

[DRAFT]

SAINT VINCENT AND THE GRENADINES

BILL FOR

ACT NO. OF 2019

I ASSENT

Governor-General

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AN ACT to amend the Drugs (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

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BE IT ENACTED by the Queen’s Most Excellent Majesty, by and with the advice and consent of the House of Assembly of Saint Vincent and the Grenadines and by the authority of the same, as follows:-

1. Short title and commencement

- (1) This Act may be cited as the Drugs (Prevention of Misuse) (Amendment) Act, 2019.
- (2) This Act shall come into operation on such date as the Governor-General may by Proclamation appoint.

2. Amendment of section 7 of the principal Act

Section 7 of the Drugs (Prevention of Misuse) Act referred to in this Act as “the principal Act”, is amended as follows-

- (a) by deleting in subsection (4) (e) the words “fifteen” and substituting therefor the words “fifty-six”.

3. **Insertion of new sections in principal Act**

The principal Act is amended by inserting next after section 7, the following new sections

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“7 A Possession of fifty-six grammes or less of cannabis or cannabis resin

(1) Subject to any regulations under section 9 for the time being in force, it shall not be lawful for a person to have 56 grammes or less of cannabis or cannabis resin in his possession.

(2) Subject to subsection 7(5) and to section 30, it is an offence for a person to have 56 grammes or less of cannabis or cannabis resin in his possession in contravention of subsection (1).

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding \$500.00.

(4) Notwithstanding sections 24 and 25, a person who has 56 grammes or less of cannabis or cannabis resin in his possession shall not be liable to be arrested or detained therefor, but shall be subject to such procedure as prescribed under section 7B.

7 B Procedure for the discharge of liability

(1) Where a police officer has reasonable grounds to believe that a person has committed an offence under section 7A, the police officer shall, by giving the prescribed notice in writing, in accordance with subsection (2), offer the person the opportunity to discharge the liability to conviction.

(2) A notice pursuant to subsection (1) shall –

- (a) specify the offence alleged;
- (b) provide such particulars of the contravention alleged as are necessary for giving reasonable information of the allegation;
- (c) state the measure that shall be imposed by the police officer;
- (d) inform that where the measure is accepted, no proceedings shall be instituted for the offence in respect of which the notice is issued;
- (e) require the person, in the event that the measure is not accepted, to attend before the Magistrates Court to answer a charge for the offence in respect of which the notice is issued.

(3) The measures imposed by the police officer under subsection (2)(c) shall be:

- (a) the provision of educational material about cannabis and cannabis resin; and
- (b) for any case falling within subsection (4), refer the person to an appropriate person, entity or institution for counselling or rehabilitative care as the Minister may prescribe.

(4) For the purposes of subsection (3)(b), a case falls within this subsection if the person to whom the notice is issued-

- (a) is under the age of eighteen years; or
- (b) is eighteen years or older and the police officer issuing the notice has reasonable grounds to believe that the person may be dependent on cannabis or cannabis resin.

(5) Where the person accepts the measures imposed by subsection (3), no proceedings shall be instituted for the offence in respect of which the notice is issued.

(6) Where the person refuses or otherwise fails to accept the measures imposed by subsection (3), the notice shall be deemed to be a complaint

and a magistrates' court may issue a summons to compel the attendance of the accused before the magistrates' court to answer a charge for the offence in respect of which the notice was issued.

(7) Notwithstanding the Rehabilitation of Offenders Act, a contravention under sections 7A and 7B shall not form part of the criminal record of the offender.

7 C Smoking of cannabis in a public place

(1) Subject to subsection (5), it shall not be lawful for a person to smoke or use cannabis or cannabis resin in any public place.

(2) It is an offence for a person to smoke or use cannabis or cannabis resin in a public place in contravention of subsection (1).

(3) A person guilty of an offence under subsection (2) is liable on summary conviction to a fine not exceeding \$500.00.

(4) Notwithstanding sections 24 and 25, a person who is found smoking or using cannabis or cannabis resin in any public place shall not be liable to be arrested or detained therefor, but shall be liable to the fixed penalty specified in the Sixth Schedule.

(5) Notwithstanding anything contained in this section, the Minister may make regulations providing for a list of approved public places where the smoking of cannabis or cannabis resin may be allowed.

(6) An owner of or any person who has the sole or shared responsibility for managing, supervising, or regulating the use of a public place shall demand that any person who smokes or uses cannabis in a public place, cease and desist from such smoking and may remove or evict the smoker of cannabis from the public place.

(7) In this section, “**smoking**” includes vaping or like means of consuming cannabis.

