

CAYMAN ISLANDS



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**A BILL FOR A LAW TO AMEND THE MISUSE OF DRUGS LAW (2000  
REVISION) TO VARY THE MODE OF TRIAL OF CERTAIN  
OFFENCES UNDER THE LAW; TO EFFECT MINOR  
CONSEQUENTIAL CHANGES TO THE LAW; AND TO MAKE  
PROVISION FOR RELATED MATTERS**



**THE MISUSE OF DRUGS (AMENDMENT) BILL, 2009**

**MEMORANDUM OF OBJECTS AND REASONS**

This Bill amends the Misuse of Drugs Law (2000 Revision)

Section 202(b) of the Proceeds of Crime Law, 2008 repealed sections 31 to 42 and 46 to 48 of the Misuse of Drugs Law. As a consequence of that repeal, clauses 2 and 3 of the Bill delete from the Misuse of Drugs Law remaining references to the repealed sections, substituting references to equivalent provisions of the Proceeds of Crime Law, 2008.

Clauses 4 and 5 of the Bill amend the Misuse of Drugs Law to vary the mode of trial of certain offences under the Law (for example, offences of selling, dealing, supplying or distributing a controlled drug that is a hard drug). Penalties have also been increased.

Clause 6 contains savings and transitional provisions.

**THE MISUSE OF DRUGS (AMENDMENT) BILL, 2009**

**ARRANGEMENT OF CLAUSES**

1. Short title
2. Amendment of section 2 of the Misuse of Drugs Law (2000 Revision) - definitions and interpretation
3. Amendment of section 43 - compensation
4. Repeal and substitution of section 60 - procedure in respect of certain offences
5. Amendment of Second Schedule - sentences relating to offences contrary to section 3(1) which relate to a controlled drug that is a hard drug
6. Savings and transitional provisions

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**A BILL FOR A LAW TO AMEND THE MISUSE OF DRUGS LAW (2000 REVISION) TO VARY THE MODE OF TRIAL OF CERTAIN OFFENCES UNDER THE LAW; AND TO MAKE PROVISION FOR RELATED MATTERS**

ENACTED by the Legislature of the Cayman Islands.

1. This Law may be cited as the Misuse of Drugs (Amendment) Law, 2009. Short title
  
2. The Misuse of Drugs Law (2000 Revision), in this Law referred to as the “principal Law”, is amended in section 2(1), in paragraph (b) of the definition of the term “realisable property”, by deleting the words “a gift caught by this Law, as defined in section 46(1)” and substituting the words “a gift that is tainted within the meaning of section 70 of the Proceeds of Crime Law, 2008”. Amendment of section 2 of the Misuse of Drugs Law (2000 Revision) - definitions and interpretation
  
3. The principal Law is amended in section 43(2)(b) by deleting the words “under section 39 or 40” and substituting the words “under section 52 of the Proceeds of Crime Law, 2008 or any other provision of that Law empowering a court to restrict the use of property”. Amendment of section 43 - compensation
  
4. The principal Law is amended by repealing section 60 and substituting the following section - Repeal and substitution of section 60 - procedure in respect of certain offences
  - “Procedure in respect of certain offences
  60. (1) Notwithstanding any other section of this Law or any other Law -

- (a) where a person is charged with -
  - (i) importing;
  - (ii) exporting;
  - (iii) producing;
  - (iv) storing;
  - (v) dispensing;
  - (vi) issuing a prescription;
  - (vii) administering; or
  - (viii) attempting, assisting or being concerned in any matter specified in subparagraphs (i) to (vii),

contrary to section 3(1) which relates to a controlled drug that is a hard drug, then such offence shall be deemed, for the purpose of determining the mode of trial, a category B offence in accordance with section 5 of the Criminal Procedure Code (2006 Revision); and

(2006 Revision)

- (b) where a person is charged with -
  - (i) selling;
  - (ii) buying;
  - (iii) dealing;
  - (iv) supplying;
  - (v) distributing;
  - (vi) possessing;
  - (vii) consuming;
  - (viii) possessing with intent to supply; or
  - (ix) attempting, assisting or being concerned in any matter specified in subparagraphs (i) to (viii),

contrary to section 3(1) which relates to a controlled drug that is a hard drug, then such offence shall be deemed, for the purpose of determining the mode of trial, a category C offence in accordance with section 5 of the Criminal Procedure Code (2006 Revision).

(2) Notwithstanding any other section of this Law or sections 6(2) and 8 of the Criminal Procedure Code (2006 Revision) or any provision of any other Law, where a person is convicted of an offence on trial upon indictment pursuant

to subsection (1)(a), the Grand Court may impose a term of imprisonment and a fine in accordance with section 16(4) or Part B of the Second Schedule.”.

5. The principal Law is amended in the Second Schedule to the Misuse of Drugs Law (2000 Revision) by deleting Part B and substituting the following Part -

Amendment of Second Schedule - sentences relating to offences contrary to section 3(1) which relate to a controlled drug that is a hard drug

**“PART B**

(Sections 16 and 60)

SENTENCES RELATING TO OFFENCES CONTRARY TO SECTION 3(1) WHICH RELATE TO A CONTROLLED DRUG THAT IS A HARD DRUG

OFFENCE	AMOUNT OF HARD DRUG	PENALTY		
		First conviction before a Court of Summary Jurisdiction	Second or subsequent conviction before a Court of Summary Jurisdiction	Conviction before the Grand Court
		Maximum	Maximum	Maximum
Buying Consuming Possessing Assisting or being concerned in Attempting	2 ounces or more	15 years + a fine without limit as to amount	20 years + a fine without limit as to amount	25 years + a fine without limit as to amount
Selling Dealing in Distributing Supplying Dispensing Storing Issuing a prescription for Administering	less than 2 ounces	15 years + a fine without limit as to amount	20 years + a fine without limit as to amount	25 years + a fine without limit as to amount

Possessing with intent to supply Importing Exporting Producing Assisting or being concerned in Attempting				
Selling Dealing in Distributing Supplying Dispensing Storing Issuing a prescription for Administering Possessing with intent to supply Importing Exporting Producing Assisting or being concerned in Attempting	2 ounces or more	20 years + a fine without limit as to amount	30 years + a fine without limit as to amount	35 years + a fine without limit as to amount

Savings and transitional provisions

6. (1) Where -

- (a) prior to the date of commencement of this Law, a person accused of an offence is convicted following a trial or a plea of guilty to the offence (irrespective of when the offence was committed); and
- (b) at the date of commencement of this Law, no judgment or sentence has been passed upon him in respect of the offence,

the accused person shall, for the purpose of the judgment or sentence, be dealt with in all respects as if the new Law had not come into force.



(2) Subject to subsections (1) and (3), where, at the date of commencement of this Law, any trial or any proceedings in respect of an offence are pending before a court, the trial or proceedings shall, after that date, be dealt with in all respects under the new Law (irrespective of when the offence was committed) and the provisions of the new Law are to apply accordingly.

(3) Where, on or after the date of commencement of this Law, a person accused of an offence is convicted following a trial or a plea of guilty to the offence, the accused person shall, for the purpose of judgment or sentence in respect of the offence -

- (a) if the offence was committed before that date, be dealt with in all respects as if the new Law had not come into force; and
- (b) if the offence is committed on or after that date, be dealt with in all respects under the new Law and the provisions of the new Law are to apply accordingly.

(4) In this section -

“new Law” means the principal Law as amended by this Law.

Passed by the Legislative Assembly the            day of            , 2009.

Speaker.

Clerk of the Legislative Assembly.