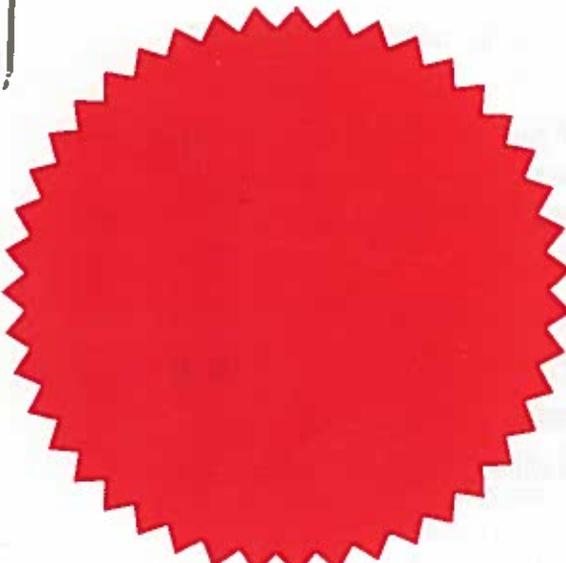


JAMAICA

No. 5 - 2015



I assent,



Governor-General.

20th day of March, 2015

AN ACT to Amend the Dangerous Drugs Act so as to provide for, among other things, the modification of penalties for the possession of ganja in specified small quantities and the smoking of ganja in specified circumstances, and for a scheme of licences, permits and other authorizations for medical, therapeutic or scientific purposes.

[**The date notified by the Minister
bringing the Act into operation**]

BE IT ENACTED by The Queen's Most Excellent Majesty, by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the authority of the same, as follows:—

1. This Act may be cited as the Dangerous Drugs (Amendment) Act, 2015, and shall be read and construed as one with the Dangerous Drugs Act (hereinafter referred to as the principal Act) and all amendments thereto.

Short title
and
construction

Commence-
ment.

2. This Act shall come into operation on such day or days as specified by the Minister by notice published in the *Gazette*, and different days may be specified in respect of different provisions of this Act.

Amendment
of section 2
of principal
Act.

3. Section 2 of the principal Act is amended—

(a) by deleting the definition of “ganja” and substituting therefor the following—

““ganja” includes all parts of the plant *cannabis sativa* from which the resin has not been extracted and includes any resin obtained from that plant, but does not include—

(i) medicinal preparations made from that plant;

(ii) hemp;”;

(b) by inserting in the appropriate alphabetical sequence the following definitions—

““hemp” means the plant *cannabis sativa*, or any part thereof, with a THC concentration of no more than 1.0% or such other concentration as may be prescribed by the Minister by order published in the *Gazette*;

“THC” means Δ^9 -Tetrahydrocannabinol (6aR, 10aR)-6a, 7,8,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo [b,d] pyran- 1 - ol).(THC);”.

Amendment
of section 7A
of principal
Act.

4. Section 7A of the principal Act is amended—

(a) in subsection (1) by deleting the words “Every person” and substituting therefor the words “Subject to subsection (4), every person”;

- (b) by inserting next after subsection (3) the following subsection—

“ (4) Nothing in subsection (1) shall apply to any person who is certified by a registered medical practitioner to be—

(a) suffering from cancer or any other terminal or serious chronic illness; and

(b) a person the use by whom of any medicinal or therapeutic product comprising, derived from, or containing ganja, is recommended by that registered medical practitioner,

as regards the importation of that medicinal or therapeutic product in an amount not exceeding that recommended by the registered medical practitioner and, in the case of a medicinal or therapeutic product comprising ganja plant material, in accordance with regulations made under section 9A.”

5. Section 7B of the principal Act is amended by—

Amendment
of section 7B
of principal
Act.

- (a) deleting the words “Every person” and substituting therefor the words “Subject to subsections (2) and (4), every person”;
- (b) renumbering the section as section 7B(1) and inserting next thereafter the following subsections—

“ (2) Nothing in—

(a) subsection (1)(b), as relates to using or knowingly permitting the use of any premises for the storage of ganja; or

(b) subsection (1)(c), as relates to using or knowingly permitting the use of any conveyance for carrying ganja,

shall apply in the circumstances referred to in subsection (3).

(3) For the purposes of subsection (2), the circumstances are that—

- (a) the total quantity of the ganja does not exceed the quantity specified in section 7F; or
- (b) the ganja is used or carried in connection with any of the purposes specified in section 7C(2).

(4) Nothing in subsection (1) as it relates to the cultivation, gathering or storage of ganja shall be construed to apply to five or less than five ganja plants found on any premises, and those plants so found shall be deemed to be grown for the medical or therapeutic use of the leaves or for horticultural purposes.

(5) For the purposes of subsection (4) where there is more than one household on any premises, each household shall be treated as a separate premises.”

Amendment
of section 7C
of principal
Act.

6. Section 7C of the principal Act is amended by—

- (a) deleting the words “Every person who has in his possession any ganja shall be guilty of an offence” and substituting therefor the words “Subject to subsection (2), a person who is in possession of any ganja in excess of the quantity specified in section 7F commits an offence”;
- (b) deleting subsection (2) and inserting next after subsection (1) the following subsection—
 - “ (2) Subsection (1) shall not apply to the possession of ganja for any of the following purposes—
 - (a) religious purposes as a sacrament in adherence to the Rastafarian faith;
 - (b) medical or therapeutic purposes as prescribed or recommended in writing by—
 - (i) a registered medical practitioner; or
 - (ii) other health practitioner, or class of practitioners, approved for

that purpose by the Minister responsible for health by order published in the *Gazette*;

(c) the purposes of scientific research—

(i) conducted by a duly accredited tertiary institution; or

(ii) otherwise approved by the Scientific Research Council or such other body as may be prescribed by the Minister.”.

