

DRUGS ENFORCEMENT COMMISSION

4. Continuation of Commission
5. Functions of Commission

PART III

OFFENCES AND PENALTIES

6. Trafficking in narcotic drugs or psychotropic substances prohibited
7. Prohibition on importing or exporting narcotic drugs or psychotropic substances
8. Prohibition on possession of narcotic drugs or psychotropic substances
9. Cultivation of plants for narcotic or psychotropic purposes
10. Use of narcotic drugs and psychotropic substances prohibited
11. Attempts, abetting, soliciting, etc., contravention of this Act
12. Conspiracy to commit drug offences, etc.
13. Unlawful manufacture of narcotic drugs or psychotropic substances
14. Inducing another to take narcotic drugs or psychotropic substances
15. Unlawful possession of instruments or utensils for administering narcotic drugs or psychotropic substances
16. Permitting premises to be used for unlawful use of narcotic drugs or psychotropic substances
17. Unlawful supply, etc., of narcotic drugs or psychotropic substances
18. Double doctoring
19. Impersonation of Commission's officers
20. Prohibition of unlawful use of property for narcotic drugs or psychotropic substances
21. Possession of property obtained through trafficking
22. Money laundering

PART IV

INVESTIGATION, ARREST AND SEIZURE

23. Power of arrest and detention
24. Power of entry, search and seizure
25. Search of person
26. Power to take photographs, measurements, fingerprints, hand-prints and footprints
27. Power to intercept communication
28. Power to use firearms

PART V

SEIZURE AND FORFEITURE OF PROPERTY

29. Failure or refusal to disclose information or produce anything
30. Obstruction of inspection or search
31. Seizure of property
32. Release of property seized
33. Forfeiture of property where no proceedings or claim
34. Forfeiture of property on conviction
35. Application to High Court
36. Forfeiture notice
37. Forfeiture of property where owner untraceable
38. Forfeiture of untraceable property, etc.
39. Property to be forfeited to State
40. Proceedings against deceased's estate

PART VI

GENERAL

41. Disorderly conduct at Drug Enforcement Commission Premises
42. Assaulting drug enforcement officers and police officers
43. Restriction on bail
44. Sentence for previous offenders
45. Sentence for officers
46. Extradition
47. International legal assistance
48. Regulations
49. Repeal of Act No. 7 of 1989

FIRST SCHEDULE—Drug Enforcement Commission

SECOND SCHEDULE—Narcotic Drugs and Psychotropic Substances.

“psychotropic substance” means any substance in Part II of the Second Schedule;

“public analyst” means a person appointed a public analyst under section *two* of the Food and Drugs Act;

“securities” means—

(a) shares, debentures, stocks or bonds issued or proposed to be issued by a Government;

(b) shares, debentures, stocks, bonds or notes issued or proposed to be issued by a body corporate; Cap. 533

(c) any right or option in respect of any such shares, debentures, stocks, bonds or notes; or

(d) any instruments recognised as securities under any written law;

“trafficking” means—

(a) being involved directly or indirectly in the unlawful buying or selling of narcotic drugs or psychotropic substances and includes the commission of an offence under this Act in circumstances suggesting that the offence was being committed in connection with buying or selling; or

(b) being found in possession of narcotic drugs or psychotropic substances in such amounts or quantities as the President may, by statutory instrument, declare to be trafficking for the purposes of this Act.

3. Except as otherwise provided in this Act, this Act shall apply notwithstanding any other written law to the contrary. Application

PART II

DRUG ENFORCEMENT COMMISSION

4. (1) The Drug Enforcement Commission established under the Dangerous Drugs (Forfeiture of Property) (Special Organisations) (Drug Enforcement Commission) Regulations, 1989, is hereby continued as if established under this Act. Continuation
of Commis-
sion
S. I. No. 87 of
1989

(2) The Commission shall be a department in the Ministry responsible for home affairs and shall be under the control and supervision of the Minister responsible for Home Affairs.

(3) The provisions of the First Schedule shall apply to the Commission.

**Functions of
Commission**

5. The functions of the Commission shall be to—

- (a) collect, collate and disseminate information on narcotic drugs and psychotropic substances;
- (b) receive and investigate any complaint of alleged or suspected breach of this Act and, subject to the directives of the Director of Public Prosecutions, prosecute for offences under this Act;
- (c) address and advise Government Ministries and departments, public bodies, companies, institutions, statutory bodies and corporations on ways and means of preventing prohibited activities relating to narcotic drugs and psychotropic substances and suggest measures, procedures or methods of work compatible with the proper performance of their duties which, in the opinion of the Commission, would reduce prohibited activities relating to narcotic drugs and psychotropic substances;
- (d) disseminate information intended to educate the public on the evils and dangerous effects of abusing drugs or psychotropic substances and the effect of dealing in property acquired from drug trafficking; and
- (e) enlist and foster public support against the abuse of drugs or psychotropic substances and, in this connection, liaise with similar authorities outside Zambia.

