

REPRINT

DANGEROUS DRUGS ACT (CAP. 98)

As in force at: 1 October 2009

STATUS: CURRENT

For details see Endnotes

AN ACT RELATING TO DANGEROUS DRUGS

DANGEROUS DRUGS ACT (CAP. 98)

Table of provisions

1	Short title	1
2	Interpretation	1
3	Dangerous drugs to be dealt with through approved port	4
PART I	RAW OPIUM, INDIAN HEMP AND COCA LEAF	4
4	Application of this Part	4
5	Import and export of certain seeds prohibited	4
6	Forfeiture of articles	4
7	Cultivation of certain plants prohibited	4
8	Offences	4
9	Power of entry and of arrest	5
10	Seizure and destruction of plants	5
PART II	PREPARED OPIUM	5
11	Importation or exportation of prepared opium prohibited	5
12	Manufacturing, selling or using prepared opium	5
PART III	MEDICINAL OPIUM, MORPHINE, COCAINE AND CERTAIN OTHER DRUGS	6
13	Application of this Part	6
14	Importation or exportation of certain substances prohibited	8
15	Rules	8
16	Certain drugs to be deposited in store	10
17	Drugs may be withdrawn on authority of Permanent Secretary, Ministry of Health and Medical Services	10
18	Permanent Secretary, Ministry of Health and Medical Services may delegate authority	10
19	Withdrawals	10
20	Drugs not to be kept in a place other than the store without authority	10
21	Prohibition of trade in new drugs	11
22	Export of dangerous drugs	11
23	Export without authorisation prohibited	12

24	Export authorisation to be produced	12
25	Export to be in accordance with Act	12
26	Importation of dangerous drugs	13
27	Permission to withdraw drugs from store	13
28	Importation without authorisation prohibited	13
29	Export authorisation or diversion certificate to accompany drug	14
30	Importation to be in accordance with Act	14

**PART IV DANGEROUS DRUGS IN TRANSIT AND
DIVERSION OF DANGEROUS DRUGS..... 14**

31	Dangerous drug in transit	14
32	Removal licences	15
33	Dangerous drugs not to be tampered with	16
34	Diversion of dangerous drugs	16

PART V **LEGAL PROCEEDINGS, PENALTIES AND**
GENERAL **17**

35	Application of Customs and Excise Act	17
36	Search warrant	17
37	Exemption from liability	18
38	Powers of inspection and search	18
39	Offences and penalties	19
40	Power of arrest	21
41	Reward to informer	21
42	Certificate as evidence	21

SCHEDULE **22**

DANGEROUS DRUGS ACT (Cap. 98)

As in force at: 1 October 2009

1 Short title

This Act may be cited as the *Dangerous Drugs Act*.

2 Interpretation

In this Act, unless the context otherwise requires:

“cocaine” means methyl-benzoyl laevo-ecgonine ($[\alpha]_D^{20} = -16^\circ 4$) in twenty per cent solution of chloroform of which the formula is $C_{17}H_{21}O_4N$;

“coca leaf” means the leaf of the *Erythroxylon coca* Lamarck and the *Erythroxylon novogranatense* (Morris) Hieronymus and their varieties belonging to the family *Erythroxylaceae* and the leaf of other species of this genus from which it may be found possible to extract cocaine either directly or by chemical transformation;

“Convention” means the International Opium Convention signed at The Hague on the twenty-third day of January one thousand nine hundred and twelve (The Hague Convention), the International Opium Convention signed at Geneva on the nineteenth day of February one thousand nine hundred and twenty-five (The Geneva Convention No. 1), and the International Convention for limiting the manufacture and regulating the distribution of narcotic drugs signed at Geneva on the thirteenth day of July one thousand nine hundred and thirty-one (The Geneva Convention No. 2);

“conveyance” includes ship, aircraft and any other means of transport by which goods may be brought into or taken from Solomon Islands;

“corresponding law” means any law stated in a certificate purporting to be issued by or on behalf of the Government of any place outside Solomon Islands, to be a law providing for the control and regulation in that country of the manufacture, sale, use, import

and export of drugs or substances in accordance with the provisions of The Hague Convention, The Geneva Convention No. 1 and The Geneva Convention No. 2; and any such statement in any such certificate as to the effect of the law mentioned in the certificate, or any statement in any such certificate that any facts constitute an offence against that law, shall be conclusive;

“crude cocaine” means any extract of the coca leaf which can be used directly or indirectly for the manufacture of cocaine;

“dangerous drug” means any of the substances which may be from time to time subject to the provisions of this Act;

“diacetylmorphine” means the diacetylmorphine (diamorphone, heroin) having the formula $C_{21}H_{23}O_5N$ ($C_{17}H_{17}(C_2H_3O)_2O_3N$);

“diversion certificate” means a certificate issued by a competent authority in a country through which a dangerous drug passes in transit, authorising the diversion of such drug to a country other than that specified as the country of ultimate destination in the export authorisation, and containing all the particulars required to be included in an export authorisation together with the name of the country from which the consignment was originally exported;

“ecgonine” means laevo-ecgonine ($[\alpha]_D^{20} = -45^\circ 6$ in five per cent solution of water) of which the formula is $C_9H_{15}O_3NH_2O$ and all the derivatives of laevo-ecgonine which may serve industrially for its recovery;

“export” means to take or cause to be taken out of Solomon Islands otherwise than in transit;

“export authorisation” means an authorisation issued by a competent authority in a country from which a dangerous drug is exported, containing full particulars of such drug and the quantity authorised to be exported, together with the names and addresses of the exporter and the person to whom it is to be sent and stating the country to which, and the period within which, it is to be exported;