(8) In this section, “**public place**” includes any structure, building, public transport or facility, that the public, or a section of the public, is entitled to use or that is open to, or is being used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise), road or path in the immediate vicinity of such buildings, but does not include privately-occupied residence not used for commercial purposes, or a usual place of worship of members of the Rastafarian faith.

7D Procedure for the discharge of liability

(1) Where a police officer has reasonable grounds to believe that a person has committed an offence under section 7C, the police officer shall, by giving the prescribed notice in writing, in accordance with subsection (2), offer the person the opportunity to discharge the the liability to conviction by paying a fixed penalty in accordance with section 7C(4).

(2) A notice pursuant to subsection (1) shall –

(a) provide such particulars of the contravention alleged as is necessary for giving reasonable information of the allegation;

(b) state the amount of the fixed penalty and that the fixed penalty shall be paid into the magistrates’ court;

(c) inform that where the fixed penalty is paid, no proceedings shall be instituted for the offence in respect of which the notice is issued;

(c) require the person, in the event that the fixed penalty is not paid within one month from the issue of the notice, to attend before the magistrates court to answer a charge for the offence in respect of which the notice is issued;

(d) in any case falling within subsection (3), refer the person to such body as the Minister may prescribe.

(3) For the purposes of subsection (2)(d), a case falls within this subsection if the person to whom the notice is issued-

(a) is under the age of eighteen years; or

(b) is eighteen years or older and the police officer issuing the notice has reasonable grounds to believe that the person may be dependent on cannabis.

(4) Where the person pays the fixed penalty, no proceedings shall be instituted for the offence in respect of which the notice is issued.

(5) Where the person, without reasonable cause or excuse, fails to pay the fixed penalty in accordance with a notice issued to that person under this section and where the fine remains unpaid after the effluxion of thirty days of being imposed, the notice shall be deemed to be a complaint and a magistrates' court may issue a summons to compel the attendance of the accused before the magistrates' court to answer a charge for the offence in respect of which the notice was issued.

(6) Where a person is issued with a notice under this section, proceedings shall not be taken against the person for the offence under section 7C until the expiration of thirty days after the date of the notice or such longer period as may be specified in the notice.

(7) In any proceedings, a certificate that payment of the fixed penalty was or was not made to the magistrates' court by a date specified in the certificate shall, if the certificate purports to be signed by the Chief Magistrate, be evidence of the facts stated therein unless the contrary is proved.

(8) Notwithstanding the Rehabilitation of Offenders Act, a contravention of section 7C and 7D shall not form part of the criminal record of the offender.”

3. Insertion of Sixth Schedule

The principal Act is amended by inserting next after the Fifth Schedule the following Sixth Schedule-

Sixth Schedule

Prosecution and Punishment of Offence

Punishment

<i>Section creating offence</i>	<i>General nature of offence</i>	<i>Mode of prosecution</i>	<i>Class A drug involved</i>	<i>Class B drug involved</i>	<i>Class C drug involved</i>	<i>General</i>
Section 16 (A)	Smoking cannabis in a public place			\$250		

4. Amendment of section 16 of principal Act.

Section 16 of the principal Act is amended by deleting sub-section (3) and substituting therefor the following-

“(3) Subject to any regulations under section 9 for the time being in force, and notwithstanding section 7(4)(e), a person found in possession of a controlled drug in any quantity in or on any school premises, educational institution, hospital, clinic, mental health institution or place for psychiatric treatment, or any other such public health institution, or any sporting, cultural or social venue where an activity is organised for or on behalf of a school, is deemed to have the controlled drug for the purpose of drug trafficking unless the contrary is proved, the burden of proof being on the accused;”

5. Consequential amendments to the Rehabilitation of Offenders Act

The Rehabilitation of Offenders Act is amended as follows-

(a) by inserting next after section 5, the following new section-

**“Rehabilitation for sentence imposed for contravention of section 7 (4)
(e) of the Drug (Prevention of Misuse) Act**

5A. (1) Notwithstanding the provisions of section 5, the rehabilitation period applicable to a conviction under section 7(2) of the Drugs (Prevention of Misuse) Act for the possession of 56 grammes or less which occurred prior to such date as may be determined by the Minister by notice published in the Gazette, shall be one year from the date on which the person has served or otherwise complied with the sentence imposed for the offence.

(2) Where a person under subsection (1) is under the age of eighteen years, the rehabilitation period shall be six months.

Passed in the House of Assembly this day of 2019.

Clerk of the House of Assembly.

OBJECTS AND REASONS

The object of this bill is to amend the Drugs (Prevention of Misuse) Act, Chapter 284 of the Laws of Saint Vincent and the Grenadines, Revised Edition 2009.

Rt. Hon. Ralph E. Gonsalves

Prime Minister, Minister of the Public
Service, National Security, Legal Affairs and
Grenadines Affairs