PART III

OFFENCES AND PENALTIES

**Trafficking in
narcotic drugs
or psycho-
tropic
substances
prohibited**

6. Any person who traffics in a narcotic drug or psychotropic substance shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding twenty-five years.

**Prohibition on
importing or
exporting
narcotic drugs
or psycho-
tropic
substances**

7. Any person who, without lawful authority, imports or exports any narcotic drug or psychotropic substance listed in the Second Schedule shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding twenty years.

8. Any person who, without lawful authority, has in his possession or under his control any narcotic drug or psychotropic substance shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding fifteen years.

Prohibition on possession of narcotic drugs and psychotropic substances

9. Any person who, without lawful authority, cultivates any plant which can be used or consumed as a narcotic drug or psychotropic substance, or from which a narcotic drug or psychotropic substance can be extracted, shall be guilty of an offence and shall be liable upon conviction to a fine of not less than twenty-five thousand kwacha or to imprisonment not exceeding ten years or to both.

Cultivation of plants for narcotic or psychotropic purposes

Provided that no person shall be guilty of the offence under this section if the plant is cultivated for purposes of medicine or is not on a substantial and commercial scale.

10. Any person who, without lawful authority, takes a narcotic drug or psychotropic substance by smoking, injecting into his body, sniffing, chewing, drinking or otherwise administering such drug or substance shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

Use of narcotic drugs and psychotropic substances prohibited

11. Any person who attempts, abets, solicits, incites, and compounds or does any act preparatory to, or in furtherance of, the commission of any offence under this Act shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term of not less than five years.

Attempts, abetting, soliciting, etc., contravention of this Act

12. Where two or more persons act together to commit an offence under this Act, they shall be guilty of an offence and liable upon conviction to a term not exceeding five years.

Conspiracy to commit drug offences, etc.

13. (1) Any person who, without lawful authority, manufactures or carries on any process in the manufacture of a narcotic drug or psychotropic substance shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding fifteen years.

Unlawful manufacture of narcotic drugs or psychotropic substances

14. Any person who, by force, deceit or any other means, induces any other person to take any narcotic drug or psychotropic substance shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

Inducing another to take narcotic drugs or psychotropic substances

15. Any person who, without lawful authority, has in his possession instruments or utensils used in administering narcotic drugs or psychotropic substances shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

Unlawful possession of instruments or utensils for administering narcotic drugs or psychotropic substances

Permitting
premises to
be used for
unlawful use
of narcotic
drugs or
psychotropic
substances
prohibited

16. A person who occupies or controls premises, who permits those premises to be used for administering narcotic drugs or psychotropic substances shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding five years.

Unlawful
supply, etc.
of narcotic
drugs or
psychotropic
substances

17. Any person who, without lawful authority, supplies to, or procures for, any person a narcotic drug or psychotropic substance or advertises for sale any such drug or substance shall be found guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding five years.

Double
doctoring

18. Any person who, with intent to deceive obtains a narcotic drug or psychotropic substance or a prescription for a narcotic drug or psychotropic substances from a medical practitioner without disclosing to that practitioner particulars of every narcotic drug or psychotropic substance or prescription for such drug or substance issued to him by a different practitioner within the preceding thirty days shall be guilty of an offence and shall be liable upon conviction to a fine of not less than five hundred thousand kwacha or imprisonment for a term not exceeding twelve months or to both.

Imperson-
ation of
Commission's
officers

19. Any person who impersonates a drug enforcement officer or police officer shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding five years.

Prohibition
of unlawful
use of
property for
narcotic
drugs or
psychotropic
substances

20. Any person who directly or indirectly deals in or uses any property within or outside Zambia for the purpose of doing anything that constitutes an offence under this Act shall be guilty of an offence and shall be liable to imprisonment for a term not exceeding ten years.

Possession
of property
obtained
through
trafficking

21. (1) Any person who has in his possession property which to his actual or constructive knowledge constitutes, in whole or in part, the proceeds of any property which was directly or indirectly acquired as a result of—

(a) a crime committed under this Act; or

(b) an act which, if it had been committed in Zambia, would have constituted an offence under this Act;

shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

22. Any person who does any act or omits to do any act with an actual or constructive intention to conceal the fact that part or the whole of any property was directly or indirectly acquired as a result of—

Money
laundering

- (a) a crime committed under this Act; or
- (b) an act which, if it had been committed in Zambia, would have constituted a crime under this Act;

shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

PART IV

INVESTIGATION, ARREST AND SEIZURE

23. (1) Every drug trafficking and drug manufacturing offence shall be a cognisable offence for the purposes of the Criminal Procedure Code.