“import” means to bring or cause to be brought into Solomon Islands otherwise than in transit;

“import authorisation” means a licence issued by a competent authority authorising the importation of a specified quantity of a dangerous drug and containing full particulars of the drug, together with the name and address of the person authorised to import the drug and the name and address of the person from whom the drug is to be obtained and specifying the time within which the importation must be effected;

“import certificate” means a certificate substantially in the Form A set out in the Schedule issued by a competent authority in a country into which it is intended to import dangerous drugs;

“Indian hemp” means either of the plants *Cannabis sativa* or *Cannabis indica* or any portion thereof;

“in transit” means taken or sent from any country and brought into Solomon Islands (whether or not landed or transhipped in Solomon Islands) for the sole purpose of being carried to another country, either by the same or another conveyance;

“medical 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 in powder form or granulated or otherwise, or mixed with neutral materials;

“morphine” means the principal alkaloid of opium having the formula $C_{17}H_{19}O_3N$;

“prepared opium” means the product of raw opium obtained by a series of special operations, especially by dissolving, boiling, roasting and fermentation designed to transform it into an extract suitable for consumption, and includes dross and all other residues remaining after opium has been smoked;

“raw opium” means the spontaneously coagulated juice obtained from the capsules of the *Papaver somniferum* which has been submitted only to the necessary manipulations for packing and transport, whatever its morphine content;

“store” means a place appointed by the Minister for the storage of any drug to which this Act applies on its arrival in Solomon Islands.

3 Dangerous drugs to be dealt with through approved port

No person shall import, export, tranship or divert dangerous drugs except through a port approved for the purposes of this section by the Minister by notice.

PART I RAW OPIUM, INDIAN HEMP AND COCA LEAF

4 Application of this Part

- (1) The provisions of this Part of this Act shall apply to raw opium, coca leaf and Indian hemp and resins obtained from Indian hemp and preparations of which such resins form the base.

Import and export of certain substances prohibited

- (2) No person shall import or export any of the substances to which this Part of this Act applies.

5 Import and export of certain seeds prohibited

No person shall import or export any seed of the opium poppy or any seed of Indian hemp or any seed of the coca leaf or any portion of the aforesaid plants.

6 Forfeiture of articles

If any substance to which this Part of this Act applies is unlawfully imported or exported, the same shall be seized and forfeited, and shall be disposed of in any way the Comptroller of Customs and Excise may direct, without any further proceedings.

7 Cultivation of certain plants prohibited

No person shall cultivate in Solomon Islands the opium poppy or Indian hemp or coca leaf plant.

8 Offences

Every person:

- (a) growing opium poppy, Indian hemp or coca leaf whether for private use or otherwise; or

- (b) found in possession of or selling, or who shall have given or sold, to any person any substance to which this Part of this Act applies,

shall be guilty of an offence against this Act.

9 Power of entry and of arrest

- (1) Any police officer may, upon a warrant, enter any place in which there is a reasonable ground for suspicion that raw opium, Indian hemp or coca leaf is kept or may be found so as to constitute an offence against this Act and may seize any raw opium, Indian hemp or coca leaf found there, together with baskets, jars or packages holding the same, and apprehend and detain any person suspected of owning the same.
- (2) Any police officer may without warrant apprehend and detain any person carrying or conveying any raw opium, Indian hemp or coca leaf.
- (3) Any person apprehended under the provisions of the foregoing subsections shall be taken as soon as may be possible before the court to be dealt with according to law.

10 Seizure and destruction of plants

All opium poppy, Indian hemp or coca leaf found upon any plantation, whether growing or not, may be seized and destroyed by the owner or manager or any person duly authorised by either of them.

PART II PREPARED OPIUM

11 Importation or exportation of prepared opium prohibited

No person shall import or export any prepared opium, or any pipes or other utensils for use in connection with the smoking of opium, or any utensil for use in connection with the preparation of opium for consumption.

12 Manufacturing, selling or using prepared opium

- (1) If any person:

- (a) manufactures, sells or otherwise deals in prepared opium; or
- (b) has in his possession any prepared opium; or
- (c) being the occupier of any premises, permits those premises to be used for the preparation of opium for consumption or the sale or smoking of prepared opium; or
- (d) is concerned in the management of any premises used for any such purposes as aforesaid; or
- (e) has in his possession any pipes or other utensils for use in connection with the smoking of opium, or any utensil used in connection with the preparation of opium for smoking; or
- (f) smokes or otherwise uses prepared opium, or frequents any place used for the purpose of opium smoking,

he shall be guilty of an offence against this Act.

- (2) If any prepared opium, or any article used in the preparation of or used in connection with the smoking of prepared opium, is imported or exported or found in Solomon Islands, the same shall be seized and forfeited and shall be disposed of in such manner as the Comptroller of Customs and Excise may direct, without further proceedings.

