

**CHAPTER 9.****NARCOTIC DRUGS****ARRANGEMENT OF SECTIONS****Section**

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An Act to prohibit the importation, exportation, cultivation, manufacture, dispensing, possession and distribution of narcotic drugs and for matters connected therewith or incidental thereto.

Commencement:	March 20, 1987
Source:	P.L. 1987-11
	P.L. 1991-137
	P.L. 1992-6

**§901. Short title.**

This Chapter may be cited as the Narcotic Drugs (Prohibition and Control) Act 1987. [P.L. 1987-11, §1.]

**§902. Interpretation.**

(1) In this Chapter:

(a) “marijuana” means any part of the plant (genus) cannabis, whether growing or not, including the seeds and the resin, and every alkaloid, salt, derivative, preparation, compound, or mixture of the plant, its seeds or resin, except that, as used herein, “marijuana” does not include hashish, tetrahydrocannabinol, and any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized or tetrahydrocannabinol;

(b) “marijuana concentrate” means hashish, tetrahydrocannabinol, and any alkaloid, salt, derivative, preparation, compound, or mixture, whether natural or synthesized or tetrahydrocannabinol;

(c) “medical practitioner” means a person authorized by law to practice medicine in the Republic and any other person authorized by law to treat the sick and injured, and includes a dentist;

(d) “minor” means a person under the age of 18 years,

(e) “narcotic drug” means any of the following, whether produced directly or indirectly by extraction from substances of vegetable origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis:

(i) opium, meperidine, isonipecaine, coca leaves and opiates;

(ii) any compound, manufacture, salt, derivative or preparation of opium, meperidine, isonipecaine, coca leaves, or opiates;

(iii) any substance (and any compound, manufactured salt, derivative or preparation thereof) which is chemically identical with any of the substances referred to in paragraphs (i) and (ii) above, including apomorphine or any of its salts, and drugs commonly known as and similar to LSD, MDA, and psilocybin;

(f) “opiate” means any substance having an addiction-forming or addiction-sustaining liability similar to morphine or being capable of conversion into a drug having addiction forming or addiction-sustaining liability similar to morphine or cocaine;

(g) “ounce” means an avoirdupois ounce as applied to solids and semi-solids, and a fluid ounce as applied to liquids;

(h) “person” includes any corporation, firm, association or partnership;

(i) “to distribute” means to sell, transfer, prescribe, give, or deliver to another, or to leave, barter, or exchange with another, or to offer or agree to do the same.

(2) For purposes of Sections 903 through 908, 910, and 911, the terms ‘narcotic’ or ‘narcotic drug’ may be deemed to include marijuana or marijuana concentrate. [P.L. 1987-11, §2; amended by PL 1992-6, §2.]

### **§903. Control of narcotic drugs.**

Except as prescribed by this Chapter, no person shall:

(a) possess, sell or dispose of;

(b) knowingly plant, cultivate, produce, manufacture or have under his control;

(c) prescribe or administer on himself or on another or compound;

(d) import, export or transport in any way be concerned with the importation, exportation or transportation, of any narcotic drug. [P.L. 1987-11, §3.]

### **§904. Exemption for medical use.**

(1) The provisions of Section 903 of this Chapter shall not apply to the possession of narcotic drugs by a medical practitioner or by an authorized agent of such practitioner under his supervision, in accordance with a license granted under Section 907 of this Chapter:

(a) as incidental to his administering or dispensing a medicine, drug or other substance in the course of his professional practice; or

(b) for the purpose of or incidental to research, teaching, or chemical analysis done with the approval of the Public Health Board.

(2) The provisions of Section 903 of this Chapter shall not apply to:

(a) a person in possession of narcotic drugs obtained pursuant to a valid prescription of a medical practitioner or otherwise in accordance with the law;

(b) dispensing of any narcotic drug pursuant to a valid prescription or to a person who is lawfully entitled under the law to be in possession of it.