Power of
arrest and
detention
Cap. 160

(2) Where a person arrested under this Act is serving a sentence of imprisonment, or is in lawful custody, he shall, upon an order in writing by a drug enforcement officer or police officer, be produced before that officer or before any other drug enforcement officer or police officer at such place as may be specified in the order for the purpose of investigations into the matter in respect of which he is liable to be arrested under this Act.

24. (1) Whenever the Commissioner has reason to believe that there is reasonable cause to suspect that in or on any premises there is concealed or deposited any property liable to forfeiture under this Act, or as to which an offence under this Act is reasonably suspected to have been committed, or any book or document directly or indirectly relating to or connected with any dealing or intended dealing, whether within or outside Zambia, in respect of any property liable to seizure or forfeiture under this Act, or which would, if carried out, be an offence under this Act, he may, by order in writing, authorise a drug enforcement officer or police officer to—

Power of
entry, search
and seizure

- (a) enter the premises and search for, seize and detain any such property, book or document;
- (b) search any person who is in or on the premises, and detain that person and remove him to any place in order to facilitate the search;
- (c) arrest any person who is in or on the premises in whose possession any property liable to seizure or forfeiture under this Act is found, or whom the officer reasonably believes to have concealed or deposited the property;

(d) break open, examine and search any article, container or receptacle; and

(e) stop, search and detain any conveyance.

(2) The officer referred to in subsection (1) may, if it is necessary to do so—

(a) break open any outer or inner door or window of any premises;

(b) forcibly enter the premises or every part of it;

(c) remove by force any obstruction to entry, search, seizure and removal; or

(d) detain every person found in or on the premises until those premises have been searched.

(3) The provisions of subsections (1) and (2) shall not apply in relation to banker's books except in accordance with the Evidence (Bankers' Books) Act.

Cap. 171

Search of
person

25. (1) A drug enforcement officer or police officer may search, or cause to be searched, any person whom he has reason to believe has on his person any property liable to seizure or forfeiture under this Act, or any article necessary for the purpose of any investigation under this Act.

(2) A search of a person under this Act may extend to a medical examination of his body, both externally and internally, by a medical practitioner.

Power to
take
photographs,
measure-
ments,
fingerprints,
handprints
and
footprints

26. (1) Any drug enforcement officer or police officer of or above the rank of Sergeant may take or cause to be taken in his presence for the purpose of record and identification, the measurements, photographs, fingerprints, handprints and footprints of any person in lawful custody.

(2) A drug enforcement officer or police officer acting in accordance with subsection (1) shall certify that the fingerprints have been taken by him or that he has caused them to be taken in his presence and that the particulars on the certificate are, to the best of his knowledge and belief, accurate and true.

Power to
intercept
communica-
tion

27. (1) Notwithstanding the provisions of any other written law, a Judge may, if he considers that any communication or postal article is likely to contain any information or substance which is

likely to be relevant for the purpose of any investigation into an offence under this Act, or any corresponding foreign law, or for the purpose of any proceedings under Part V, or for any other purposes under this Act, on the application of a drug enforcement officer or police officer, authorise any such officer—

(a) to intercept, detain and open any postal article in the course of transmission by post; or

(b) to intercept any message transmitted or received by any telecommunication.

(2) When any person is charged with an offence under Part VI, any information obtained by a drug enforcement officer or police officer under subsection (1), whether before or after that person is charged, or before or after those proceedings are commenced, shall be admissible in evidence at his trial or in those proceedings, as the case may be.

(3) A certificate issued by a Judge under subsection (1) that the action taken by a drug enforcement officer or police officer in pursuance of subsection (1) had been authorised by him shall be conclusive evidence that it had been so authorised and the certificate shall be admissible in evidence without proof of signature.

(4) No person shall be under any duty, obligation or liability or be in any manner compelled to disclose in any proceedings the procedure, method, manner, means or any related matter with regard to anything done under subsection (1).

(5) For the purpose of this section—

“postal article” has the meaning assigned to it in the written law dealing with postal services; and

“telecommunication” has the meaning assigned to it in the written law dealing with telecommunications.

28. (1) Any drug enforcement officer or police officer may, subject to subsections (2) and (3), use a firearm issued to him against—

Power to use
firearms

(a) any person in lawful custody charged with or convicted of an offence relating to narcotic drugs or psychotropic substances when such person is escaping or attempting to escape;

(b) any person who by force rescues or attempts to rescue any other person from lawful custody;

(c) any person who by force prevents or attempts to prevent the lawful arrest of himself or of any other person:

Provided that a drug enforcement officer or police officer shall not use a firearm unless the use of the firearm and the degree to which it is used is reasonable in the circumstances.

(2) A drug enforcement officer or police officer shall not, in the presence of his superior officer, use a firearm against any person except under the orders of that superior officer.

(3) The use of a firearm under this section shall as far as possible be to disable and not to kill.

