

**A BILL  
ENTITLED**

**AN ACT to Amend the Dangerous Drugs Act.**

**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**

**Short title.**

1. This Act may be cited as the Dangerous Drugs (Amendment) Act, 2020, and shall be read and construed as one with the Dangerous Drugs Act (hereinafter referred to as the principal Act) and all amendments thereto.

**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) shall be secured as evidence in such manner as shall be prescribed.

(2) Where drugs are seized under section 21(4) or (5) 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 Government Chemist or an Analyst designated under section 17 of the Food and Drugs Act 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) 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) unless it is impracticable to do so, 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; 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) 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 Government Chemist or Analyst designated under section 17 of the Food and Drugs Act; 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.”.

#### **MEMORANDUM OF OBJECTS AND REASONS**

A decision has been taken to enact legislation to amend the Dangerous Drugs Act to –

- (a) provide for the secure storage of drugs seized under the Act;
- (b) allow for drugs seized to be destroyed; and
- (c) in any case where such drugs are required as evidence –
  - (i) for samples and images of the drugs to be taken before the drugs are destroyed; and

- (ii) for those samples and images to be received in evidence and have the same probative force as the drugs would have if proved in the ordinary way.

These amendments seek to give better legal effect to, and improve upon, 1996 Practice Directions issued by the Director of Public Prosecutions in relation to the custody of seized drugs.

This Bill seeks to give effect to that decision.

**Delroy Chuck**  
**Minister of Justice**

