

DANGEROUS DRUGS ORDINANCE 1968.

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HONG KONG

No. 41 OF 1968.



I assent.

M. D. IRVING GASS,
Acting Governor.

7th November, 1968.

An Ordinance to repeal and replace the Dangerous Drugs Ordinance.

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Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

PART I.

SHORT TITLE AND INTERPRETATION.

1. This Ordinance may be cited as the Dangerous Drugs Ordinance 1968, and shall come into operation on a day to be appointed by the Governor by notice in the *Gazette*. Short title and commencement.

2. (1) In this Ordinance, unless the context otherwise requires— Interpretation.

“approved” means approved by the Director for the purposes of this Ordinance;

“authorized seller of poisons” means an authorized seller of poisons within the meaning of the Pharmacy and Poisons Ordinance; (Cap. 138.)

“cannabis” (except where used in the definition of “cannabis resin”) means the flowering or fruiting tops of any plant of the genus cannabis from which the resin has not been extracted, by whatever name they may be designated; 1965, c. 15, s. 24(1).

“cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus cannabis; 1965, c. 15, s. 24(1).

“charge” means a complaint, information, charge or indictment;

“Chief Pharmacist” means the person so appointed by the Governor and such other person as the Director may appoint

in writing to carry out the duties of the Chief Pharmacist under this Ordinance;

“coca leaves” means the leaves of any plant of the genus of the *erythroxylaceae* from which cocaine can be extracted, either directly or by chemical transformation;

“Conventions” means the International Opium Convention signed at the Hague on the 23rd day of January 1912, the similar Convention signed at Geneva on the 19th day of February 1925, the International Convention for Limiting the Manufacture and Regulating the Distribution of Narcotic Drugs signed at Geneva on the 13th day of July 1931, the Protocol on Narcotic Drugs signed at Lake Success, New York, on the 11th day of December 1946, the Single Convention on Narcotic Drugs signed at New York on the 30th day of March 1961, and any convention or final protocol amending, supplementing or in substitution for the same;

“corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of any country outside Hong Kong to be a law providing for the control and regulation in that place of the manufacture, sale, use, export or import of dangerous drugs in accordance with the Conventions;

“dangerous drug” means any of the drugs or substances specified in Part I of the First Schedule;

First Schedule.

“Director” means the Director of Medical and Health Services, a deputy director of medical and health services or an assistant director of medical and health services;

“divan” means any place or premises opened, kept or used, whether on one occasion or more than one occasion, for the smoking, inhalation, ingestion or injection of a dangerous drug;

“diversion certificate” means a certificate issued by a competent authority in a country outside Hong Kong through which a dangerous drug passes in transit—

- (a) authorizing the diversion of such drug to a country other than that specified in the export authorization relating to that drug as the country to which it was to be exported;
- (b) containing full particulars of such drug and the quantity authorized to be diverted and of the names and addresses of the person by whom the drug is to be diverted and the person to whom it is to be sent; and

- (c) specifying the country from which the drug was originally exported;

“ecgonine” means laevo-ecgonine and any derivatives of ecgonine from which it may be recovered industrially;

“export” means to take or cause to be taken out of Hong Kong or any other country, as the case may be, by land, air or water;

“export authorization” means an authorization issued by a competent authority in the country outside Hong Kong from which a dangerous drug is to be exported—

- (a) containing full particulars of such drug and the quantity authorized to be exported and of the names and addresses of the person by whom the drug is to be exported and the person to whom it is to be sent; and

- (b) specifying the country to which, and the period within which, it is to be exported;

“Government Chemist” means the person so appointed by the Governor and also means such other person as the Director may appoint in writing to carry out the duties of the Government Chemist under this Ordinance;

“import” means to bring or cause to be brought into Hong Kong or any other country, as the case may be, by land, air or water;

“inject” or “injection” means injection into any person by a hypodermic syringe or any other method;

“in transit” means imported into Hong Kong for the sole purpose of being exported from Hong Kong to another country;

“manufacture”, in relation to a dangerous drug, includes carrying on any process in the manufacture of the dangerous drug;

“matron” includes any person performing the duties of a matron and any person, whatever the title of the office which he holds, performing duties of the kind performed by a matron;

“medicinal opium” means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether or not it is mixed with neutral substances;

“opium” includes raw opium, prepared opium, opium dross and every substance (other than medicinal opium) containing any proportion of raw opium, prepared opium or opium dross;

“opium dross” means any residue remaining after opium has been smoked;

“opium poppy” means a plant of the species *Papaver somniferum* L or the species *Papaver setigerum* D.C. and any plant from which morphine may be produced;

“owner” includes any person holding premises direct from the Crown, whether under lease, licence or otherwise, any mortgagee in possession and any person receiving the rent of any premises, solely or with another and on his own behalf or that of any person, or who would receive the same if such premises were let to a tenant, and, where such owner as above defined cannot be found or ascertained or is absent from Hong Kong or is under disability, also includes the agent of such owner;

“place” means any ship, aircraft, vehicle, building, structure or enclosure, whether movable or not, and any spot on land or water;

1965, c. 15, s. 24(1).

“poppy straw” means all parts, except the seeds, of the opium poppy after mowing;

First Schedule.

“preparation” means a preparation, admixture, extract or other substance containing any proportion of a dangerous drug specified in any of paragraphs 1 to 7 of Part I of the First Schedule;

“prepared opium” includes any preparation of opium, and any substance of which opium forms an ingredient, which is used or intended to be used, or is capable of being used, for smoking, inhaling, ingestion or injection;

Second Schedule.

“prescribed hospital” means a hospital maintained by the Crown and a hospital or institution specified in the Second Schedule;

S.I. 1964/1811,
reg. 32(1).

“prescription” means a prescription for a single individual given by a registered medical practitioner for the purposes of medical treatment, by a registered dentist for the purposes of dental treatment or by an approved veterinary surgeon for the purposes of animal treatment;

“raw opium” means any kind of opium not prepared for smoking, inhaling, ingestion or injection and also means the leaves or wrappings in which raw opium has been wrapped, but does not include opium dross;

(Cap. 156.)

“registered dentist” means a dentist registered under the Dentists Registration Ordinance by reason of his holding the qualifications specified in paragraph (a) or (b) of section 8 of that Ordinance;

"ship" includes every description of vessel used in navigation or for the carriage or storage of goods on water;

"sister" includes any person performing the duties of a nursing sister and any person, whatever the title of the office which he holds, performing duties of the kind performed by a nursing sister;

"trafficking", in relation to a dangerous drug, includes importing into Hong Kong, exporting from Hong Kong, procuring, supplying, or otherwise dealing in or with the dangerous drug, and "traffic in a dangerous drug" shall be construed accordingly;

"unlawful" or "unlawfully", in relation to trafficking in or manufacturing a dangerous drug, means otherwise than under and in accordance with this Ordinance or a licence issued thereunder;

"wholesale dealer" means a person who carries on the business of selling dangerous drugs to persons who buy to sell again, and "wholesale dealing" shall be construed accordingly.

S.I. 1964/1811.
reg. 32(1).

(2) For the purposes of this Ordinance, a person shall be deemed to be in possession of a dangerous drug or a pipe, equipment or apparatus, as the case may be, if it is in his actual custody or is held by some other person subject to his control or for him and on his behalf.

S.I. 1964/1811.
reg. 20.

3. (1) For the purposes of the First Schedule—

(a) in the case of liquid preparations, percentages shall be calculated on the basis that a preparation containing one *per cent* of any substance means a preparation in which one gramme of the substance if a solid, or one millilitre of the substance if a liquid, is contained in every one hundred millilitres of the preparation, and so in proportion for any greater or less percentage; and

(b) in the case of salts, percentages shall be calculated as in respect of the anhydrous base.

Calculation of percentages for purposes of First Schedule, and extended meaning of "substance".

(2) The specification in paragraph 1 of Part I of the First Schedule of a substance shall, if the existence of isomers of that substance is possible within the specific chemical designation thereof, be taken to comprehend the specification of any isomer of that substance whose existence is possible as aforesaid; and any other reference in the First Schedule to a substance specified in paragraph 1 of Part I thereof shall be construed accordingly.

1965, c. 15, s. 24(2).

PART II.

CONTROL OF IMPORT, EXPORT, PROCURING, SUPPLY,
DEALING IN OR WITH, MANUFACTURE AND
POSSESSION OF DANGEROUS DRUGS.

Trafficking
in dangerous
drug.

4. (1) Save under and in accordance with this Ordinance or a licence granted by the Director hereunder, no person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong—

- (a) traffic in a dangerous drug;
- (b) offer to traffic in a dangerous drug; or
- (c) do or offer to do an act preparatory to or for the purpose of trafficking in a dangerous drug.