7. The principal Act is amended by deleting section 7D and inserting next after section 7C the following sections—

“ Exceptions by licence, permit, etc.

7D.—(1) Nothing in section 7A, 7B, 7C or 7F applies to the handling of ganja for medical, therapeutic or scientific purposes in accordance with a licence, permit or other authorisation issued under this Act or any other Act.

Repeal and replacement of section 7D and insertion of new sections 7E to 7H into principal Act.

(2) In subsection (1) and section 9A—

“handling” includes use, cultivation, processing, importation, exportation, transit, manufacture, sale, possession and distribution;

“medical, therapeutic or scientific purposes” includes research, clinical trials, therapy and treatment, and the manufacture of nutraceuticals and pharmaceuticals.

(3) In furtherance of scientific research undertaken by an institution or other body referred to in subsection (4), the Minister responsible for science and technology may by order published in the *Gazette* authorize that institution or other body (as the case may be) to—

(a) cultivate ganja on lands designated by the Minister in the order; and

- (b) import into Jamaica any ganja plant or part thereof (for example, seeds, saplings, and plant tissue) from any jurisdiction where the exportation of such plant or part thereof to Jamaica is lawful under the laws of that jurisdiction, in accordance with regulations made under section 9A.

(4) For the purposes of subsection (3), the institutions or other bodies are—

- (a) a duly accredited tertiary institution or other body approved by the Scientific Research Council; or
- (b) any third party engaged for the purposes of subsection (3) by a tertiary institution or other body referred to in paragraph (a).

(5) The other sections of this Part shall not apply to any ganja which is the subject of an order under subsection (3) and which is handled in accordance with the order.

(6) The Minister responsible for justice may by order published in the *Gazette* authorize any—

- (a) person who has attained the age of eighteen years and who the Minister is satisfied is an adherent of the Rastafarian faith or any group of such persons; or
- (b) organization that the Minister is satisfied is comprised of such persons,

to cultivate, on lands designated by the Minister in the order and in accordance with such regulations as the Minister may prescribe for that purpose, ganja for use for religious purposes as a sacrament in adherence to the Rastafarian faith.

(7) The other sections of this Part, with the exception of—

- (a) section 7A;
- (b) section 7B as it relates to selling or otherwise dealing in ganja; and
- (c) section 7E,

shall not apply to ganja which is the subject of an order under subsection (6).

(8) The Minister responsible for justice may by order published in the *Gazette* declare an event to be an exempt event for the purposes of subsection (9), if the Minister is satisfied that the event is—

- (a) promoted or sponsored by—
 - (i) a person who is an adherent of the Rastafarian faith or any group of such persons; or
 - (ii) any organization that is comprised of such persons, whether alone or in association with other persons who are not such adherents; and
- (b) primarily for the purpose of the celebration or observance of the Rastafarian faith.

(9) Where an event is declared under subsection (8) to be exempt for the purposes of this subsection, no person shall be liable, under this Part, to arrest, detention, prosecution for any offence, or any other penalty, as regards ganja being conveyed to, or which is possessed or smoked at, the event in such amount and under such conditions as are specified in the order.

(10) The purchase and possession in Jamaica, by any person not ordinarily resident in Jamaica, of two ounces or less of ganja at a time shall not be construed as an offence under this Part if the person—

- (a) produces a voluntary declaration signed by that person, or any other satisfactory evidence, that the person's use of ganja is for medical or therapeutic purposes as prescribed or recommended in writing by a medical practitioner entitled to practice in the jurisdiction where the person is ordinarily resident; and
- (b) is in possession of a valid permit issued to that person under subsection (11).

(11) A permit for the purposes of subsection (10) may be issued by the Minister responsible for health upon application made in such form, and accompanied by such fee, as may be prescribed by that Minister by order published in the *Gazette*.

(12) The Minister responsible for finance shall direct that such percentage, as may be prescribed by order published in the *Gazette*, of the fees received for the issue of any licence, permit or other authorization under this section or section 9A be applied for the following purposes—

- (a) strengthening the capacity and programmes of the National Council on Drug Abuse, including public education programmes to discourage the use of ganja by persons under the age of eighteen years, persons with a mental disorder, pregnant women and other vulnerable groups;

- (b) strengthening Jamaica’s mental health institutions and services;
- (c) funding scientific and medical research into ganja or hemp; and
- (d) supporting the regulatory arrangements arising under regulations made pursuant to section 9A.

7E. The provisions of the First Schedule shall apply to the smoking of ganja in public places as described in the First Schedule.

Smoking of ganja in public places prohibited. First Schedule.

7F.—(1) Subject to subsection (2), a person who is in possession of ganja of a quantity which in total does not exceed the prescribed amount contravenes this subsection.

Possession of ganja in small quantity.

(2) Subsection (1) shall not apply to the possession of ganja for a purpose specified in section 7C(2).

(3) In this section, “the prescribed amount” means two ounces or such other amount as may be specified by the Minister by order subject to affirmative resolution.

7G.—(1) Notwithstanding sections 23 and 24, a person who contravenes section 7F(1) or a provision of the First Schedule shall not be liable to be arrested or detained therefor, but shall be liable to a fixed penalty of five hundred dollars.

Penalty for contravention in relation to smoking or possession in small quantities.

