

ABILL

ENTITLED

ANACT to Provide for the integration of the National Council on Drug Abuse into the Ministry with responsibility for health; to make provision for the transfer of the functions, assets, rights and liabilities of the National Council on Drug Abuse; to repeal the National Council on Drug Abuse Act; and for connected matters.

[]

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

1. This Act may be cited as the National Council on Drug Abuse (Repeal) Act, 2023, and shall come into operation on a day (hereinafter referred to as the appointed day) to be appointed by the Minister by notice published in the *Gazette*.

Short title
and
commencement.

Interpretation.

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

“assets” means—

- (a) choses in action, goodwill, rights, interests and claims of every kind in or to property—
 - (i) whether arising from, accruing under, created or evidenced by, or the subject of, an instrument or otherwise; and
 - (ii) whether liquidated or unliquidated, actual, contingent or prospective; and
- (b) property of every kind whether tangible or intangible, real or personal, corporeal and incorporeal;

“functions” includes powers and duties;

“liability” means any liability, duty or obligation, whether actual, contingent or prospective, liquidated or unliquidated, or whether owed alone or jointly or jointly and severally with any other person;

“right” means any right, power, privilege or immunity, whether actual, prospective or contingent.

Repeal of the National Council on Drug Abuse Act.

3. The National Council on Drug Abuse Act is repealed.

Transfer and devolution of assets, rights and liabilities.

4.—(1) On the appointed day, all moneys held in any bank account in the name of or standing to the credit of the National Council on Drug Abuse, shall be credited to the Consolidated Fund to be applied in the payment of the liabilities of the National Council on Drug Abuse, arising before the appointed day, and the National Council on Drug Abuse, shall be deemed to have been dissolved.

(2) The Consolidated Fund shall be credited with all moneys becoming payable to the National Council on Drug Abuse before, on or after the appointed day and paid after the appointed day.

(3) On and after the appointed day—

- (a) the assets and rights of the National Council on Drug Abuse, that were immediately before that day vested in the National Council on Drug Abuse vest—
 - (i) in relation to real property, in the Commissioner of Lands by force of this section; and
 - (ii) in relation to personal property, in the Crown by force of this section;
- (b) the liabilities of the National Council on Drug Abuse (including any share of a liability) subsisting immediately before the appointed day become, by force of this section, the liabilities of the Crown;
- (c) any proceeding or remedy that immediately before the appointed day might have been brought or continued by, or available against or to, the National Council on Drug Abuse, may be brought or continued by, and are available by or against or to, the Attorney General; and
- (d) all records and data of the National Council on Drug Abuse pass to the Minister with responsibility for health, for and on behalf of the Crown.

5. Transfer tax, stamp duty and other applicable fees relating to the transfer, registration and later disposal of assets under section 4 shall be waived.

Waiver of transfer tax and stamp duty.

6.—(1) Where any reference is made to the National Council on Drug Abuse in any enactment, agreement, instrument or other document, unless the context otherwise requires, such reference shall be read and have effect, on and after the appointed day, as if it were a reference to the Crown acting through the Ministry with responsibility for health.

Reference to the National Council on Drug Abuse.

(2) Any agreement or instrument subsisting immediately before the appointed day, to which the National Council on Drug Abuse

was a party, or which contains a reference to the National Council on Drug Abuse, has effect on and after the appointed day as if—

- (a) the Crown acting through the Ministry with responsibility for health were substituted for the National Council on Drug Abuse as a party to the agreement or instrument, (as the case may be); and
- (b) any reference in the agreement or instrument to the National Council on Drug Abuse were (unless the context otherwise requires) amended to be or include a reference to the Crown acting through the Ministry with responsibility for health.

Transfer of functions of the National Council on Drug Abuse.

7. On and after the appointed day, the functions conferred upon the National Council on Drug Abuse under the Act shall be performed by the Minister with responsibility for health, for and on behalf of the Crown.

Savings.

8. The operation of this Act shall not be regarded—

- (a) as a breach of contract or confidence or otherwise as a civil wrong;
- (b) as a breach of any contractual provision prohibiting, restricting or regulating the assignment or transfer of residual assets, rights or liabilities or the disclosure of information;
- (c) as giving rise to any remedy by a party to an instrument or as causing or permitting the termination of any instrument, because of a change in the beneficial or legal ownership of any assets, rights or liabilities;
- (d) as causing any contract or instrument to be void or otherwise unenforceable; or
- (e) as releasing or allowing the release of any surety.

Amendment of the Dangerous Drugs Act.

9. The Dangerous Drugs Act is amended—

- (a) in section 7D(12)(a) by deleting the words “National Council on Drug Abuse” and substituting therefor the words “Ministry with responsibility for health in relation to matters concerning the misuse and abuse of drugs in Jamaica;”;

- (b) in section 7G(3)(e) by deleting the words “National Council for Drug Abuse” and substituting therefor the words “Ministry with responsibility for health.”;
- (c) in paragraph (1)(b) of the Second Schedule by deleting the words “one member” and substituting therefor the words “two members one of whom shall be a person having expertise in the management of drug abuse;”; and
- (d) in paragraph (1) of the Second Schedule by deleting subparagraph (i) and re-numbering subparagraph (j) as subparagraph (i).

MEMORANDUM OF OBJECTS AND REASONS

The National Council on Drug Abuse (hereinafter referred to as the Council) was established as a body corporate by the Government of Jamaica in December, 1991, pursuant to the National Council on Drug Abuse Act, to review and monitor the misuse of drugs in Jamaica, undertake subject to the approval of the Minister responsible for health, measures for preventing the misuse of drugs or dealing with social problems connected with the misuse of drugs and to consider and provide advice on matters concerning drug use and abuse.

Pursuant to the Public Sector Transformation Action Plan, which outlines the policy on the Categorization and Rationalization of Public Bodies (which includes, mergers, closures, shared service arrangement and divestment of several public bodies), a decision has been taken to integrate the Council into the Ministry with responsibility for health—

- (a) in keeping with the policy on the Categorization and Rationalization of Public Bodies, as the functions of the Council do not require body corporate status;
- (b) in order to achieve synergy in operations and greater efficiency gains; and
- (c) for the purpose of streamlining services and eradicating duplication of efforts.

This Bill seeks to give effect to that decision.

CHRISTOPHER TUFTON
Minister of Health and Wellness.

A BILL

ENTITLED

AN ACT to Provide for the integration of the National Council on Drug Abuse into the Ministry with responsibility for health; to make provision for the transfer of the functions, assets, rights and liabilities of the National Council on Drug Abuse; to repeal the National Council on Drug Abuse Act; and for connected matters.

As introduced by the Honourable Minister of Health
and Wellness.

PRINTED BY JAMAICA PRINTING SERVICES (1992) LTD.,
(GOVERNMENT PRINTERS), DUKE STREET, KINGSTON, JAMAICA.

SECTION 7D OF THE DANGEROUS DRUGS ACT WHICH
IT IS PROPOSED TO AMEND

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

... ..

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

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

... ..

SECTION 7G OF THE DANGEROUS DRUGS ACT WHICH
IT IS PROPOSED TO AMEND

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

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

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

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

... ..

- (e) in any case falling within subsection (4), refer the person to the National Council for Drug Abuse or such other body as the Minister may prescribe.

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

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

SECOND SCHEDULE TO THE DANGEROUS DRUGS ACT WHICH
IT IS PROPOSED TO AMEND

SECOND SCHEDULE

(Section 9a(3))

Cannabis Licensing Authority

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