(2) Subsection (1) shall apply whether or not the dangerous drug is in Hong Kong or is to be imported into Hong Kong or is ascertained, appropriated or in existence.

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for life; and
- (b) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for three years.

(4) This section does not apply to the import or export of a preparation specified in Part II of the First Schedule or of a dangerous drug which is in transit.

First Schedule.

Dangerous
drug not to be
supplied except
to person
authorized or
licensed to be
in possession
thereof.
S.I. 1964/1811,
reg. 8.

5. (1) No person shall supply or procure, or offer to supply or procure, a dangerous drug to or for any person in Hong Kong unless—

- (a) the latter person is authorized by or licensed under this Ordinance to be in possession of that dangerous drug;
- (b) the dangerous drug is to be supplied or procured in accordance with this Ordinance; and
- (c) in the case of a person licensed under this Ordinance to be in possession of the dangerous drug, the dangerous drug is to be supplied or procured in accordance with the conditions of his licence.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for fifteen years; and

(b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for three years.

(3) For the purposes of this section, the administration of a dangerous drug—

(a) by or under the direct personal supervision of, and in the presence of, a registered medical practitioner;

(b) by or under the direct personal supervision of, and in the presence of, a registered dentist in the course of dental treatment; or

(c) by a sister for the time being in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown acting on the instructions of a registered medical practitioner, to a patient of that ward, theatre, department, health centre or clinic,

shall be deemed not to be the supplying of the dangerous drug.

6. (1) Save under and in accordance with this Ordinance or under and in accordance with a licence granted by the Director thereunder and on the premises specified in such licence, no person shall manufacture a dangerous drug.

Manufacture of dangerous drug.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for life.

7. (1) No person shall have a dangerous drug in his possession for the purpose of unlawful trafficking therein, whether by him or some other person.

Possession of dangerous drug for purpose of unlawful trafficking therein.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable—

(a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for life; and

(b) on summary conviction, to a fine of fifty thousand dollars and to imprisonment for three years.

8. (1) Save under and in accordance with this Ordinance or a licence granted by the Director thereunder, no person shall—

(a) have in his possession; or

(b) smoke, inhale, ingest or inject,

a dangerous drug.

Possession of dangerous drug otherwise than for trafficking, and consumption of dangerous drug.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction on indictment or on summary conviction to a fine of ten thousand dollars and to imprisonment for three years.

Cultivation of
and dealing
in cannabis
plant and
opium poppy.

9. (1) No person shall cultivate any plant of the genus cannabis or the opium poppy.

(2) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Hong Kong—

- (a) supply or procure or offer to supply or procure;
- (b) in any way deal in or with or offer or purport to deal in or with; or
- (c) import into or export from Hong Kong or do an act preparatory to or for the purpose of such importing or exporting,

any plant of the genus cannabis or the opium poppy, whether or not the same is in Hong Kong or is ascertained or appropriated or in existence.

(3) No person shall have in his possession any plant of the genus cannabis or the opium poppy unless the same is in transit.

(4) Section 14 shall apply to any plant of the genus cannabis and the opium poppy when the same is in transit as it applies to a dangerous drug which is in transit.

(5) Any person who contravenes any of the provisions of this section shall be guilty of an offence and shall be liable on conviction on indictment to a fine of one hundred thousand dollars and to imprisonment for fifteen years.

PART III.

ISSUE OF LICENCES AND CERTIFICATES, REQUIREMENTS IN CONNEXION WITH LAWFUL IMPORT AND EXPORT OF DANGEROUS DRUGS, AND DANGEROUS DRUGS IN TRANSIT.

Licence to
import
dangerous drug.

10. (1) The Director may issue an import licence authorizing the person named therein to import into Hong Kong, within the period specified therein, such quantity of a dangerous drug as may be specified therein.

(2) When an import licence is issued to any person under subsection (1), the Director shall also issue to that person an import certificate, and where such person intends to import the

dangerous drug in more than one consignment the Director shall issue to him a separate import certificate in respect of each consignment.

11. (1) The person to whom an import certificate is issued under subsection (2) of section 10 shall send the same to the person from whom the dangerous drug to which it relates is to be obtained.

Requirements to be complied with in relation to import of dangerous drug.

(2) A dangerous drug which is imported into Hong Kong from a country which is a party to the Conventions shall be accompanied by a valid export authorization or diversion certificate.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months.

(4) In the event of a contravention of subsection (2), the person by whom the dangerous drug is imported into Hong Kong shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months, unless he shows that he had taken all practicable steps to ensure that the said subsection was complied with.

12. (1) Subject to subsection (2), the Director may issue an export licence authorizing the person named therein to export from Hong Kong to the country specified therein, within the period specified therein, such quantity of a dangerous drug as may be specified therein.

Licence to export dangerous drug.

(2) Save where the dangerous drug is to be exported to a country which is not a party to the Conventions, an export licence shall not be issued under subsection (1) except on production of an import certificate issued by a competent authority in the country to which the drug is to be exported, and then only to the person named in such certificate and in respect of the dangerous drug specified therein.

(3) When an export licence is issued to any person under subsection (1), the Director shall also issue to that person a copy of the licence.

13. (1) The person to whom an export licence is issued under subsection (1) of section 12 shall send the copy of the licence issued to him pursuant to subsection (2) of that section with the dangerous drug to which the licence relates when the same is exported from Hong Kong.

Requirements to be complied with on export of dangerous drug.

(2) A person who intends to export from Hong Kong a dangerous drug in respect of which an export licence has been issued under subsection (1) of section 12 shall—

- (a) if so required, produce to the Director the dangerous drug and the export licence; and
- (b) produce such other evidence as the Director may require to satisfy him that the dangerous drug is being lawfully exported to the place and person specified in the export licence.

(3) Any person who contravenes subsection (1) or (2) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months.

Dangerous drug
in transit.

14. (1) If a dangerous drug which is in transit—

- (a) is not in course of transit from a country from which it may lawfully be exported to another country into which it may lawfully be imported; or
- (b) was exported from a country which is a party to the Conventions and was not accompanied by a valid export authorization or diversion certificate, as the case may be,

the person by whom the dangerous drug was imported shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for three years, unless, in the case of a contravention of paragraph (b), he shows that he had taken all practicable steps to ensure that the said paragraph was complied with.

(2) Save under and in accordance with a removal licence issued by the Director under section 15, no person shall—

- (a) remove a dangerous drug which is in transit from the ship, aircraft, vehicle or train in which it was imported into Hong Kong; or
- (b) in any way move a dangerous drug in Hong Kong after its removal from the ship, aircraft, vehicle or train in which it was imported into Hong Kong.

(3) No person shall—

- (a) cause a dangerous drug which is in transit to be subjected to any process which alters its nature; or
- (b) wilfully open or break any package or other thing containing a dangerous drug which is in transit,

except on the instructions of the Director and in such manner as he may direct.

(4) Save under and in accordance with a diversion licence issued by the Director under subsection (1) of section 16, no person shall cause a dangerous drug which is in transit to be diverted to any destination other than—

- (a) the country specified in the export authorization or diversion certificate accompanying the dangerous drug when it was imported into Hong Kong; or
- (b) the country to which the dangerous drug was originally to be exported.

(5) Any person who contravenes subsection (2), (3) or (4) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for ten years; and
- (b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for three years.

(6) Subsection (1) or paragraph (b) of subsection (3) shall not apply to—

- (a) a dangerous drug which is in transit by post; or
- (b) a dangerous drug forming part of the medical stores of a ship or aircraft, if the quantity thereof does not exceed the quantity reasonably required for the purpose of such stores.

(7) Subsection (2) shall not apply to a dangerous drug which is in transit by post.

15. (1) Subject to subsection (2), the Director may issue a removal licence authorizing the person named therein to remove the dangerous drug in transit specified therein in such manner and at such time as may be specified therein.

Licence to remove dangerous drug in transit.

(2) Except where a dangerous drug which is in transit was exported from a country which is not a party to the Conventions, a removal licence shall not be issued in respect of a dangerous drug unless a valid export authorization or diversion certificate relating to that drug is produced to the Director.

16. (1) Subject to subsection (2), the Director may issue a diversion licence authorizing the person named therein to divert the dangerous drug in transit specified therein to such country as may be specified therein.

Licence to divert dangerous drug in transit.