PART V

SEIZURE AND FORFEITURE OF PROPERTY

Failure or
refusal to
disclose
information
or produce
anything

29. Any person who wilfully fails or refuses to disclose any information or produce any accounts, document or article to a drug enforcement officer or police officer on any investigation into any offence under this Act shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding ten years.

Obstruction
of inspection
or search

30. Any person who—

- (a) prevents any drug enforcement officer or police officer authorised to enter, search or have access to any premises from so entering, searching or having access;
- (b) assaults, obstructs, hinders or delays such officer;
- (c) fails to comply with any lawful demand of a drug enforcement officer or police officer;
- (d) refuses or neglects to give any information which may reasonably be required of him and which he has power to give;
- (e) fails to produce, conceals or attempts to conceal any property, document or book in relation to which there is reasonable ground to suspect that an offence has been or is being committed under this Act, or which is liable to seizure under this Act;
- (f) retrieves or endeavours to retrieve or causes to be retrieved anything which has been duly seized;
- (g) furnishes to any officer as true, information which he knows or has reason to believe to be false; or
- (h) before or after any seizure destroys anything to prevent the seizure or securing of that thing;

shall be guilty of an offence and liable upon conviction to a fine of not less than five hundred thousand kwacha or to imprisonment for a term not exceeding twelve months or to both.

31. Any property which a drug enforcement officer or police officer reasonably suspects to be the subject-matter of an offence under this Act, or which has been used for the commission of that offence or is illegal property shall be liable to seizure.

Seizure of
property

32. (1) Where property has been seized under this Act, the Commissioner, or a drug enforcement officer or police officer who effected the seizure may, at any time before it is forfeited under this Act, order the release of the property to such person if he is satisfied that the property is not liable to forfeiture under this Act and is not otherwise required for the purpose of any investigation or proceedings under this Act or for the purpose of any prosecution under any other written law.

Release of
property
seized

(2) Where a release has been effected under subsection (1), neither the Commissioner, the officer effecting the seizure, nor the Government, nor any person acting on behalf of the Government, shall be liable to any civil proceedings by any person if the seizure and the release had been effected in good faith.

(3) Whenever property is released under subsection (1), a record in writing shall be made by the officer effecting the release, specifying in detail the circumstances of, and the reasons for, the release, and he shall send a copy of the record to the Director of Public Prosecutions and to the Commissioner within seven days after the release.

33. (1) Where any property has been seized under this Act and—

Forfeiture of
property
where no
proceedings
or claim

(a) no prosecution for any offence under any written law is instituted with regard to the property;

(b) no claim in writing is made by any person that he is lawfully entitled to the property or that it is not liable to forfeiture under this Act;

(c) no proceedings are commenced by the Commission, within six months from seizure, for the forfeiture of the property, property shall become forfeited immediately upon the expiration of the period of six months.

(2) Where within six months from the date of the seizure of any property under this Act a claim in writing is made by any person in terms of paragraph (b) of subsection (1)—

(a) the Commissioner may order the release of the property to the claimant if he is satisfied that there is no dispute as to the ownership of the property and that it is not liable to forfeiture; or

(b) if the Commissioner is satisfied that there is a dispute as to the ownership of the property or is doubtful as to the person who owns it, or whether it is liable to forfeiture, he shall, within fourteen days after the expiry of the period of six months, refer the claim to the High Court for its decision.

(3) This section shall be without prejudice to the power of a drug enforcement officer or police officer to release from seizure any property under section *thirty-two*.

Forfeiture of
property on
conviction

34. (1) A court which convicts for an offence under this Act shall, in addition to any penalty, order the narcotic drug or psychotropic substance, and any movable or immovable property used to commit the offence to be forfeited to the State.

Act No. 11
of 1991

(2) Section *one hundred and eighty* of the National Parks and Wildlife Act shall, with necessary modifications, apply to a forfeiture under this section.

(3) Where the property of a person referred to in subsection (1) is deceased and his property has passed on to his personal representative or a person with a beneficial interest in the estate, that property shall be forfeited.

Application
to High
Court

35. (1) The Director of Public Prosecutions may apply to the High Court for an order of forfeiture of any property he believes to be illegal property.

(2) An application made under subsection (1) shall contain all relevant information, including but not limited to—

(a) the name of the convicted person and his address, if known;

(b) the grounds for the application; and

(c) an identification of the property, its estimated value and location.

(3) The Director of Public Prosecutions may make a fresh application—

(a) relating to any property which was not the subject-matter of an earlier application against the accused; or

(b) against any person whom an earlier application under this section had not been made.

Forfeiture
notice

36. (1) Upon receiving the application referred to in section *thirty-five*, the High Court shall issue a notice to the person specified in the application as holding or owning the property, commanding that person to attend before the Court on a date specified in the notice, which date shall not be less than thirty days from the date of the notice.

(2) The person referred to in subsection (1) shall show cause why any property identified in the application should not be forfeited.