(3) The provisions of Section 903 of this Chapter shall not apply to the Government of the

Marshall Islands which shall be the sole importer and distributor of narcotic drugs. [P.L. 1987-11, §4.]

**§905. Professional use of narcotic drugs.**

A medical practitioner, in good faith and in the course of his professional practice only may prescribe, administer, or dispense narcotic drugs, or may cause the same to be administered by a nurse or intern under his direction and supervision. [P.L. 1987-11, §5.]

**§906. Obtaining drugs from a medical practitioner while under treatment from another.**

(1) No person, who in the course of treatment is supplied with narcotic drugs or a prescription therefor by a medical practitioner, shall obtain narcotic drugs or a prescription therefor from another medical practitioner without disclosing to him that he has been treated and supplied with narcotic drugs or a prescription therefor by another medical practitioner.

(2) No medical practitioner shall knowingly prescribe or dispense any narcotic drugs to any person, if that person has been treated and supplied with or prescribed any narcotic drugs by another medical practitioner within a reasonable time prior to his examination with respect to the same sickness. [P.L. 1987-11, §6.]

**§907. Issuance of licenses.**

(1) No medical practitioner shall possess narcotic drugs for purposes referred to in Section 904 of this Chapter except upon a valid license issued by the Public Health Board and subject to such terms and conditions imposed in such license by the Board.

(2) The Public Health Board may, subject to such terms and conditions referred to in Subsection (1) of this Section, in its sole discretion, issue licenses to medical practitioners for the purchase from the Government of the Marshall Islands and for the possession thereof narcotic drugs for their professional work.

(3) The license issued under Subsection (2) of this Section shall specify the name of the drug or drugs and the exact quantity, and shall be valid for a period of one year.

(4) The Public Health Board may, at any time, revoke the license granted, if it is found by the Board, after inquiry, that the medical practitioner has violated the provisions of this Chapter or the regulations made under Section 911 of this Chapter, or the terms and conditions of the license. [P.L. 1987-11, §7.]

**§908. Records to be kept.**

(1) Every medical practitioner and a person acting under him shall keep a record of all narcotic drugs received and administered, dispensed, or used by him. The record of drugs received shall contain the date, the name of the person from whom received, and the kind and quantity of drugs. The record of drugs sold, administered, or dispensed, shall contain the date, name of the person for whom sold, administered or dispensed and the kind and quantity of drugs. Every such record shall be kept for a period of two (2) years from the date of the transaction so recorded.

(2) The Public Health Board shall have the power, through an authorized officer, to examine such records anytime during reasonable hours, and it shall be the duty of such medical practitioner or his agent to permit and make available to such officer such records for examination.

(3) A medical practitioner who fails to keep proper records in accordance with Subsection (1) of this Section or who fails to keep proper records, or who refuses an authorized officer to examine such records shall be guilty of an offense and shall upon conviction be liable to a fine not exceeding \$5,000 or to a term of imprisonment not exceeding one year, or both. [P.L. 1987-11, §8.]

**§909. Penalties.**

(1) Every person who violates this Chapter with respect to marijuana shall, upon conviction, be punished as follows:

(a) upon a first offense involving one ounce or less, a fine of not less than \$1,000 and not exceeding \$5,000 or imprisonment of not less than six months and not exceeding one year, or both;

(b) upon a first offense involving more than one ounce, a second or subsequent conviction involving one ounce or less, a fine of not less than \$5,000 and not exceeding \$25,000 or a term of imprisonment of not less than one year and not exceeding five years, or both;

(c) upon a second or subsequent conviction involving more than one ounce, a fine of not less than \$25,000 and not exceeding \$50,000 or a term of imprisonment of not less than five years and not exceeding fifteen years, or both;

(2) Every person who violates this Chapter with respect to a narcotic drug or marijuana concentrate shall, upon conviction, be punished as follows:

(a) upon a first offense involving less than one-quarter ounce, a fine of not less than \$5,000 and not exceeding \$50,000 or a term of imprisonment of not less than one year and not exceeding fifteen years, or both;