(2) The Director shall not issue a diversion licence under subsection (1) except—

- (a) on production to him of a valid import certificate issued by a competent authority in the country to which the dangerous drug in transit is to be diverted; or

(b) if that country is not a party to the Conventions, on production to him of evidence which satisfies him that the dangerous drug in transit is to be consigned to the country to which it is to be diverted in a lawful manner and for a lawful purpose.

(3) On the issue of a diversion licence under subsection (1), the export authorization or diversion certificate (if any) accompanying the dangerous drug when it was imported into Hong Kong shall be detained by the Director and returned to the authority by which it was issued, together with a notice of the name of the country to which the dangerous drug has been diverted.

(4) When a diversion licence is issued to any person under subsection (1), the Director shall also issue to that person a copy of the licence.

Requirement to be complied with where diversion licence issued.

17. (1) The person to whom a diversion licence is issued under subsection (1) of section 16 shall send the copy of the licence issued to him pursuant to subsection (4) of that section with the dangerous drug to which the licence relates when the same is exported from Hong Kong.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars and to imprisonment for six months.

General power of Director to issue licences.

18. In addition to the licences and certificates which the Director is empowered to issue under any other provision in this Part, the Director may issue any licence required for the purposes of this Ordinance.

Issue of licence, etc. to be in discretion of Director and power to impose conditions.

19. (1) Save as otherwise provided, the issue of a licence or certificate under this Ordinance shall be in the discretion of the Director.

(2) On the issue of a licence or certificate under this Ordinance, the Director may impose such conditions as he thinks fit.

(3) Any person who contravenes a condition to which a licence or certificate issued by the Director under this Ordinance is subject shall be guilty of an offence and shall be liable on conviction to a fine of fifty thousand dollars and to imprisonment for three years.

Cancellation of licences, etc.

20. (1) The Director may at any time cancel a licence or certificate issued under this Ordinance.

(2) Any person aggrieved by the cancellation under subsection (1) of a licence or certificate may, within fourteen days after the delivery to him of notice of the cancellation, appeal by way of petition to the Governor.

(3) On an appeal under subsection (2), the Governor may confirm, vary or reverse the decision or substitute therefor such other decision or make such other order as he thinks fit.

21. A licence or certificate under this Ordinance shall be in such form as the Director may determine.

Form of licence and certificate.

PART IV.

STATUTORY AUTHORITY TO PROCURE, SUPPLY AND POSSESS DANGEROUS DRUGS.

22. (1) Subject to the provisions of this Ordinance—

- (a) a registered medical practitioner;
- (b) a registered dentist;
- (c) an approved veterinary surgeon;
- (d) the Chief Pharmacist;
- (e) a person—
 - (i) who is a registered pharmacist or an approved person;
 - (ii) who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown; and
 - (iii) whose duties in that employment or engagement include the dispensing or supply of medicines for that, or any other such, hospital, health centre or clinic;
- (f) a sister for the time being in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown;
- (g) a person in charge of a laboratory used for the purposes of research or instruction and attached to a university or to an approved hospital or institution,

Statutory authority for certain persons to possess, supply or manufacture dangerous drugs.

S.I. 1964/1811, reg. 10(1) and (3).

is hereby authorized, so far as may be necessary for the practice or exercise of his profession, function or employment, and in his capacity as such, to be in possession of and to supply a dangerous drug.

(2) Subject to the provisions of this Ordinance, the matron of a prescribed hospital is hereby authorized, so far as may be necessary for the purposes of the hospital, and in her capacity as matron thereof, to be in possession of and to supply a dangerous drug.

(3) The Government Chemist is hereby authorized, so far as may be necessary for the exercise of his employment, and in his capacity as such, to be in possession of a dangerous drug.

(4) A registered medical practitioner is hereby authorized, so far as may be necessary for the practice of his profession, to manufacture any preparation and to be in possession of and procure any dangerous drug required for the manufacture of such preparation.

(5) Any registered pharmacist or approved person who is employed or engaged at a prescribed hospital is hereby authorized—

- (a) to manufacture any preparation required for the purposes of the hospital; and
- (b) to be in possession of and to procure any dangerous drug so far as it may be necessary for such manufacture:

Provided that an approved person shall be so authorized only if he is acting on the directions of the medical officer in charge of the hospital.

(6) In this section, and in section 24, “dangerous drug” does not include the drugs specified in any of paragraphs 9 to 12 of Part I of the First Schedule.

First Schedule.

Restrictions
on authority
conferred by
section 22, etc.
[cf. S.I. 1964/1811,
reg. 10(1) proviso
and reg. 10(3)
proviso.]

23. (1) Nothing in section 22 shall—

- (a) authorize a registered dentist to supply a dangerous drug unless the drug is administered by him, or under his direct supervision and in his presence, to a person receiving treatment by him;
- (b) authorize the sister in charge of a ward, theatre or other department in a prescribed hospital or in a health centre or clinic maintained by the Crown—

(i) to procure a dangerous drug except from a person employed or engaged in dispensing medicines at the hospital, health centre or clinic or from the matron of the hospital and except upon a written order signed by the sister; or

(ii) to supply a dangerous drug except in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practi-

tioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital;

- (c) authorize a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown to supply a dangerous drug except—

(i) in accordance with a written order signed by the sister in charge of a ward, theatre or other department in the hospital, health centre or clinic; or

(ii) in accordance with a prescription lawfully given by a registered medical practitioner in charge of any of the patients of the hospital, health centre or clinic or in accordance with directions given in the bed card or case sheet of a patient in the hospital or health centre by a registered medical practitioner in charge of that patient or in accordance with a prescription lawfully given by a registered dentist in charge of any of the patients in the hospital; or

- (d) authorize the matron of a prescribed hospital to procure a dangerous drug except on an order signed by the medical officer in charge of the hospital or to supply a dangerous drug except—

(i) in accordance with a written order signed by the sister in charge of a ward, theatre or other department in the hospital; or

(ii) in accordance with a prescription lawfully given by a registered medical practitioner or registered dentist in charge of any of the patients in the hospital or in accordance with directions given in the bed card or case sheet of a patient in the hospital by a registered medical practitioner in charge of that patient.

- (2) A written order signed by a sister in accordance with sub-paragraph (i) of paragraph (b) of subsection (1) on which a dangerous drug is procured shall be marked, in such manner as to show that it has been complied with, by the person employed or engaged in dispensing medicines who complies with the order or by the matron, as the case may be, and shall be kept in the dispensary or by the matron, and a copy or note thereof shall be kept for at least two years by the sister for the time being in charge of the ward, theatre or department for use in which the dangerous drug was procured.

- (3) Whenever a dangerous drug is supplied—
- (a) on a written order signed by a sister in accordance with sub-paragraph (i) of paragraph (b) of subsection (1);
 - (b) on a prescription lawfully given by a registered medical practitioner or a registered dentist; or
 - (c) in accordance with directions given in the bed card or case sheet of a patient,

by a person who is a registered pharmacist or an approved person and who is employed or engaged at a prescribed hospital or at a health centre or clinic maintained by the Crown or by the matron of a hospital, a record of such order or prescription shall be entered in a book kept solely for the purpose.

S.I. 1964/1811,
reg. 10(4).
First Schedule.

(4) Every dangerous drug, other than a preparation specified in Part II of the First Schedule, in the actual custody of a person authorized by section 22 to be in possession thereof shall, except when the necessities of the practice or exercise of the profession, function or employment by virtue of which that person is so authorized otherwise require, be kept in a locked receptacle which can be opened only by him or by some other person authorized by that section to be in possession of the dangerous drug.

(5) All dangerous drugs which are in the possession of any person by virtue of paragraph (e) or (f) of subsection (1) of section 22 or subsection (2) or (5) of that section shall be examined at least once in every month by a person appointed by the medical officer in charge of the hospital, health centre or clinic, and if it appears to the person by whom such examination is carried out—

- (a) that a dangerous drug is in the possession of such person otherwise than in accordance with this Ordinance;
- (b) that the proper quantity of any dangerous drug is not in the possession of such person; or
- (c) that any dangerous drug has been supplied to or supplied or dispensed by such person otherwise than in accordance with this Ordinance,

he shall forthwith notify the Director.

- (6) Any person who—
- (a) contravenes subsection (3) or (4); or
 - (b) fails to notify the Director in accordance with subsection (5),

shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars.

24. (1) An authorized seller of poisons is hereby authorized—

- (a) in the ordinary course of his retail business to manufacture at any premises registered by him under the Pharmacy and Poisons Ordinance any preparation;
- (b) subject to the provisions of this Ordinance, to carry on at any such premises the business of retailing, dispensing and compounding any dangerous drug;
- (c) to supply any dangerous drug otherwise than by way of wholesale dealing; and
- (d) to supply any dangerous drug by way of wholesale dealing to any person licensed or authorized under this Ordinance to be in possession of that dangerous drug.