PART III MEDICINAL OPIUM, MORPHINE, COCAINE AND CERTAIN OTHER DRUGS

13 Application of this Part

- (1) The provisions of this Part of this Act shall apply to the following substances:
 - (a) medicinal opium;
 - (b) any extract or tincture of Indian hemp;
 - (c) morphine and its salts and diacetylmorphine (commonly known as diamorphine or heroin) and the other esters of morphine and their respective salts;

- (d) cocaine (including synthetic cocaine) and ecgonine and their respective salts and the esters of ecgonine and their respective salts;
- (e) any dilution or solution of morphine or cocaine or their salts in an inert substance, whether liquid or solid, containing any proportion of morphine or cocaine, and any preparation, admixture, extract or other substance (not being such a dilution or solution as aforesaid) containing not less than one-fifth *per centum* of morphine or one-tenth *per centum* of cocaine or of ecgonine;
- (f) any preparation, admixture, extract or other substance containing any proportion of diacetylmorphine;
- (g) dihydrohydroxycodeinone, dihydrocodeinone, dihydromorphinone, acetyldihydrocodeinone, dihydromorphine, their esters and the salts of any of these substances and of their esters, morphine-N-oxide (commonly known as genomorphine), the morphine-N-oxide derivatives and any other pentavalent nitrogen morphine derivatives;
- (h) thebaine and its salts and (with the exception of methylmorphine, commonly known as codeine, and ethylmorphine, commonly known as dionin, and their respective salts) benzylmorphine and other esters of morphine and their respective salts;
- (i) any preparation, admixture, extract or other substance containing any preparation of any of the substances mentioned in paragraph (g) or in paragraph (h) of this subsection.

For the purpose of the foregoing provision:

- (i) the expression “**ecgonine**” means laevoecgonine and includes any derivatives of ecgonine from which it may be recovered industrially; and the percentage in the case of morphine shall be calculated as in respect of anhydrous morphine;
- (ii) percentages in the case of liquid preparations 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.

- (2) The Minister may by proclamation apply this Part of this Act to any new derivatives of morphine or cocaine, or of any salts of morphine or cocaine, or any alkaloid of opium, or any other drug of whatever kind, which is, or is likely to be, or which is capable of being, changed into any drug which is, or is likely to be, productive, if improperly used, of ill effects substantially of the same character or nature as, or analogous to, those produced by morphine or cocaine.
- (3) If the Minister thinks fit by order to declare that a finding with respect to any preparation containing any of the drugs to which this Part of this Act applies has, in pursuance of Article 8 of the Geneva Convention No. 1, been communicated by the Economic and Social Council of the United Nations to the parties to the said Convention, the provisions of this Part of this Act shall, as from such date as may be specified in the order, cease to apply to the preparation specified therein.

14 Importation or exportation of certain substances prohibited

No person shall import or export any substance to which this Part of this Act applies, except in accordance with sections 22 to 30.

15 Rules

- (1) For the purpose of preventing the improper use of the dangerous drugs to which this Part of this Act applies, the Minister may make rules not inconsistent with the provisions of this Act for controlling the manufacture, sale, possession, distribution and custody of any or all of the dangerous drugs to which this Part relates; and in particular, but without prejudice to the generality of the foregoing power, for:
 - (a) prohibiting the manufacture of any dangerous drugs to which this Part of this Act applies, except on premises licensed for the purpose and subject to any conditions specified in the licence;
 - (b) prohibiting the manufacture, sale or distribution of any such

dangerous drugs, except by persons licensed or otherwise authorised under the rules and subject to any conditions specified in the licence or authority;

- (c) regulating the issue by medical practitioners of prescriptions containing any such dangerous drug and the dispensing of any such prescription;
 - (d) requiring persons engaged in the manufacture, sale or distribution of any such dangerous drug to keep such books and to furnish such information, either in writing or otherwise, as may be prescribed; and
 - (e) requiring persons engaged in the manufacture, sale or distribution of any such dangerous drug to furnish such estimates of amounts of any such dangerous drug as are likely to be required annually.
- (2) The rules under this section shall provide for authorising any person lawfully carrying on the business of a pharmaceutical chemist or chemist and druggist in accordance with the *Pharmacy and Poisons Act*:
- (a) to manufacture at his shop in the ordinary course of his retail business, any preparation, admixture or extract of any dangerous drug to which this Part of this Act applies; and
 - (b) to carry on at his shop the business of retailing, dispensing or compounding any such dangerous drug;

subject to the power of the Minister to withdraw the authorisation in the case of any person convicted of an offence against this Act.

- (3) Nothing in any rules made under this section shall be taken to authorise the sale or the keeping of an open shop for the retailing, dispensing or compounding of poisons by any person who is not qualified in that behalf under, or otherwise than in accordance with, the provisions of the *Pharmacy and Poisons Act*, or to be in derogation of the provisions of the said Act for prohibiting, restricting or regulating the sale of poisons.

16 Certain drugs to be deposited in store

- (1) All dangerous drugs to which this Part of this Act applies imported into Solomon Islands shall be deposited at the cost, risk and peril of the persons importing the same, in such store as shall be appointed by the Minister for that purpose.
- (2) Any person in possession of any dangerous drug to which this Part of this Act applies, shall keep a stock book in such form as shall be prescribed by rule.

17 Drugs may be withdrawn on authority of Permanent Secretary, Ministry of Health and Medical Services

No dangerous drug to which this Part of this Act applies, shall be delivered or withdrawn from the appointed store except on the written authority of the Permanent Secretary, Ministry of Health and Medical Services or an officer authorised by him as hereinafter provided.

18 Permanent Secretary, Ministry of Health and Medical Services may delegate authority

The Permanent Secretary, Ministry of Health and Medical Services may authorise in writing an officer in his department to sign the authority required by this Act for the withdrawal from the store of the dangerous drugs to which this Part of this Act applies.

19 Withdrawals

No officer shall authorise the withdrawal of any dangerous drug to which this Part of this Act applies from the store, except to a registered medical practitioner, licensed pharmacist, registered dentist, qualified veterinary surgeon, or to a hospital attendant approved by the Permanent Secretary, Ministry of Health and Medical Services at a plantation hospital, or to a person approved by the Permanent Secretary, Ministry of Health and Medical Services engaged in medical work under the control of a recognised Mission.

