

# HABIT-FORMING DRUGS (AMENDMENT) ACT, 1984

No. 11



of 1984

## ARRANGEMENT OF SECTIONS

### SECTION

1. Short title
2. Substitution of new section 3 of Cap. 63:04
3. Deletion of section 7 of principal Act
4. Amendment of section 9 of principal Act

### An Act to amend the Habit-forming Drugs Act

*Date of Assent: 13.4.84*

*Date of Commencement: 13.4.84*

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Habit-forming Drugs (Amendment) Act, 1984. Short title
2. The Habit-forming Drugs Act (hereinafter referred to as "the principal Act") is hereby amended by substituting for section 3 thereof the following new section — Substitution of new section 3 of Cap. 63:04
3. (1) Except as provided by this Act, no person shall — Restrictions on dealing in, possessing or using drugs
- (a) deal in any habit-forming drug or any plant from which an habit-forming drug can be manufactured; or
  - (b) possess or use any such drug or plant.
- (2) Any person who contravenes subsection (1)(a), otherwise than in relation to dagga, shall be guilty of an offence and on conviction thereof shall be sentenced to all the following punishments —
- (a) imprisonment for a term of not less than 10 or more than 15 years;

(b) a fine of not less than P15 000 or in default of payment imprisonment for an additional term of not less than 3 or more than 5 years;

(c) corporal punishment;

and, notwithstanding any law to the contrary, the court shall not order that the operation of the whole or any part of the sentence be suspended.

(3) Any person who contravenes subsection (1)(b), otherwise than in relation to dagga, shall be guilty of an offence and on conviction thereof shall be sentenced to either or both of the following punishments —

(a) imprisonment for a term of not less than one or more than 5 years;

(b) a fine of not less than P1 500 or more than P5 000 or in default of payment imprisonment for a term or, where a term of imprisonment has been imposed under paragraph (a), an additional term of not less than one or more than 3 years,

and may, in addition thereto, be sentenced to corporal punishment:

Provided that any person who, in contravening subsection (1)(b), otherwise than in relation to dagga, possesses at any one time more than 100 tablets, capsules or pills each consisting of or containing an habit-forming drug shall be guilty of an aggravated offence and on conviction thereof shall be sentenced to all the punishments specified in subsection (2) and, notwithstanding any law to the contrary, the court shall not order that the operation of the whole or any part of the sentence be suspended.

(4) Any person who contravenes subsection (1)(a) or (b) in relation to dagga shall be guilty of an offence and on conviction thereof shall be liable to a fine of P1 000 and to imprisonment for 3 years.

(5) Where, upon the trial of any person for an offence in terms of subsection (2), the court considers that offence not proved but is satisfied that he is guilty of an offence in terms of subsection (3), the court shall find him guilty of the latter offence and convict and sentence him accordingly.

(6) Notwithstanding anything contained in this Act, no person shall import into Botswana or export therefrom any prepared opium.

(7) For the purposes of this section, —  
“deal in”, in relation to any habit-forming drug or any plant from which such a drug can be manufactured, includes performing any act in

connection with the collection, importation, supply, trans-shipment, administration, exportation, cultivation, manufacture, transmission or prescription thereof;

“possess” includes keep, store or have in custody or under control or supervision.”.

3. The principal Act is hereby amended by deleting section 7 thereof.

Deletion  
of section 7  
of  
principal  
Act

4. Section 9 of the principal Act is hereby amended —

(a) by the substituting for subsection (1) thereof the following new subsection —

“(1) Any person who contravenes any condition of a permit or licence issued under section 4 or 5 shall be guilty of an offence and on conviction thereof shall be liable to a fine of P1 000 and to imprisonment for 3 years.”;

Amendment  
of section 9  
of  
principal  
Act

(b) by inserting therein, immediately after subsection (1) thereof, the following new subsection —

“(1A) For removing doubts, it is hereby declared that the court shall not direct that any term of imprisonment to be served in default of payment of a fine imposed in terms of this Act shall run concurrently with any substantive term of imprisonment imposed in terms of this Act.”; and

(c) by substituting for subsection (6) thereof the following new subsection —

“(6) The provisions of subsections (2) and (5) shall be in addition to and not in derogation from the provisions of subsection (1) or section 3(2), (3) or (4).”.

PASSED by the National Assembly this 10th day of April, 1984.

G.M. BASELE,  
*Acting Clerk of the National Assembly.*