(2) A person whose name is entered in the list, kept by the Director for the purposes of Part II of the Pharmacy and Poisons Ordinance, of persons who are to be entitled to sell poisons in Part II of the Poisons List is hereby authorized to carry on at premises specified in the first-mentioned list as being premises at which he is entitled to sell such poisons the business of retailing any preparation specified in Part IV of the First Schedule.

(3) Nothing in subsection (1) shall authorize the sale by retail of poisons by a person who is not qualified in that behalf under, or such sale otherwise than in accordance with, the Pharmacy and Poisons Ordinance or be in derogation of the provisions of that Ordinance prohibiting, restricting or regulating the sale of poisons.

(4) Nothing in subsection (1) shall authorize an authorized seller of poisons to be in possession of any dangerous drug except on premises registered by him under the Pharmacy and Poisons Ordinance.

(5) Every dangerous drug, other than a preparation specified in Part II of the First Schedule, in the actual custody of a person authorized by this section to be in possession thereof shall be kept in a locked receptacle which can be opened only by him or by some assistant of his who is a registered pharmacist and is not a person whose authority has been withdrawn under section 33.

Statutory authority for authorized sellers of poisons to manufacture preparations and retail drugs and preparations, and for listed sellers of poisons to retail certain preparations.
S.I. 1964/1811.
reg. 12.
(Cap. 138.)

First Schedule.

First Schedule.

Statutory authority to possess dangerous drug supplied by registered medical practitioner, etc., or on prescription or by authorized seller of poisons.

S.I. 1964/1811, reg. 9(2).

First Schedule.

First Schedule.

25. (1) A person to whom—
- (a) a dangerous drug is lawfully supplied by a registered medical practitioner or an approved veterinary surgeon;
 - (b) a dangerous drug is lawfully supplied on a prescription lawfully given by a registered medical practitioner or a registered dentist or an approved veterinary surgeon;
 - (c) a dangerous drug specified in Part III of the First Schedule is lawfully supplied by an authorized seller of poisons; or
 - (d) a preparation specified in Part IV of the First Schedule is lawfully supplied by a person referred to in subsection (2) of section 24,

is hereby authorized to be in possession of the dangerous drug or preparation so supplied.

(2) Notwithstanding the provisions of subsection (1), a person supplied with a dangerous drug by, or on a prescription given by, a registered medical practitioner shall be deemed not to be authorized by that subsection to be in possession of the dangerous drug if—

- (a) he was being supplied with a dangerous drug by, or on a prescription given by, another registered medical practitioner in the course of treatment, and did not disclose the fact to the first-mentioned registered medical practitioner before the supply by him or on his prescription; or
- (b) he or any other person on his behalf made a declaration or statement for the purpose of obtaining the supply or prescription, and the declaration or statement was false in any particular.

Statutory authority to ingest or inject dangerous drug.

First Schedule.

26. (1) A person who—
- (a) ingests or injects into himself a dangerous drug—
 - (i) on the direction of a registered medical practitioner, for the purposes of medical treatment; or
 - (ii) on the direction of a registered dentist, for the purposes of dental treatment;
 - (b) ingests a dangerous drug specified in Part III of the First Schedule which was lawfully supplied by an authorized seller of poisons; or

- (c) ingests a preparation specified in Part IV of the First Schedule which was lawfully supplied by a person referred to in subsection (2) of section 24,

First Schedule.

shall not thereby contravene this Ordinance.

(2) A registered medical practitioner or registered dentist who injects a dangerous drug into another person for the purposes of medical or dental treatment shall not thereby contravene this Ordinance.

- (3) A person who injects a dangerous drug into another person—

- (a) for the purposes of medical treatment, on the direction of a registered medical practitioner; or
- (b) for the purposes of dental treatment, on the direction and in the presence of a registered dentist,

shall not thereby contravene this Ordinance.

27. (1) The following persons are hereby authorized to have in their possession equipment or apparatus fit and intended for the injection of a dangerous drug, so far as may be necessary for the purposes of the practice or exercise of their profession, function or employment, that is to say—

Statutory authority to possess equipment and apparatus for injection of dangerous drugs.

- (a) any registered medical practitioner;
- (b) any registered dentist; and
- (c) any person employed or engaged in a prescribed hospital or in a health centre or clinic maintained by the Crown.

(2) A person is hereby authorized to have in his possession equipment or apparatus fit and intended for the injection of a dangerous drug if the same is for use for the injection into himself of a dangerous drug on the direction of a registered medical practitioner for the purposes of medical treatment.

28. (1) (a) The master of a ship which does not carry on board as part of her complement a registered medical practitioner, is hereby authorized—

Statutory authority of masters of ships to possess, supply and procure dangerous drugs.

S.I. 1964/1811. reg. 13(1) and (2). (Cap. 281.)

- (i) so far as may be necessary for the purpose of compliance with the Merchant Shipping Acts or the Merchant Shipping Ordinance, as the case may be, to be in possession of dangerous drugs; and

- (ii) subject to any conditions and instructions which may be applicable thereto, to supply those dangerous drugs to members of the crew.

- (b) Where a dangerous drug is supplied to a member of the crew of a ship—
- (i) an entry in the official log book; or
 - (ii) in the case of a ship which is not required under the Merchant Shipping Acts or by virtue of the Merchant Shipping Ordinance to carry an official log book, a report signed by the master of the ship,
- shall notwithstanding anything in this Ordinance be a sufficient record of the supply, if the entry or report specifies the dangerous drug supplied and, in the case of such a report, it is delivered as soon as practicable to the superintendent of a mercantile marine office.
- (c) Every dangerous drug in the possession of the master of a ship by virtue of this section shall, except where the necessity of supplying it to a member of the crew otherwise requires, be kept in a locked receptacle, which can be opened only by the master or by an officer authorized by the master.
- (d) In this section—
- “mercantile marine office” means a mercantile marine office established and maintained under the Merchant Shipping Acts or the mercantile marine office appointed under the Merchant Shipping Ordinance;
- “official log book” means the official log book required to be kept under the Merchant Shipping Acts or by virtue of the Merchant Shipping Ordinance.
- (2) (a) The master of a foreign ship which is in Hong Kong is hereby authorized to procure such quantity of dangerous drugs as may be certified by a public officer appointed for the purposes of this subsection by the Director to be necessary for the equipment of the ship until it reaches its home port.
- (b) A person who supplies a dangerous drug in accordance with a certificate given under paragraph (a) shall retain the certificate and mark it with the date on which the dangerous drug was supplied and keep it on his premises so as to be at all times available for inspection.
- (3) Any person who contravenes paragraph (c) of subsection (1) or paragraph (b) of subsection (2) shall be guilty of an offence and shall be liable on conviction to a fine of five thousand dollars.

29. For the purposes of this Ordinance, but subject in each case to the provisions of this Ordinance and to any condition to which a licence issued thereunder is subject—

- (a) a person authorized by or licensed under this Ordinance to manufacture a dangerous drug is hereby authorized to supply that drug; and
- (b) a person authorized by or licensed under this Ordinance to supply a dangerous drug is hereby authorized to have that drug in his possession and to procure that drug.

Further statutory authorization of persons authorized or licensed to manufacture or supply dangerous drug.

S.I. 1964/1811, reg. 29.

30. (1) A dangerous drug shall not be supplied for use in a prescribed hospital or in a health centre or clinic maintained by the Crown except on the written order of the registered pharmacist in charge of the dispensary attached to the hospital, health centre or clinic or of the medical officer in charge of the hospital, health centre or clinic.

Supply of dangerous drugs to hospitals, etc.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for twelve months.

31. (1) A person shall not supply a dangerous drug on a prescription—

- (a) unless the prescription complies with the provisions of this Ordinance relating to prescriptions;
- (b) unless he is either acquainted with the signature of the person by whom it purports to be given and has no reason to suppose that it is not genuine or has taken reasonable steps to satisfy himself that it is genuine;
- (c) before the date specified in the prescription.

Supply of dangerous drug on prescription.
S.I. 1964/1811, reg. 15.

(2) If a prescription prescribing a dangerous drug expressly states that it may, subject to the lapse of an interval or intervals specified in the prescription, be dispensed a second or third time, the drug thereby prescribed may, as the case may be, be supplied a second or third time after the specified interval or intervals but no more, but save as aforesaid a prescription shall not for the purposes of this Ordinance be taken as enabling the dangerous drug to be supplied more than once.