(b) upon a first offense involving one quarter ounce or more but less than one-half ounce, or upon a second offense involving less than one-quarter ounce, a fine of not less than \$25,000 and not exceeding \$100,000 or a term of imprisonment of not less than five years and not exceeding twenty-five years, or both;

(c) upon any offense involving one-half ounce or more, a second or subsequent offense involving one-quarter ounce or more but less than one half ounce, or a third or subsequent offense involving less than one-quarter ounce, a fine of riot less than \$100,000 or a term of imprisonment of not less than twenty-five years, or both.

(3) Any narcotic drug, marijuana concentrate, or marijuana seized under the provisions of this Chapter shall be forfeited. [P.L. 1987-11, §9 amended by P.L. 1992-6, §3.]

**§910. Seizure and forfeiture.**

(1) All goods and vehicles, ships, aircraft and carriages in any way used or made use of in the transportation, importation, or exportation of narcotic drugs being substantially the object of the travel, flight or voyage, shall be seized and be liable to forfeiture; and such seizure of vehicles, ships, aircraft or carriages shall include the guns, tackle, apparel, instruments and furniture of the same; and such seizure of any goods shall include all other goods which shall be packed with them, as well as packages in which they are contained and all other things made use of in the transportation, importation, or exportation of narcotic drugs.

(2) The owner of the goods, vehicles, ships, aircraft or carriages seized under Subsection (1)

of this Section may, within one month from the date of seizure, make a claim in the High Court for recovery of the same. If after trial the Court finds that the goods or the object of the travel, flight or voyage of the vehicles, ships, aircraft and or carriages used in the transportation, importation or exportation of narcotic drugs was for the commission of an offense, the Court shall forfeit the same. If no claim is presented within the time prescribed above, the goods, vehicles, ships, aircraft or carriages seized, shall forfeit to the Republic.

(3) All goods, vehicles, ships, aircraft, carriages and all other things forfeited under Subsection (2) of this Section and under Title 18, Sections 981, 982, 1963 and 2513 and Title 21, Sections 853 and 881 of the United States Code, and any laws enacted by the Government of the Republic of the Marshall Islands or the Government of the United States after the effective date of this Subsection which provide for the forfeiture of any property to the Government of the Republic because of the activities of the Department of Public Safety, Division of Customs, Department of Immigration, Marshall Islands Marine Resources Authority, Ministry of Foreign Affairs or any other agency of the Government of the Republic shall be transferred directly to the Department of Public Safety for its use unless the Commissioner of Public Safety determines that said property is not suitable for Department of Public Safety use, in which case the property shall be disposed of by the Republic under the customs laws then in force.

Property obtained pursuant to this Section shall be used to enhance the law enforcement capability of the Department of Public Safety and the Office of the Attorney-General and shall not be used as a substitute for property ordinarily acquired through the appropriation process. [P.L. 1987-11, §10; amended by P.L. 1991-137, §2.]

**§911. Regulations.**

The Secretary of Health may make regulations with regard to the:

- (a) distribution and sale of drugs to medical practitioners;
- (b) issuance of licenses and any terms and conditions for issuance of licenses;
- (c) names and quantities of drugs;
- (d) method of keeping records under Section 908 of this Chapter;
- (e) method and conditions of cancellation of licenses;
- (f) matters connected with or incidental to the provisions of this Chapter. [P.L. 1987-11, §11.]

**§912. Distribution or Drugs to Minors.**

(1) Every person who distributes any amount of marijuana to a minor shall, upon conviction, be punished with a fine of not less than \$25,000 and not exceeding \$50,000 or a term of imprisonment of not less than five years and not exceeding fifteen years, or both.

(2) Every person who distributes any amount of a narcotic drug or marijuana concentrate to a minor shall, upon conviction, be punished with a fine of not less than \$100,000 or a term of imprisonment of not less than twenty-five years, or both. [P.L. 1992-6, §4.]

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