(2) A constable who has reasonable grounds to believe that a person is in contravention of section 7F(1) or a provision of the First Schedule shall, by giving the prescribed notice in writing in accordance with subsection (3), offer that person the opportunity to discharge the fixed penalty.

First Schedule.

(3) A notice in accordance with this subsection shall—

- (a) give such particulars of the contravention alleged as is necessary for giving reasonable information of the allegation;

- (b) state that the fixed penalty shall be paid within thirty days after the date of the notice;
- (c) state the amount of the fixed penalty and that such fixed penalty shall be paid to any Collector of Taxes;
- (d) require the person, in the event that the fixed penalty is not paid within the period specified in the notice, to attend before the Petty Sessions Court in the parish in which the contravention is alleged to have been committed, to answer to a charge under subsection (8) on such date as may be specified, being a date not earlier than ten days after the expiration of the period specified pursuant to subsection (6);
- (e) in any case falling within subsection (4), refer the person to the National Council for Drug Abuse or such other body as the Minister may prescribe.

(4) For the purposes of subsection (3)(e), a case falls within this subsection if the person to whom the notice is to be issued—

- (a) is under the age of eighteen years; or
- (b) is eighteen years or older and appears, to the constable issuing the notice, to be dependent on ganja.

(5) A person to whom a notice is issued under this section shall not be liable to be convicted of an offence under subsection (8) if the fixed penalty is paid in accordance with this section before the final adjudication of the case.

(6) Where a person is issued a notice under this section, proceedings shall not be taken against the person for an offence under subsection (8) until the expiration of thirty days after the date of the notice or such longer period (if any) as may be specified in the notice.

(7) In any proceedings a certificate that payment of the fixed penalty was or was not made to the Collector of Taxes by a date specified in the certificate shall, if the certificate purports to be signed by the Collector of Taxes, be sufficient evidence of the facts stated unless the contrary is proved.

(8) A person who, without reasonable cause or excuse, fails to pay the fixed penalty in accordance with a notice issued to that person under this section commits an offence and shall be liable upon conviction in a Petty Sessions Court—

- (a) to perform unpaid work for such number of hours (being in the aggregate not less than forty nor more than three hundred and sixty) as may be specified by the Court in an order made for that purpose; or
- (b) if the Court is not satisfied that arrangements can be made in the area in which the offender resides, or will reside, for the offender to perform work under an order made under paragraph (a) and for the proper supervision of that work, to a fine of two thousand dollars.

(9) The provisions of sections 10(3) to (6) and 11 of the *Criminal Justice (Reform) Act* shall apply to an order made under subsection (8)(a) as if that order were a community service order made under section 10 of that Act.

(10) For the purposes of the *Criminal Records (Rehabilitation of Offenders) Act*, a contravention of section 7F or a provision of the First Schedule shall not form a part of the criminal record of the offender.

First
Schedule.

(11) A notice under subsection (3) shall, for the purposes of paragraph (d) of that subsection, be deemed to be a summons under section 2 of the *Justices of the Peace Jurisdiction Act*.

7H.—(1) The Minister may make regulations—

Regulations.

- (a) prescribing the procedure and criteria for registration of places of Rastafarian worship for the purposes of the definition of “public place” set out in the First Schedule;
- (b) prescribing the form of notice to be issued under section 7G; and
- (c) subject to affirmative resolution, amending—
 - (i) the First Schedule; or

- (ii) section 7G(3) or (8)(b) so as to vary the amount of the penalty which may be imposed under that provision.

(2) In this section, “Minister” means, for the purposes of—

- (a) subsection (1)(a), the Minister responsible for justice;
- (b) subsection (1)(c)(i), the Minister responsible for health; and
- (c) subsection (1)(b) and (c)(ii), the Minister responsible for national security.”.

Insertion of
new section
9A into
principal
Act.

8. The principal Act is amended by inserting next after section 9 the following section—

“ Control of
handling of
hemp and
ganja.

9A.—(1) For the purpose of enabling the establishment of a lawful, regulated industry in—

- (a) hemp; and
- (b) ganja for medical, therapeutic or scientific purposes,

there is hereby established a Cannabis Licensing Authority (in this Act referred to as “the Authority”).

(2) The Authority shall have—

- (a) the power to make, with the approval of the Minister responsible for justice, regulations for the issue and regulation, by the Authority, of such licences, permits and authorizations, as may be appropriate, for the handling of—
 - (i) hemp; and
 - (ii) ganja for medical, therapeutic or scientific purposes within the meaning of section 7D;

- (b) the duty to ensure that regulations made under paragraph (a) do not contravene Jamaica's international obligations; and
- (c) such other powers, functions and duties as may be assigned to the Authority under this Act or any other law.

(3) The provisions of the Second Schedule shall have effect with respect to the constitution of the Authority and otherwise in relation thereto. Second
Schedule.

(4) Without prejudice to the generality of paragraph (a) of subsection (2), regulations made under that paragraph may provide for—

- (a) the procedure governing applications for the licences, permits and other authorizations referred to in that paragraph, including the information to be submitted with such applications;
- (b) the criteria for the grant of those licences, permits and other authorizations;
- (c) the inclusion of such terms and conditions in those licences, permits and other authorizations, as the Authority considers appropriate;
- (d) the procedures to be complied with by holders of those licences, permits and other authorizations to secure compliance with this Act and the regulations, and the monitoring of such compliance (for example, requirements for reporting and inspections);
- (e) the circumstances in which those licences, permits and other authorizations may be suspended or revoked; and

- (f) the fees payable for the application, grant or renewal of those licences, permits and other authorizations.