(3) The notice referred to in subsection (1) shall be served on the convicted person, if possible, and published, as soon as practicable, in a newspaper circulating in Zambia.

37. (1) Where the person against whom the notice referred to in section *thirty-six* is issued does not appear before the High Court because he cannot be traced, he has absconded or is outside Zambia and cannot be compelled to attend before the Court, or fails to attend the proceedings after publication of the notice, the proceedings shall be continued in his absence.

Forfeiture of
property
where owner
untraceable

(2) Where the High Court finds that any property specified in the application made by the Director of Public Prosecutions is illegal property but that the person accused does not hold that property, the Court shall order that the property be forfeited unless another person claims to be lawfully entitled to it as a purchaser in good faith for valuable consideration.

(3) Where another person claims under subsection (2) to be lawfully entitled to the illegal property, the High Court shall proceed to consider the claim and if, after giving an opportunity to the Director of Public Prosecutions to rebut that claim, the Court is satisfied that such person is not a purchaser in good faith for valuable consideration, it shall order that the property be forfeited.

38. (1) Where the High Court is satisfied that any property forfeited—

Forfeiture of
untraceable
property, etc.

- (a) cannot be located or traced;
- (b) has been sold to a purchaser in good faith for valuable consideration;
- (c) is outside Zambia;
- (d) has been mingled with other property which cannot be separated or divided without difficulty; or
- (e) has been diminished in value;

the High Court shall order that any other property of a similar value be forfeited.

(2) Where the owner of property forfeited under subsection (1) fails to make substitute property available within a period not

exceeding thirty days from the date of the order, he shall be guilty of an offence and shall be liable upon conviction to imprisonment for a term not exceeding seven years.

(3) Where the person whose property has been forfeited dies before or after the order is made, the order shall have effect against the estate of the deceased.

(4) For the purposes of this section, the value of any property shall be its market value at the date on which an order of forfeiture is made.

Property to
be forfeited
to State

39. Where any property is forfeited under this Act, the property shall vest in the State.

Proceedings
against
deceased's
estate

40. Where any person dies before the conclusion of any proceedings under this Part but after the issue of the notice against him under section *thirty-six*, the proceedings shall be continued against the personal representative of that person.

PART VI

GENERAL

Disorderly
conduct at
Drug
Enforcement
Commission
premises

41. Any person who, at any Drug Enforcement Commission premises, conducts himself in a riotous, indecent, disorderly or insulting manner shall be guilty of an offence and shall be liable upon conviction to a fine of not less than five hundred thousand kwacha or to imprisonment for a term not exceeding twelve months or to both.

Assaulting
drug
enforcement
officers and
police officers

42. Any person who assaults, resists or wilfully obstructs any drug enforcement officer or police officer in the due execution of his duty under this Act shall be guilty of an offence and shall be liable upon conviction to a term not exceeding five years.

Bail

43. Whenever any person is arrested or detained upon reasonable suspicion of his having committed a cognisable offence under this Act, no bail shall be granted when he appears or is brought before any Court.

Sentence for
previous
offenders

44. Any person convicted on a second or subsequent offence for trafficking shall be liable to imprisonment for a term of not less than ten years.

Sentence for
officers

45. Whenever a drug enforcement officer or police officer is convicted of an offence under this Act or any regulations made hereunder, he shall be liable to double the prescribed penalty.

46. An offence under this Act shall be deemed to be an extraditable offence under the provisions of the Extradition Act.

Extradition
Cap. 161

47. The Mutual Legal Assistance in Criminal Matters Act, 1993, applies to offences under this Act except where this Act is inconsistent with that Act.

International
legal
assistance
Act No. 19
of 1993

48. The Minister may, by statutory instrument, make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations for the establishment and management of drug rehabilitation centres.

Regulations

49. The Dangerous Drugs (Forfeiture of Property) Act, 1989, is hereby repealed.

Repeal of
Act No. 7 of
1989

FIRST SCHEDULE

(Section 4)

DRUG ENFORCEMENT COMMISSION

Commis-
sioner

1. (1) There shall be a Commissioner of the Commission, whose office shall be a public office, and who shall be appointed by the President on such terms and conditions as the President may determine.

(2) The Commissioner shall not, while he holds the office of Commissioner, hold or discharge the duties of any other office of emolument in the Republic.

(3) The Commissioner may resign upon giving three months' notice, in writing, to the President or may resign with immediate effect upon paying to the Government three months' basic salary in lieu of notice and the President may, subject to the same conditions, terminate the services of the Commissioner.

(4) The Commissioner may resign upon giving three months' written notice to the President or paying one month's salary in lieu of notice.

Deputy
Commis-
sioner

2. (1) There shall be a Deputy Commissioner of the Commission, whose office shall be a public office and who shall be appointed by the President on such terms and conditions as the President may determine.