(3) A person dispensing a prescription prescribing a dangerous drug shall—

- (a) at the time of dispensing the prescription, mark thereon the date on which it is dispensed and, in the case of a prescription which may be dispensed a second or third time, the date of each occasion on which it is dispensed; and

(b) retain and keep the prescription on the premises where it is dispensed and so as to be at all times available for inspection.

(4) Any person who contravenes subsection (1) or (3) shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars.

Supply of dangerous drugs to persons on behalf of another, otherwise than on prescription.
S.I. 1964/1811, reg. 21.
First Schedule.

32. (1) Where a dangerous drug, other than a dangerous drug specified in Part III of the First Schedule, is to be lawfully supplied to any person (hereinafter referred to as "the recipient") otherwise than by, or on a prescription lawfully given by, a registered medical practitioner, the person supplying the dangerous drug (hereinafter referred to as "the supplier") shall not deliver it to a person who purports to be sent by or on behalf of the recipient unless that person either—

(a) is authorized by or licensed under this Ordinance to be in possession of that dangerous drug; or

(b) produces to the supplier a statement in writing signed by the recipient to the effect that he is empowered by the recipient to receive that dangerous drug on behalf of the recipient, and the supplier is reasonably satisfied that the document is a genuine document.

(2) A person to whom a dangerous drug is lawfully delivered in the circumstances mentioned in subsection (1) shall be deemed to be a person authorized to be in possession thereof, but for such period only as in the circumstances of the case is reasonably sufficient to enable delivery to the recipient to be effected.

(3) Any person who contravenes subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars.

Withdrawal of authority conferred by section 22.

33. (1) Whenever the Director is of opinion that it is in the public interest to do so, he may by order—

(a) withdraw absolutely from any person the authorization conferred by section 22; or

(b) withdraw from any person the authorization conferred by section 22 and suspend such withdrawal subject to such conditions as he thinks fit.

(2) The withdrawal under subsection (1) of the authorization conferred on any person by section 22 may extend to all dangerous drugs or to such dangerous drugs or class of dangerous drugs as the Director may specify and may be permanent or for such period as the Director may specify.

(3) Any person aggrieved by an order under subsection (1) may, within fourteen days after the delivery to him of a copy of the order, appeal by way of petition to the Governor.

(4) An order under subsection (1) shall take effect on publication in the *Gazette*, and no such order shall be published in the *Gazette*—

(a) until the expiry of a period of fourteen days after a copy thereof, and a statement in writing of the grounds on which the order was made and that the same is to be published in the *Gazette*, have been delivered to the person in respect of whom it was made; or

(b) where there is an appeal under subsection (3), unless the order is confirmed by the Governor or the appeal is abandoned.

(5) Where on an appeal under subsection (3) the order under subsection (1) is varied or some other decision substituted therefor or some other order made, notice thereof shall be published in the *Gazette*, and the decision of the Governor on the appeal shall not take effect until such notice is so published.

(6) (a) Where the authorization conferred on any person by section 22 has been withdrawn absolutely, the Director may, upon application, by order—

(i) restore the authorization; or

(ii) suspend the withdrawal subject to such conditions as he thinks fit.

(b) Where the authorization conferred on any person by section 22 has been withdrawn and the withdrawal suspended, the Director may, upon application, by order restore the authorization.

(c) Where the authorization conferred by section 22 has been withdrawn permanently or for a specified period exceeding one year, no application may be made under this subsection within six months after the withdrawal took effect.

(7) Any person aggrieved by a refusal of the Director to make an order under subsection (6) may appeal by way of petition to the Governor.

(8) Notice of an order under subsection (6), and of a decision of the Governor on an appeal under subsection (7) restoring to any person the authorization conferred by section 22 or suspending the withdrawal of such an authorization, shall be published in the *Gazette*.

(9) On an appeal under subsection (3) or (7), the Governor may confirm, vary or reverse the decision or substitute therefor such other decision or make such other order as he thinks fit.

Power to prohibit prescribing of dangerous drug. S.I. 1964/1811, reg. 11.

34. Where the authorization conferred by section 22 is withdrawn under section 33 from a registered medical practitioner, a registered dentist or an approved veterinary surgeon, the Director may, by notice in the *Gazette*, direct that it shall not be lawful for that person to give prescriptions prescribing a dangerous drug.

PART V.

DIVANS, EQUIPMENT FOR SMOKING, INJECTING, ETC. DANGEROUS DRUG, AND PREMISES USED FOR UNLAWFUL TRAFFICKING IN OR MANUFACTURE OF DANGEROUS DRUG.

Divan keeping.

35. (1) No person shall open, keep, manage or assist in the management of a divan where—

- (a) a dangerous drug is sold in the divan to be smoked, inhaled, ingested or injected therein;
- (b) a price or its equivalent is charged for the smoking, inhalation, ingestion or injection of a dangerous drug therein; or
- (c) any benefit or advantage whatever, direct or indirect, is derived by such person in consequence of the smoking, inhalation, ingestion or injection of a dangerous drug therein.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for fifteen years; and
- (b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for three years.

Possession of pipes, equipment, etc.

36. (1) Save under and in accordance with this Ordinance, no person shall have in his possession any pipe, equipment or apparatus fit and intended for the smoking, inhalation, ingestion or injection of a dangerous drug.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for three years.

37. (1) No person shall—

- (a) being the owner, tenant, occupier or person in charge of any place or premises, permit or suffer such place or premises or any part thereof to be opened, kept or used as a divan or for unlawful trafficking in or the unlawful manufacturing of a dangerous drug; or
- (b) let or agree to let, whether as principal or agent, any place or premises with the knowledge that such place or premises or any part thereof is to be opened, kept or used as a divan or for unlawful trafficking in or the unlawful manufacturing of a dangerous drug.

Responsibility of owners, tenants, etc.

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence and shall be liable—

- (a) on conviction on indictment, to a fine of fifty thousand dollars and to imprisonment for ten years; and
- (b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for three years.

38. (1) Where it is proved to the satisfaction of a court that an offence under section 4, 6, 7 or 35 has been committed in or on or in respect of any place or premises or any part thereof, the court may order that a notice of the fact shall be served either personally or by registered post on—

Premises used for unlawful trafficking in or manufacturing, etc. dangerous drug.

- (a) the owner or any tenant of the place or premises or the part thereof; or
- (b) if such owner or tenant is absent or under disability, on his agent; or
- (c) if such owner or tenant is a company, on the secretary or manager thereof.

(2) After service of a notice under subsection (1), a court may, on application—

- (a) by the person on whom the notice was served; or
- (b) in the case of a company, by or on behalf of the company,

make an order (which shall be recognized and given effect to in any proceeding in any court) determining any tenancy of such place or premises or of any part of the place or premises as from the date of such order, and thereupon such tenancy shall cease and determine for all purposes and any tenant under the tenancy so determined and any occupier of such place or premises or such part thereof may thereafter be treated as a trespasser.

(3) (a) An order under subsection (2) shall be sufficient authority to any police officer to enter (by force if

necessary) into the place or premises specified in the order and—

(i) evict therefrom any person who may under subsection (2) be treated as a trespasser; and

(ii) remove therefrom anything belonging to or in the possession of any such person.

(b) The powers given by this subsection shall be in addition to and not in derogation of any powers conferred by or under any other law.

(4) If, within twelve months after service of a notice under subsection (1), an offence under section 4, 6, 7 or 35 is proved to have been committed by the same or any other person in or on or in respect of such place or premises or such part thereof, the person on whom the notice was served, or the company where the notice was served on the secretary or manager thereof, shall be guilty of an offence and shall be liable on conviction to a fine of ten thousand dollars unless such person or company proves that he or it neither knew nor had reasonable means of knowing that such offence had been committed.

(5) A document purporting to be a copy of the records or part of the records of the Land Office and purporting to be certified by or on behalf of the Land Officer shall be admitted in evidence in any proceedings under this section on its production by the prosecution without further proof, and—

(a) until the contrary is proved, it shall be presumed—

(i) that the document is a true copy of the records or part of the records of the Land Office; and

(ii) that the document is certified by or on behalf of the Land Officer; and

(b) such document shall be *prima facie* evidence of all matters contained therein.

(6) In this section, “tenant” includes any sub-tenant and “tenancy” includes any sub-tenancy.

PART VI.

CONSPIRACY TO COMMIT OFFENCE UNDER ORDINANCE, FALSE STATEMENTS, AIDING, ETC. OFFENCE UNDER CORRESPONDING LAW, JOINT TRIAL IN CERTAIN CASES AND CONVICTION OF OTHER OFFENCES.

Conspiracy.