20 Drugs not to be kept in a place other than the store without authority

When any dangerous drug to which this Part of this Act applies is

found in the possession of any person or kept in any place other than the appointed store, such person or the occupier of such place, unless he can prove that such drug was obtained under the authority of this Act, or in accordance with the prescription of a registered medical practitioner, or from a person having authority to sell it, or was deposited there without his knowledge or consent; and also the owner of, or any person guilty of keeping, the said dangerous drug, shall be guilty of an offence against this Act.

21 Prohibition of trade in new drugs

- (1) No person shall trade in, or manufacture for the purpose of trade, any products obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was, on the thirteenth day of July one thousand nine hundred and thirty-one, being used for medical or scientific purposes;

Provided that if the Minister is at any time satisfied as respects any such product that it is of medical or scientific value, he may by proclamation direct that this subsection shall cease to apply to that product.

- (2) If it is made to appear to the Minister that a decision with respect to any such product as is mentioned in subsection (1) has, in pursuance of Article 11 of The Geneva Convention No. 2, been communicated by the Secretary-General of the United Nations to the parties to the said Convention, the Minister by proclamation may, as the case requires, either declare that the provisions of this Part of this Act shall apply to that product in the same manner as they apply to drugs mentioned in subsection (1) of section 13, or apply the said Part to that product, with such modifications as may be specified in the proclamation.
- (3) The Minister may by proclamation apply this Part of this Act, with such modifications as may be specified in the proclamation, to any of the following drugs, that is to say, methylmorphine (commonly known as codeine) and ethylmorphine (commonly known as dionin) and their respective salts.

22 Export of dangerous drugs

Upon the production of an import certificate duly signed by the

competent authority in any country, it shall be lawful for the Permanent Secretary, Ministry of Health and Medical Services to issue an export authorisation, in the Form B set out in the Schedule, in respect of any dangerous drugs to which this Part of this Act applies referred to in the import certificate, to any person who is named as the exporter in such certificate, and is, under the provisions of this Act, otherwise lawfully entitled to export such drugs from Solomon Islands. The export authorisation shall be prepared in triplicate and two copies shall be issued to the exporter, who shall send one copy with the drug to which it refers, when such drug is exported. The Permanent Secretary, Ministry of Health and Medical Services shall send the third copy direct to the appropriate authority of the country of ultimate destination. Where the intended exportation is to a country which is not a party to the Convention, it shall not be necessary to produce an import certificate as aforesaid. In all cases it shall be in the absolute discretion of the Permanent Secretary, Ministry of Health and Medical Services to issue or refuse an export authorisation, as he may deem fit.

23 Export without authorisation prohibited

No dangerous drug to which this Part of this Act applies shall be exported from Solomon Islands unless the exporter is in possession of a valid and subsisting export authorisation relating to such drug granted under this Act.

24 Export authorisation to be produced

At the time of exportation of any dangerous drug, the exporter shall produce to the Comptroller of Customs and Excise the dangerous drug, the export authorisation relating thereto, and such other evidence as the Comptroller of Customs and Excise may require to satisfy him that the dangerous drug is being lawfully exported to the place and person named in the authorisation which refers to it.

25 Export to be in accordance with Act

No person shall export, cause to be exported, or take any steps preparatory to exporting, any dangerous drug from Solomon Islands except in accordance with and in pursuance of the provisions of this Act.

26 Importation of dangerous drugs

- (1) An import authorisation, in the Form C set out in the Schedule, permitting the importation into Solomon Islands of any dangerous drug specified therein, may be granted by the Permanent Secretary, Ministry of Health and Medical Services, subject to such conditions as he shall deem fit, to any person who may lawfully import such drug.
- (2) When an import authorisation is issued in pursuance of subsection (1), the Permanent Secretary, Ministry of Health and Medical Services shall also issue in relation to the dangerous drug intended to be imported, an import certificate as set out in Form A in the Schedule which shall be forwarded by the intending importer to the person from whom the drug is to be obtained. When an importer to whom an import authorisation is issued under this section, intends to import the drug or drugs to which such authorisation related in more than one consignment, a separate import certificate shall be issued to him in respect of each such consignment.

27 Permission to withdraw drugs from store

Upon the arrival of any dangerous drugs in Solomon Islands, the person to whom such drugs are sent shall apply in writing to the Permanent Secretary, Ministry of Health and Medical Services for permission to withdraw such drugs from the appointed store. Such application shall state the manner in which the drugs were imported, the number and date of import authorisation and the quantity of such drugs. The Permanent Secretary, Ministry of Health and Medical Services, or the officer authorised by him under section 18, if satisfied that the said drugs agree in all particulars with the drugs specified in the import authorisation, may grant permission, in the Form F in the Schedule, for the removal of the said drugs from the store.

28 Importation without authorisation prohibited

No dangerous drug shall be imported into Solomon Islands unless the person to whom the drug is consigned is in possession of a valid and subsisting import authorisation granted in pursuance of this Act.

29 Export authorisation or diversion certificate to accompany drug

Every dangerous drug imported into Solomon Islands from a country which is a party to the Convention, shall be accompanied by a valid and subsisting export authorisation or diversion certificate.

30 Importation to be in accordance with Act

No person shall import, cause to be imported, or take any steps preparatory to importing, any dangerous drug to which this Part of this Act applies into Solomon Islands except in accordance with the provisions of this Act.