(5) Unless otherwise provided in regulations made pursuant to this section, the provisions of Part V—

- (a) shall not apply to hemp or ganja handled in accordance with a licence, permit or other authorization issued pursuant to regulations made under this section;
- (b) except as provided in paragraph (a), shall apply to—
 - (i) all parts, and any extract or tincture, of the plant *cannabis sativa*; and
 - (ii) all preparations of which resins obtained from the plant *cannabis sativa* form the base,

as if such part, extract, tincture or preparation, as the case may be, were a “dangerous drug” within the meaning of section 12.

(6) The Ministers referred to in paragraph 1 of the Second Schedule shall ensure that their respective ministries provide the Authority with such support services as the Authority may reasonably require to effectively carry out its functions and duties.

(7) An appeal shall be to an appeal tribunal constituted in accordance with regulations made under section 29, in respect of any decision of the Authority to refuse, suspend or revoke a licence, permit or other authorization referred to in subsection (2)(a).”.

9. Section 10 of the principal Act is amended in subsection (1) by deleting paragraph (b). Amendment of section 10 of principal Act.

10. Section 12 of the principal Act is amended in the definition of “dangerous drug” by deleting the words “, coca leaves, and all preparations of which resins obtained from the plant cannabis sativa form the base” and substituting therefor the words “and coca leaves”. Amendment of section 12 of principal Act.

11. Section 19 of the principal Act is amended by inserting next after the words “other than” the words “Part IIIA, section 9A and”. Amendment of section 19 of principal Act.

12. The principal Act is amended by inserting next after section 28 the following sections and schedules— Insertion of new sections 29 and 30 and First and Second Schedules into principal Act.

“ Regulations. 29.—(1) The Minister may, subject to sections 4, 7D(6), 7H, 9 and 9A, make regulations in order to give effect to the purposes of this Act.

(2) Regulations made under this Act may provide for penalties for offences under those regulations, in excess of the amount specified by section 29 of the Interpretation Act but not, in any event, exceeding one million dollars or six months imprisonment.

Power to amend Second Schedule and penalties.

30. The Minister may, by order subject to affirmative resolution, amend—

- (a) the Second Schedule;
- (b) the monetary penalties imposed by this Act.

FIRST SCHEDULE (Sections 7E, 7G and 7H)

*Provisions Regarding Smoking
in Public Places*

1. In this Schedule—

“public conveyance” means any form or mode of transportation which carries passengers, for hire or reward, whether in Jamaica or internationally, but does not include privately operated vehicles not used for commercial purposes;

“public place”—

(a) means any—

- (i) structure;
- (ii) facility;
- (iii) space used for gathering by individuals;
- (iv) other place,

for the use of, or open to, the public, or any other similar space accessible to the public;

(b) includes—

- (i) bars, restaurants and clubs;
- (ii) tourist establishments, except for such open areas forming part of a tourist establishment, as may be specifically identified by the management of the establishment as areas where smoking is permitted;
- (iii) Government offices; and
- (iv) other places or buildings of all types, accessible to the public;

(c) does not include—

- (i) privately-occupied residences not used for commercial purposes;
- (ii) any place registered pursuant to regulations made under section 7H to be a place of Rastafarian worship;

- (iii) any place licensed under regulations made under section 9A as a place where the smoking of ganja is permissible for medical or therapeutic purposes in accordance with section 7C(2)(b) or 7D(10);

“tourist establishment” has the meaning assigned to it by the Public Health (Tourist Establishment) Regulations, 2000;

“workplace” means any area or place used by persons during their employment, work or contract for services, and includes—

- (a) vehicles used in the course of employment or for work purposes;
- (b) connected, annexed places or common areas; and
- (c) residences used for commercially-operated childcare activities.

2. A person who smokes ganja in or within a five metre radius of the entrance, exit, window or ventilation intake of a public place, workplace or public conveyance, including but not limited to any place listed in paragraph 3, contravenes this Schedule.

3. For the purposes of paragraph 2, the places listed are—

- (a) all Government occupied offices;
- (b) health facilities, including pharmacies;
- (c) sports, athletic and other similar facilities, for the use of the public;
- (d) educational institutions;
- (e) bus stops and departure and arrival waiting areas at a port or station for any form of transportation;
- (f) areas specifically for use by children;
- (g) balconies of tourist establishments;
- (h) residences and guesthouses for the use of staff employed therein;
- (i) beaches;

- (j) outdoor dining and service areas; *
- (k) parks;
- (l) any sites declared under the *Jamaica National Heritage Trust Act* to be “national heritage”;
- (m) class A and class B swimming pools operated under the Public Health (Swimming Pools) Regulations, 2000, or under the Public Health (Tourist Establishments) Regulations, 2000 (except pools for private use or where a pool is exclusively accessible for an independent or private villa or suite);
- (n) outdoor markets; and
- (o) other outdoor events or activities, being used for gathering by individuals.

SECOND SCHEDULE

(Sections 9A(3))

Cannabis Licensing Authority

1. The Authority shall consist of the following members— Appointment of members.

- (a) one member appointed by the Minister responsible for agriculture;
- (b) one member appointed by the Minister responsible for health;
- (c) two members appointed by the Minister responsible for industry and commerce;
- (d) one member appointed by the Minister responsible for justice;
- (e) one member appointed by the Minister responsible for national security;
- (f) one member appointed by the Minister responsible for science and technology;
- (g) one member appointed by the Minister responsible for finance;
- (h) one member appointed by the Minister responsible for foreign affairs;
- (i) *ex officio*, the chairman of the National Council on Drug Abuse; and
- (j) the following members, appointed by the Minister responsible for justice—
 - (i) a representative of the Attorney-General's Department, with expertise in the area of international law;
 - (ii) a person representative of academia; and
 - (iii) four persons representative of civil society groups, and other non-governmental community-based and faith-based organizations.