39. Any person convicted of conspiracy to commit an offence under this Ordinance shall be liable to the penalty prescribed for that offence and any special rules of evidence which apply with

respect to the proof of that offence under this Ordinance shall apply in like manner to the proof of conspiracy to commit such offence.

40. (1) Any person who—

- (a) for the purpose of obtaining, whether for himself or for any other person, the issue or renewal of a licence or certificate under this Ordinance, makes any declaration or statement which is false in a material particular;
- (b) knowingly utters, produces or makes use of any such declaration or statement or a document containing any such declaration or statement; or
- (c) aids, abets, counsels or procures the commission in a place outside Hong Kong of an offence punishable under a corresponding law in force in that place, or does an act preparatory to, or in furtherance of, an act which if committed in Hong Kong would constitute an offence under section 4 or 6,

shall be guilty of an offence.

(2) Any person who is guilty of an offence under paragraph (a) or (b) of subsection (1) shall be liable on conviction to a fine of ten thousand dollars and to imprisonment for three years.

(3) Any person who is guilty of an offence under paragraph (c) of subsection (1) shall be liable—

- (a) on conviction on indictment, to a fine of one hundred thousand dollars and to imprisonment for fifteen years; and
- (b) on summary conviction, to a fine of ten thousand dollars and to imprisonment for three years.

41. Notwithstanding anything in the Magistrates Ordinance or any other law, where it is alleged that two or more persons have committed distinct offences under section 4, 8, 35 or 36 in the same place and at about the same time, the charges for such offence against such persons may be tried together.

42. (1) If on the trial of a charge for an offence specified in the second column of the Third Schedule the defendant is acquitted, but it is proved that the defendant is guilty of any offence specified opposite thereto in the third column of that Schedule or of being a party to any such offence, he shall be convicted of such offence or of being a party to any such offence and shall be liable to be punished accordingly.

(2) The references in the Third Schedule to numbered sections and subsections shall be construed to include every offence under the section or subsection so numbered in this Ordinance.

False statements, and aiding, abetting, etc. offence under corresponding law. 1965, c. 15, s. 13.

Joint trial of offences in certain cases. (Cap. 227.)

Conviction of offence other than that charged. Third Schedule.

(3) Nothing in this section shall exclude the application to any offence of any other law authorizing a person to be found guilty of an offence other than that with which he is charged.

PART VII.

EVIDENCE.

Certificate of corresponding law.

43. A document purporting to be issued by or on behalf of the government of a country and purporting to state the terms of a corresponding law in force in that country shall be admitted in evidence, in proceedings for an offence under this Ordinance before any court, on its production by the prosecution without further proof, and such document shall be conclusive evidence—

- (a) that it is issued by or on behalf of the government of that country;
- (b) that the terms of such law are as stated in the document; and
- (c) that any facts stated in the document to constitute an offence under such law do constitute such offence.

Government Chemist's certificate.

44. (1) A certificate in the prescribed form purporting to be signed by the Government Chemist and purporting to relate to a dangerous drug shall be admitted in evidence, in proceedings for an offence under this Ordinance before any court, on its production by the prosecution without further proof, and—

- (a) until the contrary is proved, it shall be presumed that the certificate is signed by the Government Chemist; and
- (b) such certificate shall be *prima facie* evidence of all matters contained therein.

(2) A certificate given for the purposes of subsection (1) may be signed by the Government Chemist when any necessary chemical analysis has been made by a person acting under his supervision and direction and the Government Chemist is personally satisfied as to the analysis.

Presumption concerning manufacture of dangerous drug.

45. Where it is proved that a person was found in, or escaping from, any premises, or the part of any premises, in which—

- (a) a dangerous drug was being manufactured; or
- (b) equipment or material which is referable to the manufacture of a dangerous drug was found,

such person shall, until the contrary is proved, be presumed to have been manufacturing or doing an act preparatory to the manufacture of the dangerous drug.

46. Any person who is proved or presumed to have had in his possession more than—
- (a) ten pots of prepared opium;
 - (b) one mace (3.78 grammes) of opium (other than opium water);
 - (c) five packets containing any of the following—
 - (i) morphine;
 - (ii) diamorphine;
 - (iii) a salt of morphine or diamorphine;
 - (iv) an ester of morphine or diamorphine;
 - (v) a salt of an ester of morphine or diamorphine; or
 - (vi) a preparation, admixture, extract or other substance containing not less than one-fifth *per cent* of morphine or any proportion of diamorphine or a salt of diamorphine;
 - (d) one half gramme of any of the following—
 - (i) morphine;
 - (ii) diamorphine;
 - (iii) a salt of morphine or diamorphine;
 - (iv) an ester of morphine or diamorphine; or
 - (v) a salt of an ester of morphine or diamorphine;
 - (e) two and one half grammes of a preparation, admixture, extract or other substance containing not less than one-fifth *per cent* of morphine or any proportion of diamorphine or a salt of diamorphine; or
 - (f) five grammes of barbitone or a salt of barbitone or of a preparation, admixture, extract or other substance containing any proportion of barbitone,

Presumption concerning possession of dangerous drug for purpose of trafficking therein.

shall, until the contrary is proved, be presumed to have had such dangerous drug in his possession for the purposes of trafficking therein.

47. (1) Any person who is proved to have had in his possession or custody or under his control—
- (a) any thing whatsoever containing a dangerous drug;
 - (b) the keys of any thing containing a dangerous drug; or
 - (c) the keys of the place or premises or the part of any place or premises in which a dangerous drug is found,
- shall, until the contrary is proved, be presumed to have had such drug in his possession.

Presumption of possession and knowledge of dangerous drug.

(2) Any person who is proved to have had in his possession or custody or under his control or subject to his order—

(Cap. 26.)

- (a) a document of title to goods, as defined in section 2 of the Sale of Goods Ordinance; or
- (b) any of the following documents, whether or not they are documents of title as defined in section 2 of the Sale of Goods Ordinance, namely, a dock warrant, a godown warrant, a warehouse keeper's certificate, warrant or order for the delivery of goods or a baggage receipt or a document or thing intended to serve the purpose of a baggage receipt,

relating to any thing containing a dangerous drug shall, until the contrary is proved, be presumed to have had such drug in his possession.

(3) Any person who is proved or presumed to have had a dangerous drug in his possession shall, until the contrary is proved, be presumed to have known the nature of such drug.

(4) The presumptions provided for in this section shall not be rebutted by proof that the defendant never had physical possession of the dangerous drug.

Presumption concerning divans.

48. (1) Whenever a pipe, or an article of equipment or apparatus, fit for the smoking, inhalation, ingestion or injection of a dangerous drug is found in any place or premises, it shall be presumed, until the contrary is proved, that such place is a divan.

(2) Any person found in or escaping from a divan shall, until the contrary is proved, be presumed to have been smoking, inhaling, ingesting or injecting a dangerous drug therein.

Negative averments.

49. For the avoidance of doubt, it is hereby declared—

- (a) that in proceedings for an offence under this Ordinance or for conspiracy to commit an offence under this Ordinance it is not necessary to negative by evidence any licence, certificate, authorization or other matter of exception or defence; and
- (b) that the burden of proving the same lies on the person seeking to avail himself thereof.

PART VIII.

MISCELLANEOUS.

Amendment of Schedules.

50. The Governor may by order amend the Schedules.

51. (1) The Governor in Council may make regulations for all or any of the following matters— Regulations.

- (a) the keeping of registers and other records by persons authorized by or licensed under this Ordinance to manufacture, procure, supply or possess dangerous drugs, and the furnishing of information by such persons;
- (b) the preservation of such registers and records and of other documents kept, issued or made pursuant to or for the purposes of this Ordinance;
- (c) requirements with respect to prescriptions;
- (d) the marking of packages and bottles containing dangerous drugs;
- (e) the period for which a licence issued under section 18 is valid;
- (f) the fees payable on the issue of a licence under section 18;
- (g) the form of any document, other than a licence or certificate, required by, under or for the purposes of this Ordinance.

(2) Regulations made under this section may provide that a contravention of specified provisions thereof shall be an offence and may provide penalties therefor not exceeding a fine of fifty thousand dollars and imprisonment for three years.

52. (1) For the purposes of this Ordinance, any police officer and any member of the Preventive Service may—

Powers of authorized officers.