**PART IV DANGEROUS DRUGS IN TRANSIT AND
DIVERSION OF DANGEROUS DRUGS**

31 Dangerous drug in transit

- (1) No person shall bring any dangerous drug to Solomon Islands in transit unless:
 - (a) the drug is in course of transit from a country from which it may lawfully be exported to another country into which such drug may lawfully be imported; and
 - (b) except where the drug comes from a country not a party to the Convention, it is accompanied by a valid and subsisting export authorisation or diversion certificate, as the case may be.
- (2) When any dangerous drug in transit is accompanied by an export authorisation or diversion certificate and the Comptroller of Customs and Excise has reasonable grounds for believing that such authorisation or certificate is false, or that it has been obtained by fraud or wilful misrepresentation of a material particular, the Comptroller of Customs and Excise may seize and detain the drug to which such authorisation or certificate relates. Upon being satisfied that such authorisation or certificate is valid or has not been obtained by fraud or misrepresentation as aforesaid, the Comptroller of Customs and Excise shall release the drug.
- (3) When a dangerous drug in course of transit is not accompanied by

an export authorisation or diversion certificate by reason of the fact that the drug comes from a country not a party to the Convention, and the Comptroller of Customs and Excise has reasonable grounds for believing it is being conveyed in an unlawful manner, or for an unlawful purpose, or is in course of transit for the purpose of being imported into another country in contravention of the laws of that country, the Comptroller of Customs and Excise may seize and detain the drug.

- (4) When a dangerous drug in course of transit is landed or transshipped in Solomon Islands, it shall remain under the control of the Permanent Secretary, Ministry of Health and Medical Services and shall be moved only under and in accordance with a removal licence granted in pursuance of section 32.
- (5) Nothing in this section contained shall be deemed to apply to any dangerous drug in transit by post or in transit by air, if the aircraft passes over Solomon Islands without landing, or to such quantities of dangerous drugs as may *bona fide* and reasonably form part of the medical stores of any ship or aircraft.

32 Removal licences

- (1) No person shall:
 - (a) remove any dangerous drug from any conveyance in which it is brought into Solomon Islands in transit; or
 - (b) in any way move any such drug in Solomon Islands at any time after removal from such conveyance;

except under and in accordance with a licence (in the Form D set out in the Schedule and in this Act referred to as a “removal licence”) issued by the Permanent Secretary, Ministry of Health and Medical Services. In all cases it shall be in the absolute discretion of the Permanent Secretary, Ministry of Health and Medical Services to issue or refuse a removal licence as he shall deem fit.

- (2) No removal licence for the transfer of any such drug to any conveyance for removal out of Solomon Islands shall be issued unless and until a valid subsisting export authorisation or diversion certificate relating to it is produced to the Permanent Secretary,

Ministry of Health and Medical Services; save that when the drug has come from a country not a party to the Convention, this subsection shall not apply.

- (3) The provisions of this section shall not apply to dangerous drugs in transit by post.

33 Dangerous drugs not to be tampered with

No person shall cause any dangerous drug in transit to be subjected to any process which would alter its nature, or wilfully open or break any package containing any dangerous drug in transit, except upon the instructions of the Permanent Secretary, Ministry of Health and Medical Services, and in such a manner as he may direct.

34 Diversion of dangerous drugs

- (1) No person shall, except under the authority of a diversion certificate in the Form E in the Schedule cause or procure any dangerous drug brought into Solomon Islands in transit to be diverted to any destination other than that to which it was originally consigned. In the case of any dangerous drug in transit accompanied by an export authorisation or a diversion certificate issued by a competent authority of some other country, the country stated in such export authorisation or diversion certificate, as the case may be, to be the country of destination, shall be deemed to be the country to which the drug was originally consigned.
- (2) The Permanent Secretary, Ministry of Health and Medical Services may, in his absolute discretion, issue a diversion certificate in respect of any dangerous drug in transit, on the production to him of a valid and subsisting import certificate issued by a competent authority in the country to which it is intended to divert the drug; or, if that country is not a party to the Convention, on such evidence as may satisfy him that the drug is to be sent in a lawful manner and for a proper purpose.
- (3) A diversion certificate shall be issued in duplicate and one copy thereof shall accompany the drug when it is exported from Solomon Islands, and another copy shall be despatched by the Permanent Secretary, Ministry of Health and Medical Services to the proper authority in the country to which the dangerous drug has been

diverted.

- (4) Upon the issue of a diversion certificate, the export authorisation or diversion certificate (if any) accompanying the drug on its arrival in Solomon Islands shall be detained by the Permanent Secretary, Ministry of Health and Medical Services and returned to the authority issuing such authorisation or diversion certificate, together with a notification of the name of the country to which such drug has been diverted.

PART V LEGAL PROCEEDINGS, PENALTIES AND GENERAL

35 Application of Customs and Excise Act

- (1) Articles the importation of which is prohibited by this Act and, to the extent to which their importation is prohibited, articles the importation of which is restricted by this Act, shall be deemed to be goods the importation of which is prohibited under the *Customs and Excise Act*; and, subject to the provisions of this Act, the said Act and any Acts amending the same shall apply to such articles.
- (2) If any goods the exportation of which is prohibited or restricted by this Act are exported from Solomon Islands in contravention thereof, or brought to a wharf or other place to be shipped in any conveyance, the exporter or his agent shall be liable for each offence, to forfeit either treble the value of the goods or 2,000 penalty units, at the option of the Comptroller of Customs and Excise.