2. The Minister shall select one of the members of the Authority to be the chairman of the Authority. Chairman.

Leave and temporary appointments.

3.—(1) The Minister may, on the application of any member of the Authority, grant to such member leave of absence for any period not exceeding six months.

(2) In the case of the absence or inability to act of any member of the Authority, the Minister may, after consultation with the Minister responsible for appointing the member concerned (in the case of an appointment made by a Minister other than the Minister responsible for industry and commerce), appoint any person to act temporarily in the place of such member.

(3) In the case of the chairman's absence or inability to act at any meeting, the remaining members of the Authority shall elect one of their number to preside at that meeting.

Tenure of office.

4.—(1) The appointment of each member of the Authority shall be evidenced by an instrument in writing, and such instrument shall state the period of office of the member, which period shall not exceed three years.

(2) Every member of the Authority shall be eligible for reappointment.

(3) Notwithstanding anything to the contrary, the Minister who appointed a particular member of the Authority may, at any time, revoke the appointment of that member.

Resignation.

5.—(1) Any member of the Authority other than the chairman may, at any time, resign as member by instrument in writing addressed to the Minister and transmitted through the chairman, and from the date of receipt by the Minister of such instrument such member shall cease to be a member of the Authority.

(2) The chairman may, at any time, resign his office by instrument in writing addressed to the Minister, and such resignation shall take effect as from the date of the receipt of such instrument by the Minister.

Publication of membership.

6. The names of all members of the Authority as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Authorization of documents and decisions.

7. All documents and all decisions of the Authority may be signified under the hand of the chairman or any member or officer of the Authority authorized to act in that behalf.

Procedure and meetings.

8.—(1) The Authority shall meet at such times as may be necessary or expedient for the transaction of business, and such

meetings shall be held at such times and on such days as the Authority shall determine.

(2) The chairman or, in the case of the inability to act of the chairman, the member acting as chairman, shall preside at all meetings of the Authority, and when so presiding the chairman or the member acting as chairman, as the case may be, shall have an original and a casting vote.

(3) The quorum of the Authority shall be six members of the Authority including the chairman or the member acting as chairman.

(4) Subject to the provisions of this Schedule, the Authority may regulate its own proceedings.

(5) The chairman may, at any time, call a special meeting of the Authority and shall call a special meeting to be held within seven days from the receipt of the written request for that purpose addressed to him by at least two members of the Authority.

(6) The validity of any proceedings of the Authority shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

9. There shall be paid to the chairman and other members of the Authority and to the members of any committee appointed under paragraph 10 such remuneration, if any (whether by way of salaries or travelling or other allowances), as the Minister may determine.

Remuneration
of members.

10.—(1) The Authority may appoint such committees, for any general or special purposes with which the Authority may be concerned, as in the opinion of the Authority would be better regulated and managed by means of a committee.

Appointment
of committees.

(2) The number of members of a committee appointed under sub-paragraph (1), their functions and terms of appointment, the quorum of the committee and the area, if any, within which the committee is to exercise authority shall be determined by the Authority with the approval of the Minister.

(3) A committee appointed pursuant to this paragraph may include persons who are not members of the Authority, so, however, that the appointment of any such person shall be subject to the approval of the Minister.

(4) The provisions of paragraphs 13 and 14 shall apply to a member of a committee who is not a member of the Authority in like manner as they apply to a member of the Authority.

(5) The validity of the proceedings of a committee appointed pursuant to this paragraph shall not be affected by any vacancy amongst the members thereof or by any defect in the appointment of a member thereof.

Power to appoint officers, other employees and agents.

11.—(1) Subject to sub-paragraph (2), it shall be lawful for the Authority to appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such officers, other employees, and agents, as the Authority considers necessary for the proper carrying out of its functions.

(2) No appointment to a post carrying a salary in excess of the rate of one million five hundred thousand dollars per annum shall be made without the prior approval of the Minister responsible for the public service.

(3) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any public officer in the service of Jamaica to any office with the Authority and any public officer so appointed shall, in relation to pension, gratuity allowance and to other rights as a public officer, be treated as continuing in the service of the Government.

Regulations governing conditions of service and pensions of employees.

12. The Authority may, with the approval of the Minister, make regulations determining generally the conditions of service of officers and other employees of the Authority and relating to the grant of pensions, gratuities and other benefits to or in respect of the service of such officers and other employees.

Protection of members of Authority.

13.—(1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Authority in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Authority is exempt from liability by reason only of the provisions of this paragraph the Authority shall be liable to the extent that it would be if the said member was an employee or agent of the Authority.

Protection for acts and proceedings.

14. No act done or proceedings taken under this Act shall be questioned on the ground of—

- (a) the existence of any vacancy in the membership of, or any defect in the constitution of, the Authority; or
- (b) any omission, defect or irregularity not affecting the merits of the case.

15. The office of chairman or member of the Authority shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

Office of chairman or member not a public office.

16.—(1) The Authority shall—

- (a) keep proper accounts and other records in relation to the business of the Authority;
- (b) prepare annually a statement of accounts in a form satisfactory to the Minister; and
- (c) submit the statement of accounts to the Auditor-General or an auditor appointed by the Authority with the approval of the Minister, to be audited.