(2) Subject only to the powers of the Commissioner, paragraph 1 of this Schedule shall apply, with necessary modifications, to the Deputy Commissioner.

Acting
Commis-
sioner

3. (1) If the office of Commissioner falls vacant or the Commissioner is absent from duty or is unable for any reason to perform the functions of his office, the Deputy Commissioner shall act as Commissioner.

(2) If both the Commissioner and the Deputy Commissioner are absent from duty or are unable for any reason to perform the functions of their offices, the President may appoint any other senior officer of the Commission to act as Commissioner or Deputy Commissioner.

Provided that, where it is in the public interest, the President may appoint any person who is not an officer of the Commission to act as Commissioner or Deputy Commissioner.

Officers of
commission

4. (1) The Commissioner may appoint such number of officers as may be necessary for the performance of the functions of the Commission.

(2) An officer appointed under subsection (1) shall be a public officer.

(3) Officers appointed under sub-paragraph (2) shall have all the powers of a police officer unless the Commissioner declares them to be support staff.

5. The conditions of service applicable to the Civil Service shall apply to the Commission.

Conditions
of service

6. (1) The Commissioner shall issue to an officer an identity card which shall, unless the contrary is proved, be evidence of the officer's appointment as such.

Identity card

(2) An officer shall, whenever it is necessary for the performance of his functions, produce the identity card referred to in sub-section (1).

7. (1) The Commissioner may, subject to the general directions of the President, make Staff Rules providing for—

Staff Rules

- (a) the control, direction and administration of the Commission;
- (b) the discipline, training, classification and promotion of officers of the Commission;
- (c) the duties of officers of the Commission;
- (d) the financial management of the Commission; and
- (e) such other matters as may, in his opinion, be necessary or expedient for preventing the abuse or neglect of duty by an officer and for upholding the efficiency and integrity of the Commission.

8. (1) The funds of the Commission shall consist of such moneys as may—

Funds of
Commission

- (a) be appropriated by Parliament for the purposes of the Commission; and
- (b) be paid to the Commission by way of grants or donations; and
- (c) vest in or accrue to the Commission.

(2) The Commission may—

- (a) accept money by way of grants or donations;
- (b) raise by way of loans or otherwise from any source in Zambia and, subject to the approval of the Minister, from any source outside Zambia, such money as it may require for the discharge of its functions; and
- (c) charge and collect fees in respect of programmes, publications, seminars, consultancy and other services provided by the Commission.

(3) There shall be paid from the funds of the Commission—

- (a) the salaries, allowances, loans, gratuities and pensions of the staff of the Commission and other payments for the recruitment and retention of staff;

- (b) such reasonable travelling and subsistence allowances for staff of the Commission when engaged on the business of the Commission and at such rates as the Commission may determine; and
- (c) any other expenses incurred by the Commission in the performance of its functions.
- (4) The Commission may invest in such manner as it thinks fit such of its funds as it does not immediately require for the discharge of its functions.
- Financial year** 9. The financial year of the Commission shall be period of twelve months ending on 31st December in each year.
- Accounts** 10. (1) The Commission shall cause to be kept proper books of account and other records relating to its accounts.
- (2) The accounts of the Commission shall be audited annually by independent auditors appointed by the Commission.
- (3) The auditors' fees shall be paid by the Commission.
- Annual reports** 11. (1) As soon as practicable but not later than six months after the expiry of the financial year, the Commission shall submit to the Minister a report concerning its activities during the financial year.
- (2) The report referred to in subsection (1) shall include information on the financial affairs of the Commission and there shall be appended to the report—
- (a) an audited balance sheet;
- (b) an audited statement of income and expenditure; and
- (c) such other information as the Minister may require.
- (3) The Minister shall, not later than seven days after the first sitting of the National Assembly next after receipt of the report referred to in subsection (1), lay it before the National Assembly.

SECOND SCHEDULE

(Section 2)

PART I

NARCOTIC DRUGS

- Acetorphine**—(3-O-acetyltetrahydro - 7a- (1-hydroxy-1-methylbutyl) -6, 14 endoetheno-orphavine).
- Acetylmethadol**—(3-acetoxy-6-dimethylamino-4, 4-diphenylheptane).
- Allylprodine**—(3-allyl-1-methyl-4-phenyl-4-propionoxy-piperidine).
- Alphacetylmethadol**—(alpha-3-acetoxy-6-dimethylamino-4, 4-diphenylheptane).
- Alphameprodine**—(alpha-3-ethyl-1-methyl-1-4-phenyl-4-propionoxypiperidine).
- Alphamethadol**—(alpha-6-dimethylamino-4, -4 diphenyl-3-heptanol).
- Alphaprodine**—(alpha-1, 3-dimethyl-4-phenyl-4 propionoxy piperidine).

Anileridine—(1-para-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester).

Benzethidine—(1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester).

Benzylmorphine—(3-benzylmorphine).