36 Search warrant

- (1) A Magistrate, if satisfied by information on oath that any drug or other substance to which this Act applies is being unlawfully kept, landed, conveyed or sold in contravention of this Act, in any place, whether a building or not, or in any ship not having the status of a ship of war, or in any vehicle, may grant a warrant to enter at any time, and if needs be by force, on Sundays as well as any other days, the place, ship or vehicle named in such warrant, and every part thereof to examine and to search for any such drug or other article unlawfully kept therein, and to demand from the owner or occupier thereof the production of the authority for being in possession of the same.

- (2) When the officer or other person executing such warrant has reasonable cause to believe that any drug or other article to which this Act applies, found by him in any place, ship or vehicle, is being kept, conveyed, landed or sold in contravention of this Act, he may seize and detain the same until the court has decided whether the same is liable to be forfeited or not.
- (3) Proceedings in the court shall be commenced as soon as possible after the seizure.

37 Exemption from liability

Any person acting under the aforementioned warrant shall not be liable to any suit for seizing or detaining any drug or other article to which this Act applies.

38 Powers of inspection and search

- (1) Any Government Medical Officer, officer of Customs and Excise or police officer, or other person authorised in that behalf by any general or special order of the Minister, shall, for the purposes of this Act, have power to enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any drug to which this Act applies, and to demand the production of, and to inspect, any books or documents relating to dealings in any such drugs, and to inspect any stocks of any such drugs.
- (2) If a Magistrate is satisfied by information on oath that there is a reasonable ground for suspecting that any drugs to which this Act applies are, in contravention of the provisions of this Act or any rules made thereunder, in the possession of or under the control of any person in any premises, or that any document relating to, or connected with, any transaction or dealing which was, or any intended transaction or dealing which would, if carried out, be an offence against this Act, or in the case of a transaction or dealing carried out or intended to be carried out in any place outside Solomon Islands, an offence against the provisions of any corresponding law in force in that place, is in the possession of, or under the control of, any person in any premises; he may grant a search warrant authorising any police officer named in the warrant to enter, if need be, by force, the premises named in the warrant, and to search the premises and any person found therein; and if there be reasonable

ground for suspecting that an offence has been committed against this Act in relation to any such drugs which may be found in the premises or in the possession of any such persons, or that any document which may be so found is such a document as aforesaid, to seize and detain those substances and that document (as the case may be).

- (3) If any person wilfully delays or obstructs any person in the exercise of his powers under this section, or fails to produce, or conceals, or attempts to conceal, any such books, drugs, stocks or documents as aforesaid, he shall be guilty of an offence against this Act.
- (4) Where any search is made upon a female it shall be conducted by a female.

39 Offences and penalties

- (1) Any person who:
 - (a) acts in contravention of or fails to comply with any of the provisions of this Act or any rule made under this Act; or
 - (b) acts in contravention of or fails to comply with the conditions of any licence issued or any authority granted under or in pursuance of this Act; or
 - (c) for the purpose of obtaining for himself or for any other person, the issue, grant or renewal of any such licence or authority as aforesaid, makes any declaration or statement which is false in any particular, or knowingly utters, produces or makes use of, any such statement or declaration or any document confirming the same; or
 - (d) in Solomon Islands aids, abets, counsels or procures the commission in any place outside Solomon Islands of any offence punishable under the provisions of any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act which, if committed in Solomon Islands, would constitute an offence against this Act,

shall be guilty of an offence against this Act.

- (2) Every person guilty of an offence against this Act shall, in respect of each offence for which no penalty is otherwise prescribed, be liable:
- (a) on conviction by the court sitting with assessors, to a fine of 100,000 penalty units, or to imprisonment for ten years, or to both such fine and imprisonment; or
 - (b) on summary conviction, to a fine of 5,000 penalty units, or to imprisonment for six months, or to both such fine and imprisonment;

and shall in every case, on conviction for the offence, forfeit to Her Majesty all articles in respect of which the offence was committed; and the court before which the offender was convicted may order the forfeited articles to be destroyed or otherwise disposed of, as the Court deems fit.

- (3) No person shall be proceeded against under paragraph (a) of subsection (1) unless the proceedings are instituted by, or with the consent of, the Director of Public Prosecutions; and no person, on conviction for any offence of contravening or failing to comply with any rules made under this Act relating to the keeping of books or the issuing or dispensing of prescriptions containing drugs to which this Act applies, shall be sentenced to imprisonment without the option of a fine, or to pay a fine exceeding one hundred penalty units, if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of, or in connection with, the commission of, or intended commission of, any other offence against this Act.
- (4) If any person attempts to commit an offence against this Act, or solicits or incites another person to commit such an offence, he shall, without prejudice to any other liability, be liable to the same punishment and forfeiture as if he had committed an offence against this Act.
- (5) When a person convicted of an offence against this Act is a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence, unless he proves that the act constituting the offence took place without his knowledge or consent.

- (6) Notwithstanding any enactment prescribing the time within which such proceedings may be brought, any such proceedings for an offence against this Act may be brought either within the time so specified or three months from the date on which evidence sufficient in the opinion of the Director of Public Prosecutions to justify a prosecution for the offence, comes to his knowledge, whichever is the longer; and for the purposes of this subsection, a certificate purporting to be signed by the Director of Public Prosecutions as to that date on which such evidence as aforesaid comes to his knowledge, shall be conclusive evidence thereof. This provision of this subsection shall apply to proceedings for attempting or soliciting or inciting another person to commit such an offence, as they apply to proceedings for such an offence.

40 Power of arrest

Any officer of Customs and Excise or police officer may arrest without warrant any person who has committed or attempted to commit, or is reasonably suspected by an officer of the Customs and Excise or police officer of having committed, or attempted to commit, an offence against this Act, if he has reasonable ground for believing that that person will abscond unless arrested, or if the name and address of that person are unknown to him and cannot be ascertained by him.