Accounts, audit and estimates.

(2) The Authority shall, at least sixty days before the end of its financial year, submit to the Minister for approval, the Authority's estimates of revenue and expenditure in respect of the next ensuing financial year.

17.—(1) The Authority shall, within four months after the end of its financial year, cause to be made and transmitted to the Minister a report dealing generally with the activities of the Authority during that financial year, and containing such information relating to the proceedings and policy of the Authority as can be made public without detriment to the interest of the Authority.

Annual report.

(2) The Minister shall cause a copy of the report together with the annual statement of accounts and the auditor's report thereon and on the accounts to be laid on the Table of each House of Parliament.

18. The Minister may, after consultation with the chairman, give to the Authority directions as to the policy to be followed by the Authority in the performance of its functions.

Policy direction.

19. In this Schedule, unless otherwise indicated, "Minister" means the Minister responsible for industry and commerce.

Interpretation."

Amendment
of Schedule
to principal
Act and
references
thereto.

13.—(1) The Schedule to the principal Act is amended by renumbering it as the Third Schedule.

(2) The principal Act is amended by deleting all references to the “Schedule” wherever they appear and substituting therefor in each case the words “Third Schedule”.

Amendment
of penalties.
Schedule.

14. The penalties set out in the provisions of the principal Act specified in Column 1 of the Schedule to this Act, are amended in the manner indicated with respect thereto in Column 2 of the Schedule to this Act.

Amendments
to other
enactments.

15.—(1) The Constabulary Force Act is amended—

- (a) in section 18 by deleting the words “ganja (*Cannabis Sativa*)”;
- (b) in section 19 by deleting the word “ganja”.

(2) Section 40 of the Customs Act is amended in paragraph (xi) by inserting immediately after the words “the Dangerous Drugs Act” the words “, except in accordance with a licence, permit or other authorization (as the case may require) issued under that Act or in accordance with section 7A(4) of that Act”.

(3) Section 7(3) of the Drug Court (Treatment and Rehabilitation of Offenders) Act is amended—

- (a) by deleting paragraph (a) and substituting therefor the following—
 - “(a) possession of—
 - (i) not more than one ounce of prepared opium;
 - (ii) more than two ounces but less than eight ounces of ganja;
 - (iii) not more than one-tenth of an ounce of cocaine, heroin or morphine, as the case may be;”;

- (b) in paragraph (b) by deleting the words “or ganja, as the case may be”;
- (c) by deleting paragraph (c) and substituting therefor the following—

“ (c) smoking or otherwise using—

- (i) prepared opium; or
- (ii) ganja, in contravention of section 7E of that Act, where the person has contravened that section on two or more previous occasions.”.

(4) The Food and Drugs Regulations, 1975, are amended in the Fifth Schedule by inserting immediately after the word “Tetrahydrocannabinol” the words “, or Tetrahydrocannabinol”.

(5) The Criminal Records (Rehabilitation of Offenders) Act is amended in section 28A(1) by deleting paragraph (b).

SCHEDULE

(Section 14)

Column 1	Column 2
Penalty Provision	Amendment
1. Section 7A(1)(a)	1. Delete the words “five hundred dollars” and substitute therefor the words “one thousand and five hundred dollars”.
2. Section 7A(1)(b)(i)	2.—(1) Delete the words “three hundred dollars” and substitute therefor the words “nine hundred dollars”. (2) Delete the words “five hundred dollars” and substitute therefor the words “one thousand and five hundred dollars”. (3) Delete the words “five hundred thousand dollars” and substitute therefor the words “three million dollars”.
3. Section 7B(d)	3. Delete the words “two hundred dollars” and substitute therefor the words “five hundred dollars”.
4. Section 7B(e)(i)	4.—(1) Delete the words “one hundred dollars” and substitute therefor the words “two hundred and fifty dollars”. (2) Delete the words “two hundred dollars” and substitute therefor the words “five hundred dollars”. (3) Delete the words “five hundred thousand dollars” and substitute therefor the words “one million dollars”.

Column 1	Column 2
Penalty Provision	Amendment
5. Section 7C(b)(i)	5. Delete the words “one hundred dollars” and substitute therefor the words “two hundred and fifty dollars”.
6. Section 8A(2)(b)	6. Delete the words “five hundred thousand dollars” and substitute therefor the words “five million dollars”.
7. Section 8B(2)(b)	7. Delete the words “five hundred thousand dollars” and substitute therefor the words “two million dollars”.
8. Section 21A(1)(d)	8.—(1) Delete the words “fifty thousand dollars” and substitute therefor the words “two hundred thousand dollars”. (2) Delete the words “one hundred thousand dollars” and substitute therefor the words “five hundred thousand dollars”.
9. Section 22(2)(b)	9. Delete the words “five hundred thousand dollars” and substitute therefor the words “five million dollars”.
10. Section 22(3)(b)	10. Delete the words “five hundred thousand dollars” and substitute therefor the words “two million dollars”.
11. Section 22(4)(b)	11. Delete the words “five hundred thousand dollars” and substitute therefor the words “five million dollars”.

Column 1	Column 2
Penalty Provision	Amendment
12. Section 22(5)	12. Delete the words "fifteen thousand dollars" and substitute therefor the words "thirty thousand dollars".
13. Section 22(10)(b)	13. Delete the words "five hundred dollars" and substitute therefor the words "fifty thousand dollars".

Passed in the Senate this 6th day of February, 2015 with five (5) amendments.

FLOYD E. MORRIS
President.