- (a) stop, board and search any ship, aircraft, vehicle or train which has arrived in Hong Kong (not being a ship of war or a military aircraft), and remain thereon as long as it remains in Hong Kong;
- (b) search any person arriving in Hong Kong or about to depart from Hong Kong;
- (c) search any thing imported into or to be exported from Hong Kong;
- (d) stop, board and search any ship, aircraft, vehicle or train if he has reason to suspect that there is therein an article liable to seizure;
- (e) enter and search any place or premises if he has reason to suspect that there is therein an article liable to seizure; or

- (f) stop and search any person, and search the property of any person, if—
- (i) he has reason to suspect that such person has in his actual custody an article liable to seizure; or
 - (ii) such person is found in any ship, aircraft, vehicle, train, place or premises in which an article liable to seizure is found.
- (2) For the purpose of enabling a ship or aircraft to be searched under subsection (1)—
- (a) the Commissioner of the Preventive Service or the Commissioner of Police may by order in writing under his hand detain a ship for not more than twelve hours or an aircraft for not more than six hours; and
 - (b) the Colonial Secretary may, by order in writing under his hand, detain a ship or aircraft for further periods of not more than twelve hours in the case of a ship or not more than six hours in the case of an aircraft.

Any order made under this subsection shall state the times from which and for which the order is effective.

(3) Any public officer may seize, remove and detain any thing if he has reason to suspect that such thing is an article liable to seizure.

(4) Any public officer authorized in writing by the Director may uproot, seize, remove and destroy any plant of the genus cannabis or the opium poppy.

(5) For the purposes of this Ordinance, any public officer authorized in writing by the Director may—

- (a) enter, inspect and search any place or premises occupied by—
 - (i) a person authorized by virtue of paragraph (a), (b) or (c) of subsection (1) of section 22 or by virtue of subsection (1) of section 24;
 - (ii) a person whose authorization as aforesaid has been withdrawn under section 33 and the withdrawal suspended;
 - (iii) a person by whom any such person as aforesaid is employed; or
 - (iv) a person to whom a licence has been issued under this Ordinance;
- (b) require the production of, and inspect, any register, record, book, prescription or other document kept or made pursuant to the requirements, or for the purposes,

of this Ordinance or any other document relating to dealings in a dangerous drug by or on behalf of any such person as aforesaid; and

(c) inspect any stocks of a dangerous drug in the possession of any such person as aforesaid.

(6) For the purposes of this Ordinance, any public officer authorized in writing by the Director may—

(a) enter, inspect and search a hospital or institution specified in the Second Schedule or any place or premises occupied for the purposes of any such hospital or institution;

Second Schedule.

(b) require the production of, and inspect, any register, record, book, prescription or other document kept or made in any such hospital or institution pursuant to the requirements, or for the purposes, of this Ordinance or any other document relating to dealings in a dangerous drug for the purposes of such hospital or institution; and

(c) inspect any stocks of a dangerous drug in any such hospital or institution or in any such place or premises.

(7) An authorization given by the Director under this section may be given to a police officer, member of the Preventive Service or public officer by name or may be given to any police officer, member of the Preventive Service or other public officer for the time being holding such rank or public office as the Director may specify, and may extend to all the powers specified in subsection (2), (4) or (5), as the case may be, or to such of those powers as the Director may specify.

(8) Any public officer may—

(a) break open any outer or inner door of or in any place or premises which he is empowered by this section to enter and search;

(b) forcibly board any ship, aircraft, vehicle or train which he is empowered by this section to board and search;

(c) remove by force any person or thing who or which obstructs any entry, search, inspection, seizure, removal or detention which he is empowered by this section to make;

(d) detain every person found in any place or premises which he is empowered by this section to search until the same has been searched; and

(e) detain every person on board any ship, aircraft, vehicle or train which he is empowered by this section to search, and prevent any person from approaching or boarding such ship, aircraft, vehicle or train, until it has been searched.

(9) No female shall be searched under this section except by a female and no person shall be searched under this section in a public place if he objects to being so searched.

(10) In this section—

“article liable to seizure” means—

(a) any dangerous drug referred to in section 55;

(b) any money or thing liable to forfeiture under this Ordinance;

(c) any thing which is or contains evidence of an offence under this Ordinance or a corresponding law;

“Commissioner of Police” includes a deputy or assistant commissioner of police;

“Commissioner of the Preventive Service” includes a Deputy or Assistant Commissioner of the Preventive Service.

Failure to comply with requirement under section 52 and obstruction of authorized officer.

53. Any person who—

(a) fails to comply with a requirement of a public officer under paragraph (b) of subsection (5) of section 52 or paragraph (b) of subsection (6) of that section; or

(b) obstructs a public officer in the exercise of any power conferred on him by section 52,

shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars and to imprisonment for six months.

Chemical tests and handwriting.

54. (1) Any police officer not below the rank of inspector may require any person whom he reasonably suspects to be guilty of an offence under this Ordinance—

(a) to have his finger nails pared and his hands washed in water for the purpose of analysis of such finger nails and water; or

(b) to give a specimen of his handwriting for the purpose of comparison.

(2) Any person who fails to comply with a requirement under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine of one thousand dollars.

55. Any dangerous drug in respect of which an offence under this Ordinance is being or has been committed, and any dangerous drug in transit—

Dangerous drugs forfeited by law.

- (a) which was accompanied, when it was brought into Hong Kong, by a false export authorization or diversion certificate or by an export authorization or diversion certificate which was obtained by fraud or by the wilful misrepresentation or omission of a material particular; or
- (b) which, not being accompanied by an export authorization or diversion certificate when it was brought into Hong Kong, was being conveyed for an unlawful purpose or was in transit for the purpose of being imported into another country in contravention of the laws of that country,

shall, with effect from the seizure thereof under section 52, be forfeited to the Crown.

56. (1) A court may (whether or not any person has been convicted of such offence) order to be forfeited to the Crown—

Forfeiture of articles, etc., used in connexion with offence.

- (a) any money or thing (other than premises, a ship exceeding two hundred and fifty gross tons, an aircraft or a train) which has been used in the commission of or in connexion with an offence under this Ordinance; and
- (b) any money or other property received or possessed by any person as the result or product of an offence under this Ordinance.

(2) An order under subsection (1) for the forfeiture of a thing may include a term permitting a specified person or persons to redeem such thing on such conditions, including conditions as to the payment of the value or a proportion of the value thereof to the Crown, as the court may think fit.

(3) The court may require that notice of an application for forfeiture under subsection (1) shall be given in such manner as it thinks fit.

(4) The Governor in Council may, in his absolute discretion and after any proceedings under this Ordinance are concluded, entertain and give effect to any moral claim to or in respect of any money, thing or other property which has been forfeited to the Crown.

Protection of informers.

57. (1) Save as provided in subsection (2)—

- (a) no information for an offence under this Ordinance shall be admitted in evidence in any civil or criminal proceeding; and

(b) no witness in any civil or criminal proceeding shall be obliged—

(i) to disclose the name or address of any informer who has given information to the police with respect to an offence under this Ordinance or of any person who has assisted the police in any way with respect to such an offence; or

(ii) to answer any question if the answer thereto would lead, or would tend to lead, to discovery of the name or address of such informer or person,

if, in either case, such informer or person is not himself a witness in such proceeding,

and, if any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding contain an entry in which any such informer or person is named or described or which might lead to his discovery, the court shall cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the informer or such person from discovery.

(2) If in any proceeding before a court for an offence under this Ordinance the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties thereto without disclosure of the name of an informer or a person who has assisted the police, the court may permit inquiry and require full disclosure concerning the informer or such person.

Power of
Governor to
give directions.

58. (1) The Governor may give to any public officer, other than a judge, a District Judge or a magistrate, such directions as he thinks fit with respect to the exercise or performance of his powers, functions or duties under this Ordinance, either generally or in any particular case.

(2) A public officer shall, in the exercise or performance of his powers, functions or duties under this Ordinance, comply with any directions given by the Governor under subsection (1).

Repeal and
consequential
amendment.
(Cap. 134.)
(Cap. 227.)

59. (1) The Dangerous Drugs Ordinance is repealed.

(2) The Magistrates Ordinance is amended by inserting the following in item 2 of Part III of the Second Schedule after “except”—

“an offence against section 4, 6 or 7 of the Dangerous Drugs Ordinance 1968.”

FIRST SCHEDULE.

PART I.

[ss. 2, 3 & 22.]

Dangerous drugs.