41 Reward to informer

The court before which any person is convicted for any offence against this Act may direct a portion of the fine actually paid into court, and not exceeding one-half, to be paid to an informer.

42 Certificate as evidence

In any proceedings under this Act the production of a certificate purporting to be signed by a Government chemist shall be *prima facie* evidence of the fact therein stated.

SCHEDULE

SOLOMON ISLANDS

FORM A

(Section 2)

Import Certificate issued by the

Serial No.

Government of Solomon Islands

File No.

INTERNATIONAL OPIUM CONVENTION

CERTIFICATE OF OFFICIAL APPROVAL TO IMPORT

I, being the person charged with the administration of the law relating to Dangerous Drugs to which the International Opium Conventions apply, hereby certify that I have approved the importation by [*here insert name, address and business of importer*] of [*here insert exact description and amount of drug to be imported*] from [*here insert name and address of firm in exporting country from which drugs are to be obtained*] subject to the conditions, that:

(1) the consignment shall be imported before the _____; and

(2) the consignment shall be imported by _____ and that I am satisfied that the consignment proposed to be imported is required:

(a) for legitimate purposes;

(b) solely for medicinal or scientific purposes.

Signature and Stamp of Issuing Authority.

Date _____

This document is solely for production to the Government of the country from which the drug is proposed to be exported.

FORM B

(Section 22)

Serial No.

File No.

Applicant's reference No.

SOLOMON ISLANDS

Dangerous Drugs Act

EXPORT AUTHORISATION

In pursuance of the *Dangerous Drugs Act*, the Permanent Secretary, Ministry of Health and Medical Services hereby authorises hereinafter called "the exporter" to export from:

(a) the port of by s.s. ;

(b) Solomon Islands by parcel post in parcels from the General Post Office in ;

to in virtue of Import Certificate No. dated
issued by the following drugs, namely:

This authorisation is issued subject to the following conditions:

1. This authorisation is not a licence to obtain or be in possession of the drugs named herein.
2. This authorisation is available only for drugs of the exact quantity, kind and form specified above.
3. This authorisation does not relieve the exporter from compliance with any *Customs and Excise Act* in force for the time being, relating to the exportation of goods from Solomon Islands, nor from any provision of the *Post Office Act*, or of any Post Office Rules, for the time being in force, nor from any rules or regulations, respecting the transmission of articles by post, which may for the time being be in force within Solomon Islands or elsewhere.

4. If the drugs are authorised to be exported by ship, the duplicate copy which is attached, shall accompany the consignment to the place of destination, and for this purpose the exporter shall cause it to be delivered to the Master of the vessel by which the consignment is despatched. (See *footnote 3.*)

5. If the drugs are authorised to be despatched by post, the attached duplicate copy shall be placed inside the outer wrapper of the parcel containing the drugs. If the drugs are contained in more than one parcel, the duplicate copy shall be placed inside the outer wrapper of one of them, the parcels shall be consecutively numbered on the outer wrapper, and on each parcel shall be legibly stated the number of the parcel in which the duplicate copy is to be found. (See *footnote 2.*)

6. The exporter, if so required by the Comptroller of Customs and Excise, shall produce to him within such time as he may allow, proof to his satisfaction that the said drugs were duly delivered at the destination named in the authorisation; and in the event of noncompliance with this condition, the authorisation shall be deemed void and of no effect.

7. The exporter shall furnish to the Permanent Secretary, Ministry of Health and Medical Services returns of the goods exported by him in pursuance of this authorisation, as may from time to time be required.

8. The authorisation is valid only for the exporter named above and may be revoked at any time by the Permanent Secretary, Ministry of Health and Medical Services. It shall be produced for inspection when required by any authorised person.

9. This authorisation, unless sooner revoked, shall continue in force for three calendar months from the date thereof. It must be produced at the time of export to an officer of:

(a) the Customs and Excise Department; or

(b) the Post Office;

who will retain it; if not used it shall be surrendered to the Permanent Secretary, Ministry of Health and Medical Services within seven days of the date of expiry.

Signature and Stamp.

Date

Title

Note: (1) If any alteration is desired in this authorisation it must be returned with a request for amendment and a statement of the reasons therefor. No unauthorised alteration is permissible.

(2) In the case of a drug to be exported by post, failure to comply with this condition may lead to delay or confiscation of the parcels in the country of destination.

(3) In the case of drugs exported by ship, this document is required in pursuance of the International Opium Convention of 1925, Article 25, to be presented to the competent authority of the country through which the consignment passes whether it is transhipped or not. Failure to comply with this condition may lead to delay or confiscation of the consignment.

FORM C

(Section 26)

Authorisation No.

File No.

SOLOMON ISLANDS

Dangerous Drugs Act

IMPORT AUTHORISATION

In pursuance of the Dangerous Drugs Act (hereinafter called "the Act") the Permanent Secretary, Ministry of Health and Medical Services hereby authorises (hereinafter called the "Importer") to import the drugs referred to in the Schedule hereto from .

This authorisation is issued subject to the following conditions:

1. The drugs shall be imported before
2. This authorisation is not a licence to be in possession of or to supply the drug imported.

3. This authorisation is valid only for the importer and may be revoked at any time by the Permanent Secretary, Ministry of Health and Medical Services to whom it shall in that event be immediately surrendered. It shall be produced for inspection when required by any duly authorised person.