Passed in the House of Representatives this 24th day of February 2015.

MICHAEL A. PEART
Speaker.

This printed impression has been carefully compared by me with the authenticated impression of the foregoing Act, and has been found by me to be a true and correct printed copy of the said Act.

(Sgd.) *H. E. COOKE*
Clerk to the Houses of Parliament.



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235

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No. 24

No. 52

THE DANGEROUS DRUGS (AMENDMENT) ACT
 (Act No. 5 of 2015)

THE DANGEROUS DRUGS (AMENDMENT) ACT, 2015 (APPOINTED DAY) NOTICE

In exercise of the power conferred upon the Minister by section 2 of the Dangerous Drugs (Amendment) Act, 2015, the following Notice is hereby given:—

1. This Notice may be cited as the Dangerous Drugs (Amendment) Act 2015 (Appointed Day) Notice.

2. The 15th day of April, 2015, is hereby appointed as the day on which the Dangerous Drugs (Amendment) Act, 2015, shall come into operation.

Dated this 15th day of April, 2015.

MARK GOLDING
 Minister of Justice.

FACT SHEET
PREPARED BY THE MINISTRY OF JUSTICE ON THE
DANGEROUS DRUGS (AMENDMENT) ACT 2015

OVERVIEW

1. This Fact Sheet sets out the main changes that have been made to the Dangerous Drugs Act (the “DDA”).
2. Recent amendments to the DDA made by the Dangerous Drugs (Amendment) Act 2015 will introduce several important changes to the way the DDA will operate in relation to ganja.
3. When the Dangerous Drugs (Amendment) Act 2015 comes into effect, new provisions will be in place regarding the possession and smoking of ganja, use of ganja by persons of the Rastafarian faith, and use of ganja for medical, therapeutic and scientific purposes.
4. The Dangerous Drugs (Amendment) Act 2015 came into operation on the 15th day of April, 2015.
5. Some aspects of the new law will not be operational until regulations, which are being developed, are put in place.

Possession of Ganja

6. Possession of 2 ounces or less of ganja is no longer an offence for which one can be arrested, charged and have to go to court, and it will not result in a criminal record.
7. However, the police may issue a ticket to a person in possession of 2 ounces or less of ganja¹, similar to a traffic ticket, and the person has 30 days to pay the sum of J\$500 at any Tax Office.
8. A person who is found in possession of 2 ounces or less and who is under the age of 18 years, or who is 18 years or older and appears to the police to be dependent on ganja, will also be referred to the National Council on Drug Abuse for counselling, in addition to having to pay the ticket.
9. It remains a criminal offence to be in possession of *over* 2 ounces of ganja, and offenders can be arrested, charged, tried in court and, if found guilty, sentenced to a fine or to imprisonment or both. The conviction will also be recorded on that person's criminal record.
10. The rules against possession of ganja summarized at 7, 8 and 9 above do not apply to any of the following:
 - Possession of ganja for religious purposes as a sacrament in adherence to the Rastafarian faith
 - Possession of ganja for medical or therapeutic purposes as recommended or prescribed by a registered medical doctor or other health practitioner or class of practitioners approved by the Minister of Health
 - Possession of ganja for purposes of scientific research that is conducted by an accredited tertiary institution or is approved by the Scientific Research Council

¹ The ticket is called a "fixed penalty notice" in the DDA.

- Possession of ganja pursuant to a licence, authorization or permit issued under the DDA.

Smoking of Ganja

11. Smoking of ganja in a public place or within five metres of a public place is prohibited in a manner similar to cigarettes.
12. A person who smokes in public cannot be arrested or detained. However, the police may issue a ticket to that person, who will have 30 days to pay \$500 at any Tax Office.
13. For the purposes of these smoking rules, a public place includes a workplace, and any place which is for the use of, or accessible to, the public, such as sidewalks, bus stops, restaurants, offices, educational institutions, pharmacies, hospitals, areas used by children, supermarkets and parks.
14. Smoking of ganja at privately-occupied residences that are not used for commercial purposes is not an offence, but is governed by the rules on possession of ganja referred to above.
15. Furthermore, smoking of ganja will be legally permitted in places that are licensed for the smoking of ganja for medical or therapeutic purposes. Adherents of the Rastafarian faith will also be permitted to smoke ganja for sacramental purposes in locations registered as places of Rastafarian worship.

Failure to pay a ticket

16. It is an offence to fail to pay a ticket that has been issued for smoking ganja in public or for possession of 2 ounces or less of ganja. The offender will be required to attend the Petty Sessions Court, and may be ordered to do community service, or in the rare case where community service cannot be arranged, pay a fine of \$2,000. A conviction for failing to pay a ticket will also be recorded on the offender's criminal record.

Importation of ganja for terminal or serious chronic illness

17. A person who is suffering from cancer or any other terminal or serious chronic illness may import medicine or a therapeutic product derived from or containing ganja. In order to do so, a registered medical practitioner must certify that the person is suffering from the illness, and must recommend the person's use of the medicine or therapeutic product. The importation of the medicine or therapeutic product must comply with regulations which are to be made.

18. In furtherance of scientific research, an accredited tertiary institution or other body approved by the Scientific Research Council may apply for authorization to import ganja (including any part of the plant) from any jurisdiction where the export of it to Jamaica is lawful. The importation of ganja for research purposes must comply with regulations which are to be made.

19. An authorization to import ganja for research purposes also protects any third party who is engaged by the scientific institution or body for this purpose.

Cultivation of ganja by householders

20. Each household is allowed to legally grow no more than five ganja plants on their premises. If there is more than one household on any premises, each household may grow five ganja plants.

