

JAMAICA

No. 3 — 2021

I assent,

[L.S.]

Sgd. P. L. Allen  
Governor-General.

22nd day of February 2021

AN ACT to Amend the Dangerous Drugs Act.

[ 22 February 2021 ]

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

PART I.—*Preliminary*

1. This Act may be cited as the Dangerous Drugs (Amendment) Act, Short title. 2021, and shall be read and construed as one with the Dangerous Drugs Act (hereinafter referred to as the principal Act) and all amendments thereto.

Amendment  
of Section 21  
of Principal  
Act”.

**1A.** Section 21 of the Principal Act is amended—

- (a) In subsections (4) and (5) by inserting next after the word “premises”, wherever it appears, in each case the words “or other place”;
- (b) By inserting next after subsection (6) the following subsection—“(7) in this section “place” includes a conveyance.”.

Insertion of  
new section  
21A in  
principal Act.

**2.** The principal Act is amended by renumbering section 21A as section 21B and inserting next after section 21 the following section—

“ Securing or  
disposing of  
drugs  
seized.

21A.—(1) Subject to subsection (2), drugs seized pursuant to section 21(4) or (5) or any other law shall be secured as evidence in such manner as shall be prescribed.

(2) Where drugs are seized under section 21(4) or (5) or any other law and more than twenty-one days have elapsed since the seizure, without a person being charged with an offence in relation to the drugs, a constable above the rank of Superintendent may authorise the destruction of the drugs if—

- (a) the likelihood of a person being charged with an offence in relation to the drugs is remote; or
- (b) a public officer who is assigned to perform duties in the Institute of Forensic Science and Legal Medicine has signed a certificate that the destruction of those drugs is necessary in the interest of the health or safety of the public.

(3) Where drugs are seized under section 21(4) or (5) or any other law and a person (hereinafter in this section referred to as the defendant) has been charged, or is likely to be charged, with an offence in

relation to the drugs, a court having jurisdiction to try the offence may, on the application of the Director of Public Prosecutions, authorise the destruction of the drugs before the completion of the legal proceedings against the defendant in respect of the offence.

(4) The Director of Public Prosecutions shall—

- (a) give the defendant not less than seven days notice of the application under subsection (3); and
- (b) cause the taking of the evidence of the drugs for the purposes of subsection (7)(b)(i) and (iii) to be done in the presence of—
  - (i) the defendant or the defendant's legal representative unless the defendant or the defendant's representative fails to appear therefor after notice is given in accordance with paragraph (a); and
  - (ii) an independent observer.

(5) A court hearing an application under subsection (3) shall grant the application if—

- (a) the defendant fails to show reasonable cause why the drugs should not be destroyed; and
- (b) the court is satisfied that evidence of the drugs has been taken in a form that meets the requirements of subsection (7)(b).

(6) Where drugs seized under section 21(4) or (5) or any other law are secured as evidence, on the determination of the proceedings before a court

in which the drugs are tendered in evidence, the court may make such order as the court thinks fit with respect to the drugs, which may include an order—

- (a) for securing the drugs as evidence for the purposes of other proceedings;
- (b) authorising the destruction of the drugs; or
- (c) for otherwise disposing of the drugs.

(7) Where drugs are authorised under subsection (2), (3) or (6) to be destroyed—

- (a) the drugs shall be destroyed as soon as is reasonably practicable thereafter; and
- (b) in the case of destruction authorised under subsection (2) or (3), before the drugs are destroyed evidence of the drugs shall be taken in a form sufficient to establish the nature, location at the time of seizure, quantity, size (including weight), and packaging, of the drugs, including—
  - (i) recorded images, whether by photographic, video, digital or other means;
  - (ii) documented laboratory analysis of the drugs by a public officer who is assigned to perform duties in the Institute of Forensic Science and Legal Medicine; and
  - (iii) retaining a sample of the drugs, of such amount as may be prescribed.

(8) Recorded images made, and samples taken, under subsection (7) shall, if accompanied by a certificate referred to in subsection (9), be admissible in evidence and shall have the same probative force as the drugs would have if proved in the ordinary way.

(9) For the purposes of subsection (8), in any proceedings for an offence against this Act a certificate of a person stating that—

- (a) the person made an image or took a sample under the authorisation of that subsection;
- (b) the person is a constable or made the image or took the sample (as the case may be) under the direction of a constable above the rank of Superintendent; and
- (c) the image is a true image or the sample is a true sample (as the case may be), shall be admissible in evidence and, in the absence of evidence to the contrary—
  - (i) is evidence of the statements contained in the certificate, without proof of the signature of the person appearing to have signed the certificate; and
  - (ii) shall be evidence of all the facts stated therein, unless the person charged requires that the person appearing to have signed the certificate be summoned as a witness, in which case that person shall be compellable to give evidence in the same manner as any other witness.

(10) The court having jurisdiction over the matter may, of its own motion or on the application of the prosecution or the person charged, require the person appearing to have signed the certificate to be summoned as a witness for the purposes of this section.

(11) The Minister may make regulations prescribing—

- (a) the maximum quantity of any drugs that may be secured for the purposes of subsection (1);
- (b) the manner in which drugs are to be secured under subsection (1); and
- (c) any other matter necessary to give effect to the purposes of this section.”.

“Amendment of Section 27 of Principal Act”. **3.** Section 27 of the Principal Act is amended by deleting the words “Government Chemist or any Analyst designated under the provisions of section 17 of the Food and Drugs Act” and substitute therefore, the words “public officer who is assigned to perform duties in the Institute of Forensic Science and Legal Medicine.”.

Passed in the Honourable House of Representatives this 8th day of December, 2020.

M. DALRYMPLE PHILIBERT, MP  
*Speaker.*

Passed in the Senate this 15th day of January, 2021 with six (6) amendments.

THOMAS TAVARES FINSON, OJ, CD, QC, JP  
*President.*

On the 19th day of January, 2021 the Honourable House of Representatives agreed to the amendments made by the Senate.

M. DALRYMPLE PHILIBERT, MP  
*Speaker.*

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

*Sgd. Valrie A. Curtis*  
*Clerk to the Houses of Parliament. Actg*