4. This authorisation does not relieve the importer from compliance with any *Customs and Excise Act* in force for the time being relating to the importation of goods into or transshipment of goods in Solomon Islands or any Post Office Rules for the time being in force in Solomon Islands.

5. This authorisation unless sooner revoked shall be produced to the Customs Officer at the time of importation and shall be surrendered to the Customs Officer at the time when the last consignment of drugs is imported.

6. If the importation of all the drugs specified in the Schedule is not effected before the date specified in condition No. 1 this authorisation shall immediately after that date be surrendered to Permanent Secretary, Ministry of Health and Medical Services.

7. The copy of the export authorisation, if any, which accompanies the drugs shall be forwarded to the Permanent Secretary, Ministry of Health and Medical Services immediately the importation of the drugs has been effected.

Date _____ *Permanent Secretary, Ministry of Health and Medical Services*

Schedule specifying the drugs and quantities thereof to be imported.

Name of drug	Quantity
1	
2	
3	
4	
5	
6	

This authorisation is not to leave the possession of the importer until it is surrendered to the Permanent Secretary, Ministry of Health and Medical Services or to the Customs Officer who will complete the endorsement on the

back and return the authorisation to the Permanent Secretary, Ministry of Health and Medical Services.

Endorsement by Customs Officer at the time of Importation.

Date	Description of drugs imported	No. and date of Export Authorisation	Quantity	How imported	Customs entry and parcel No.	Signature, rank and station of Customs Officer

This authorisation, when all the drugs to which it refers have been imported, must be returned by the Customs Officer to the Permanent Secretary, Ministry of Health and Medical Services.

FORM D

(Section 32)

SOLOMON ISLANDS

Dangerous Drugs Act

LICENCE FOR THE REMOVAL OF DANGEROUS DRUGS IN TRANSIT

_____ is hereby authorised to move the dangerous drugs described hereunder from _____ to _____.

Nature and quantity of dangerous drugs.

Particulars of export authorisation or diversion certificate (if any) relating thereto.

Name of ship in which the drugs were brought into Solomon Islands.

International Opium Convention

DIVERSION CERTIFICATE

I, being the person charged with the administration of the law relating to the dangerous drugs to which the International Opium Conventions apply hereby certify that I have authorised the diversion of the consignment of drugs of which particulars are given below, to the destination stated below.

Description and quantity of drugs

Name of vessel in which the consignment was brought to Solomon Islands

Name and address of exporter

Number and date of export authorisation and authority by whom issued

Name and address of the original consignee named in the export authorisation

Name and address of the consignee to whom the consignment is authorised to be diverted

Number and date of import certificate (and authority by whom issued) by virtue of which this diversion is authorised

Name of vessel on which the consignment is authorised to be carried from

Period within which the consignment is to be carried from Solomon Islands

This certificate is issued subject to the following conditions:

1. The duplicate copy of this certificate must accompany the consignment to the place of destination and for this purpose must be delivered to the Master of the vessel by which the consignment is despatched.
2. This certificate does not relieve any person who is concerned with the carriage of the consignment of the drugs specified above from compliance with the *Customs and Excise Act* in force for the time being relating to the exportation of goods from Solomon Islands.

3. This certificate is valid only for the consignment and for the period specified above and may be revoked at any time.

4. If the consignment is not carried from Solomon Islands within the period specified above this certificate must be surrendered to the Permanent Secretary, Ministry of Health and Medical Services.

5. This certificate must be produced at any time when required by a duly authorised person.

Signed

Date

Title

Note: (1) If any alteration is desired in this certificate it must be returned with a request for amendment. No unauthorised alteration is permissible.

(2) This document is required in pursuance of the International Opium Convention 1925, Article 15, to be produced to the competent authorities through which the dangerous drug passes, whether it is transhipped or not. Failure to comply with the conditions may lead to delay or confiscation of the consignment.

FORM F

(Section 27)

[In Duplicate.]

No.

SOLOMON ISLANDS *Dangerous Drugs Act*

To the Customs and Excise Officer in Charge,
Dangerous Drugs Store.

Permission is hereby granted to _____ *[name and business]*
of _____ to withdraw from the Dangerous Drugs Store the
undermentioned drugs:

Import Authorisation

{

File No.
Serial No.
Date

How imported	
Name of drug	Quantity
1	
2	
3	
4	
5	
6	
Dated	<i>Permanent Secretary, Ministry of Health and Medical Services</i>

ENDNOTES

1

KEY

amd = amended	Pt = Part
Ch = Chapter	rem = remainder
Div = Division	renum = renumbered
exp = expires/expired	rep = repealed
GN = Gazette Notice	Sch = Schedule
hdg = heading	Sdiv = Subdivision
ins = inserted	SIG = Solomon Islands Gazette
lt = long title	st = short title
LN = Legal Notice	sub = substituted
nc = not commenced	

NOTE

This Reprint comprises the Act and amendments as in force on 1 March 1996 and published as Chapter 98 of the Revised Edition of the Laws of Solomon Islands, together with amendments made to the Act since that date.

2

LIST OF LEGISLATION

Dangerous Drugs Act (Cap. 98)

<i>Constituent legislation:</i>	4 of 1941 (Commenced 14 April 1941)
	8 of 1949
	6 of 1953
	6 of 1967
	4 of 1968
	LN 46A of 1978
	LN 88 of 1978

Penalties Miscellaneous Amendments Act 2009 (No. 14 of 2009)

Assent date	29 July 2009
Gazetted	1 October 2009
Commenced	1 October 2009

3

LIST OF AMENDMENTS

s 35	amd by Act No. 14 of 2009
s 39	amd by Act No. 14 of 2009