Betacetylmethadol—(beta-3-acetoxy-6-dimethylamino-4,4-diphenylheptane).

Etosexidine—(1-[2-(2-hydroxyethoxy)-ethyl]-4-phenylpiperidine-4-carboxylic acid ester).

Fentanyl—(1-phenethyl-4-N-propionylanilino-4-piperidine).

Furethidine—(1-(2-tetrahydrofuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester).

Heroin—(diacetylmorphine).

Hydrocodone—(dihydrocodeinone).

Hydromorphanol—(14-hydroxydihydromorphine).

Hydroxypethidine—(4-meta-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester).

Isomethadone—(6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone).

Ketobemidone—(4-meta-hydroxyphenyl-1-methyl-4-propionylpiperidine).

Levomethorphan—(-)-3-methoxy-N-methylmorphinan).

Levomoramide—(-)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl)butyl]morpholine).

Levophenacymorphan—(-)-3-hydroxy-N-phenacymorphinan).

Levorphanol—(-)-3-hydroxy-N-methylmorphinan).

Metazocline—(2'-hydroxy-2,5,9-trimethyl-6,7-benzomorphan).

Methadone—(6-dimethylamino-4,4-diphenyl-3-heptanone).

Methadone Intermediate—(4-cyano-2-dimethylamino-4,4-diphenylbutane).

Methyldesorphine—(6-methyl-delta-6-deoxymorphine).

Methyldihydromorphine—(6-methyldihydromorphine).

Metopon—(5-methyldihydromorphine).

Moramide Intermediate—(2-methyl-3-morpholino-1,1-diphenylpropane carboxylic acid).

Morphine

Morphine Methobromide and other pentavalent nitrogen morphine derivatives.

Morphine-N-Oxide

Myrophine—(myristylbenzylmorphine).

Nicomorphine—(3,6-dinicotinylmorphine).

Noracymethadol—((+)-alpha-3-acetoxy-6-methylamino-4,4-diphenylheptane).

Norlevorphanol—((-)-3-hydroxymorphinan).

Normethadone—(6-dimethylamino-4,4-diphenyl-3-hexanone).

Normorphine—(demethylmorphine).

Norpipanone—(4,4-diphenyl-6-piperidino-3-hexanone).

Opium**Oxycodone**—(14-hydroxydihydrocodeinone).**Oxymorphone**—(14-hydroxydihydromorphinone).**Pethidine**—(1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester).**Pethidine Intermediate A**—(4-cyano-1-methyl-4-phenylpiperidine).**Pethidine Intermediate B**—(4-phenylpiperidine-4-carboxylic acid ethyl ester).**Pethidine Intermediate C**—(1-methyl-4-phenylpiperidine-4-carboxylic acid).**Phenadoxone**—(6-morpholino-4, 4-diphenyl-3-heptanone).**Phenampromide**—(N-(1-methyl-2-piperidinoethyl) propionanilide).**Phenazocine**—(2'-hydroxy-5, 9-dimethyl-2-phenethyl-6, 7-benzomorphan).**Phenomorphan**—(3-hydroxy-N-phenethylmorphinan).**Phenoperidine**—(1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester).**Pimlidine**—(4-phenyl-1-(3-phenylaminopropyl)piperidine-4-carboxylic acid ethyl ester).**Piritramide**—(1-3-cyano-3, 3-diphenylpropyl)-4-(1-piperidino)-piperidine-4-carboxylic acid amide).**Phoheptazine**—(1,3-dimethyl-4-phenyl-4-propionoxycycloheptane).**Properidine**—(1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester).**Racemethorphan**—((+)-3-methoxy-N-methylmorphinan).**Racemoramide**—((+)-4-[2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine).**Racemorphan**—((+)-3-hydroxy-N-methylmorphinan).**Thebacon**—(acetyldihydrocodeinone).**Thebaine****Trimeperidine**—(1,2,5-trimethyl-4-propionoxypiperidine); and

The isomers, unless specifically excepted, of the drugs in this Schedule whenever the existence of such isomers is possible within the specific chemical designation;

The esters and ethers, unless appearing in another Schedule, of the drugs in this Schedule whenever the existence of such esters or ethers is possible.

The salts of the drugs listed in this Schedule, including the salts of esters, ethers and isomers as provided above whenever the existence of such salts is possible.

Acetyldihydrocodeine**Codeine**—(3-methylmorphine).**Hydrocodeine****Ethylmorphine**—(3-ethylmorphine).**Nicodine**—(6-nicotinylcodeine).**Nicodine**—(6-nicotinylcodeine).**Norcodeine**—(N-demethylcodeine).**Pholcodine**—(morpholinylethylmorphine).**Propiram**—(N-(1-methyl-2-piperidinoethyl)-N-2-pyridylpropionamide)

Coca leaf
Crude cocaine/cocaine paste
Cocaine
Free base cocaine/(crack)
Other coca products quantity
Benzolacoinine, methylecgonine,
Cinnamoylcocaine, Benzococaine,
Lidocaine, Benzocaine,
Lidocaine, Tetracaine, Procaine hydrochloride.