Cultivation for scientific research

21. An accredited tertiary institution or other body approved by the Scientific Research Council may apply for authorization to cultivate ganja in furtherance of scientific research, on lands approved for that cultivation.

22. An authorization to cultivate ganja for research purposes also protects any third party who is engaged by the scientific institution or body for this purpose.

23. Ganja which is cultivated, processed, used and otherwise handled in accordance with this type of authorization is not subject to the rules against ganja under the DDA.

Cultivation for Rastafarian sacramental purposes

24. Persons 18 years or older who are adherents to the Rastafarian faith, or Rastafarian organizations, may apply for authorization to cultivate ganja for religious purposes as a sacrament in adherence to the Rastafarian faith.

25. Ganja that is cultivated under such authorization may not be smoked in public places other than at locations registered as places of Rastafarian worship, or sold or otherwise dealt with commercially, or exported from Jamaica, but is otherwise not subject to the rules against ganja under the DDA.

Events to celebrate/observe the Rastafarian faith

26. Persons who are adherents of the Rastafarian faith, or Rastafarian organizations, may apply for an event promoted or sponsored by them to be declared an exempt event. In order to apply, the event must be primarily for the purpose of the celebration or observance of the Rastafarian faith.

27. Where an event is declared exempt, persons who attend the event will not be liable to be arrested, detained or prosecuted for smoking ganja or possession of ganja at the event, or transporting ganja to the event, as long as they have complied with the amounts and conditions specified in the order declaring it an exempt event.

Visitors to Jamaica who are users of medical marijuana

28. Persons who do not ordinarily reside in Jamaica (for example, tourists or visiting Jamaicans who live overseas) may apply for a permit to allow them to lawfully purchase and possess up to 2 ounces of ganja at a time, for medical or therapeutic purposes.

29. To obtain this permit, visitors will need to produce evidence that their use of ganja has been recommended or prescribed by a licensed medical practitioner in the country where they live. Alternatively, they can sign a voluntary declaration to confirm this. The permit is issued by Jamaica's Ministry of Health, and a fee is payable.

Hemp

30. Hemp is defined in the DDA as a ganja plant having a THC content of less than 1%.² Hemp is used to make a wide variety of products from cloth, paper and rope to medicines, beverages and cosmetics. Hemp is excluded from the provisions in the DDA that apply to ganja. However, the cultivation, processing, sale, import, export and other handling of hemp will be regulated by a licensing regime administered by the Cannabis Licensing Authority.

The Cannabis Licensing Authority

31. A Cannabis Licensing Authority is created by the DDA for the purpose of enabling a lawful, regulated industry in ganja for medical, therapeutic or scientific purposes, and in hemp, to be established in Jamaica.

32. The Cannabis Licensing Authority will be responsible for issuing licences, permits and authorizations for the handling of hemp and ganja, and for monitoring and otherwise regulating persons who have been issued licences, permits and authorizations. It is specifically mandated to ensure that regulations do not contravene Jamaica's international obligations.

33. The Cannabis Licensing Authority is comprised of representatives from several Ministries which are engaged with issues relating to ganja, the Attorney General's Department, the National Council on Drug Abuse, a representative from academia, and representatives from civil society groups and other non-governmental community-based and faith-based organizations.

² THC (or tetrahydrocannabinol) is the psychoactive ingredient of ganja

Use of revenues from Ganja

34. The DDA provides that the Minister of Finance shall direct that a percentage of the revenues earned from issuing licences, permits and authorizations relating to ganja and hemp be used for:

- Strengthening the capacity and programmes of the National Council on Drug Abuse, including public education programmes to discourage the use of ganja by persons under 18 years, persons with a mental disorder, pregnant women and other vulnerable groups
- Strengthening Jamaica's mental health institutions and services
- Funding scientific and medical research into ganja and hemp
- Supporting the regulatory arrangements of the Cannabis Licensing Authority.

Increased penalties

35. The fines in the DDA have also been significantly increased for export, cultivation, possession, selling and trafficking of illegal drugs.

This table sets out who may apply, where to apply and the purposes for which licenses, permits or other authorisations may be granted under the DDA.

Who may apply	Where to apply	Purpose
<ul style="list-style-type: none"> • A duly accredited tertiary institution. • A body approved by the Scientific Research Council. • Third parties engaged by these bodies to cultivate or import the ganja plant or any part of the plant. 	Ministry of Science, Technology, Energy and Mining	<ul style="list-style-type: none"> • Cultivate ganja in furtherance of scientific research being conducted by the institution. • Import the ganja plant or part of the plant in furtherance of scientific research being conducted by the institution.
<ul style="list-style-type: none"> • A person, 18 years or older, who is an adherent to the Rastafarian faith. • Any organization that is comprised of persons who are adherent to the Rastafarian faith. 	Ministry of Justice	<ul style="list-style-type: none"> • Cultivate ganja for religious purposes as a sacrament in adherence to the Rastafarian faith. • Sponsor or promote an event which is primarily for the purpose of celebration or observance of the Rastafarian faith.
<ul style="list-style-type: none"> • Any person or organization meeting the criteria set by the Cannabis Licensing Authority 	Cannabis Licensing Authority	<ul style="list-style-type: none"> • Use, cultivation, processing, importation, exportation, transit, manufacture, sale, possession and distribution of – (a) ganja for medical, therapeutic or scientific purposes (including research, clinical trials, therapy and treatment and the manufacture of nutraceuticals and pharmaceuticals), and (b) hemp.