1. The following substances, namely—

| | |
|-------------------------------|----------------------------------|
| Acetyldihydrocodeine. | Levomethorphan. |
| Allylprodine. | Levomoramide. |
| Alphacetylmethadol. | Levophenacymorphan. |
| Alphameprodine. | Levorphanol. |
| Alphamethadol. | Lysergide. |
| Alphaprodine. | Metazocine. |
| Anileridine. | Methadone. |
| Barbitone. | Methadyl acetate. |
| Benzethidine. | Methyldesorphine. |
| Benzylmorphine | Methyldihydromorphine |
| (3-benzylmorphine). | (6-methyldihydromorphine). |
| Betacetylmethadol. | Metopon. |
| Betameprodine. | Morpheridine. |
| Betamethadol. | Morphine. |
| Betaprodine. | Morphine Methobromide, |
| Clonitazene. | morphine-N-oxide and other |
| Cocaine. | pentavalent nitrogen morphine |
| Codeine. | derivatives. |
| Desomorphine. | Myrophine. |
| Dextromoramide. | Nicocodine. |
| Diamorphine. | Nicomorphine (3, 6-dinicotinoyl- |
| Diampromide (N-[2-(N- | morphine). |
| methylphenethylamine) propyl] | Noracymethadol. |
| propionanilide). | Norcodeine. |
| Diethylthiambutene. | Norleverphanol. |
| Dihydrocodeine. | Normethadone. |
| Dihydromorphine. | Normorphine. |
| Dimenoxadole. | Norpipanone. |
| Dimepheptanol. | Oxycodone. |
| Dimethylthiambutene. | Oxymorphone. |
| Dioxaphetyl butyrate. | Pethidine. |
| Diphenoxylate. | Phenadoxone. |
| Dipipanone. | Phenamipromide. |
| Ecgonine. | Phenazocine. |
| Ethylmethylthiambutene. | Phenomorphin. |
| Ethylmorphine | Phenoperidine. |
| (3-ethylmorphine). | Pholcodine. |
| Etonitazene. | Piminodine. |
| Etoxadine. | Proheptazine. |
| Fentanyl. | Properidine (1-methyl-4-phenyl- |
| Furethidine. | piperidine-4-carboxylic acid |
| Hydrocodone (dihydro- | isopropyl ester). |
| codeinone). | Racemethorphan. |
| Hydromorphinol. | Racemoramide. |
| Hydromorphone. | Racemorphan. |
| Hydroxypethidine. | Thebacon. |
| Isomethadone. | Thebaine. |
| Ketobemidone. | Trimeperidine. |

- 4-Cyano-2-dimethylamino-4, 4-diphenylbutane.
 4-Cyano-1-methyl-4-phenylpiperidine.
 1-Methyl-4-phenylpiperidine-4-carboxylic acid.
 2-Methyl-3-morpholine-1, 1-diphenyl-propanocarboxylic acid.
 4-Phenylpiperidine-4-carboxylic acid ethyl ester.
2. Any ester (other than one expressly mentioned in paragraph 1 above) or ether (other than one so mentioned) of a substance for the time being specified in that paragraph.
 3. Any salt of a substance for the time being specified in paragraph 1 or 2 above.
 4. Any derivative of ecgonine which is convertible to ecgonine or to cocaine.
 5. Concentrate of poppy straw (that is to say, the material arising when poppy straw has entered into a process for the concentration of its alkaloids).
 6. Medicinal opium.
 7. Any extract or tincture of cannabis.
 8. Any preparation, admixture, extract or other substance containing any proportion of a substance for the time being specified in paragraph 1 above or in any of paragraphs 2 to 7 above.
 9. Raw opium and prepared opium.
 10. Coca leaves.
 11. Poppy straw.
 12. Cannabis, cannabis resin and all preparations of which cannabis resin forms the base, other than extract or tincture of cannabis.

PART II.

[ss. 4, 23 & 24.]

Preparations to which Ordinance applies with modifications.

13. A preparation of not more than one of the substances specified in paragraph 19 or 20, when—
 - (a) compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and
 - (b) containing not more than 100 milligrammes of the substance per dosage unit and with a concentration of not more than 2.5 per cent in undivided preparations.
14. A preparation of cocaine containing not more than 0.1 per cent of cocaine calculated as cocaine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

15. A preparation of medicinal opium or of morphine containing (in either case) not more than 0.2 per cent of morphine calculated as anhydrous morphine base, being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the opium or, as the case may be, the morphine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.
16. Solid dose preparations of diphenoxylate containing, per dosage unit, not more than 2.5 milligrammes of diphenoxylate calculated as base and not less than 25 microgrammes of atropine sulphate.
17. Pulvis Ipecacuanhae et Opii Compositus—
 - 10 per cent opium, in powder,
 - 10 per cent Ipecacuanhae root, in powder, well mixed with
 - 80 per cent of any other powdered ingredient containing no dangerous drug.
18. Mixtures containing not more than one of the preparations specified in paragraphs 13 to 17, being mixtures whereof none of the other ingredients is a dangerous drug.

 PART III.

[ss. 25, 26 & 32.]

Dangerous drugs to which Ordinance applies with other modifications.

19. The following substances, namely—
 - Acetyldihydrocodeine.
 - Codeine.
 - Dihydrocodeine.
 - Ethylmorphine (3-ethylmorphine).
 - Nicocodine.
 - Norcodeine.
 - Pholcodine.
20. Any salt of a substance specified in paragraph 19.
21. Any preparation, admixture, extract or other substance containing any proportion of a substance specified in paragraph 19 or 20, being a preparation, admixture, extract or other substance whereof none of the other ingredients is a dangerous drug.
22. Any other preparation specified in Part II of this Schedule.

 PART IV.

[ss. 24, 25 & 26.]

Preparations which may be sold by retail by persons in registrar's list kept under Pharmacy and Poisons Ordinance.

23. Any preparation containing not more than 0.1 per cent of any of the following substances, namely—
 - Cocaine
 - Morphine

Acetyldihydrocodeine
Codeine
Dihydrocodeine
Ethylmorphine (3-ethylmorphine)
Nicocodeine
Norcodeine
Pholcodine,

being a preparation compounded with one or more other ingredients in such a way that the preparation has no, or a negligible, risk of abuse and that the substance contained therein cannot be recovered by readily applicable means or in a yield which would constitute a risk to health.

SECOND SCHEDULE.

[ss. 2 & 52.]

*Prescribed hospitals and institutions, other than
hospitals maintained by the Crown.*

1. The Adventist Sanatorium and Hospitals.
2. The Alice Ho Miu Ling Nethersole Hospital.
3. Nam Long Hospital.
4. The Baptist Hospital.
5. The Canossa Hospital.
6. The Caritas Medical Centre.
7. The Children's Convalescent Home, Cheung Chau.
8. The Evangelical Medical Centre.
9. The Fanling Hospital.
10. The Freni Memorial Hospital.
11. The Grantham Hospital.
12. The Haven of Hope Sanatorium.
13. The Hei Ling Chau Leprosarium.
14. The Ruttonjee Sanatorium.
15. The Hong Kong Central Hospital.
16. The Hong Kong Sanatorium and Hospital.
17. The Hong Kong Society for Rehabilitation Kwun Tong Rehabilitation Centre.
18. The Kwong Wah Hospital.
19. The Matilda and War Memorial Hospital.
20. The Maryknoll Mission Hospital.
21. The Pok Oi Hospital.
22. The Precious Blood Hospital.
23. The Sandy Bay Convalescent Home.

24. The Shek Kwu Chau Rehabilitation Centre.
25. The St. Paul's Hospital.
26. The St. Theresa's Hospital.
27. The Tung Wah Hospital.
28. The Tung Wah Eastern Hospital.
29. The Tung Wah Hospital Sandy Bay Infirmary.
30. The Tung Wah Hospital Wong Tai Sin Infirmary.

THIRD SCHEDULE.

[s. 42.]

Other offences of which defendant may be convicted.

| <i>Item.</i> | <i>Offence charged.</i> | <i>Other offences of which defendant may be convicted.</i> |
|--------------|--|--|
| 1. | Unlawful trafficking in dangerous drug (section 4) | Possession of dangerous drug for purpose of unlawful trafficking therein (section 7) Possession of dangerous drug (section 8(1)(a) and (2)) |
| 2. | Unlawful manufacturing of dangerous drug (section 6) | Unlawful trafficking in dangerous drug (section 4) Possession of dangerous drug for purpose of unlawful trafficking therein (section 7) Possession of dangerous drug (section 8(1)(a) and (2)) |
| 3. | Possession of dangerous drug for purpose of unlawful trafficking therein (section 7) | Possession of dangerous drug (section 8(1)(a) and (2)) |

Passed by the Hong Kong Legislative Council this 6th day of November, 1968.

D. BARTON,
Deputy Clerk of Councils.

This printed impression has been carefully compared by me with the bill, and is found by me to be a true and correctly printed copy of the said bill.

D. BARTON,
Deputy Clerk of Councils.

(Secretariat GR 23/3231/67)