PART II

PSYCHOTROPIC SUBSTANCES

INN <i>other non - proprietary or trivial names</i>		<i>Chemical name</i>
1.	DET	N,N-diethyltryptamine
2.	DMPH	3-(1,2-dimethylheptyl)- -1-hydroxy-7, 8,9,10- tetrahydro-6,6,9- trimethyl-6H-dibezo [b,d] pyran
3.	DMT	N,N-dimethyltryptamine
4. (+)	-LYSERGIDE LSD, LSD-25 (+)	N, N-diethyllysergamide (d-lysergic acid diethylamide)
5.	Mescaline	3,4,5-trimethoxyphenethylamine
6.	Parahexyl	3-hexyl-1-hydroxy-7,8,9,10- tetrahydro-6H-dibenzo [b,d] pyran
7.	Psilocine	3-(2-dimethylaminoethyl)- 4-hydroxyindole
8.	Psilocybine	3-(2-dimethylaminoethyl)- indol-4-yl dihydrogen phosphate
9.	STP, DOM	2-amino-1-(2, 5-dimethoxy-4-methyl) phenylpropane
10	tetrahydrocannabinols, all isomers	1-hydroxy-3-pentyl-6a, 7, 10, 10a- tetrahydro 6,6, 9-trimethyl-6-H disbenzo [a,d] pyran.
11.	Amphetamine	(-) 2 amino-1-phenylpropane
12.	Dexamphetamine	(+)-2-amino-1-phenylpropane
13.	Methamphetamine	(+)-2-methylamino- 1-phenylpropane
14.	Methamphetamine	2-phenyl-2-(2-piperidyl) acetic acid, methyl ester

15.	Phencyclidine	1-(1-phenylcyclohexyl) piperidine
16.	Phenmetrazine	3-methyl-2-phenylmorpholine
17.	Amobarbital	5-ethyl-5-(isopentyl) barbituric acid
18.	Cyclobarbitol	5-(1-cyclohexen-1-yl)-5-ethylbarbituric acid
19.	Glutethimide	2-ethyl-2-phenylglutarimide
20.	Pentobarbital	5-ethyl-5-(1-methylbutyl) barbituric acid
21.	Secobarbital	5-allyl-5-(1-methylbutyl) barbituric acid
22.	Amfepramone	2-(diethylamino) propiophenone 5,5 -diethyl barbituric acid
23.	Barbital	
24.	Ethchlorvynol	1-chloro-3-ethyl-1-penten-4-yn-3-ol
25.	Ethinamate	1-ethynylcyclohexanol-carbamate
26.	Meprobamate	2-methyl-2-propyl-1, 3 propanediol dicarbamate
27.	Methaqualone	2-methyl-3-O-tolyl-4 (3H)-quinazolinone
28.	Methylphenobarbital	5-ethyl-1-methyl-5-phenyl barbituric acid
29.	Methypylon	3, 3-diethyl-5-methyl-2, 4 piperidine-dione
30.	Phenobarbital	5-ethyl-5-phenylbarbituric acid
31.	Pipradrol	1, 1-diphenyl-2-piperidine methanol
32.	Lifetamine SPA	(-)-1-dimethylamino-1, 2-diphenylethane
33.	Products of Cannabis Sativa	
	(i) Herbal products known as Marijuana	
	(ii) Cannabis resin or hashish cake	
	(iii) Cannabis oil or hashish oil	
	(iv) Any other cannabis products containing the active ingredient Delta-9-Tetrahydrocannabinol, (THC)	
34.	Diphenhydramine	
35.	Mecloqualone	
36.	Methadone	
37.	Allobarbitol	
38.	Butal bital	
39.	Butobarbital	
40.	Pentobarbital	

41. Vinylbital
42. Diazepam
43. Bromazepam
44. Chlorazepate
45. Flunitrazepam
46. Flurazepam
47. Lorazepam
48. Madazepam
49. Nitrazepam
50. Oxazepam
51. Tetrazepam
52. Brolamphetamine/DOB
53. Tenamphetamine/MDA
54. Cathine
55. Fenicamphamine
56. Pemoline
57. Fenetylline
58. Fenproporex
59. Phendimetrazine
60. Pyrovalerone

The precursors, unless specifically accepted of the drugs in this Schedule wherever existence of such precursors is possible within the specific chemical designation. In this case precursors include, but not limited to, the following listed substances:

N-acetylanthranilic acid, Benzyl-methyl-ketone/Phenylacetone (P-2-P) Ergotamine, Ergometrine, Lysergic acid, Ephedrine/Norephedrine, ortho-toluidine. Piperidine.
