NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS
41ST CONSTITUTION REGULAR SESSION, 2020

Republic of the Marshall Islands
Jepilpilin Ke Ejukaan

PROHIBITED DRUGS (PROHIBITION AND CONTROL) (AMENDMENT) ACT, 2020.

Index

Section		Page
§101.	Short title.	3
§102.	Amendments.	3
§103.	Effective Date.	10

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PROHIBITED DRUGS (PROHIBITION AND CONTROL) (AMENDMENT) ACT, 2020.

AN ACT to amend Sections 901, 902, 903, 904, 905, 906, 907, 908,909, 910 and 912 of to the Narcotic Drugs (Prohibition and Control) Act 7 MIRC Chp. 9, to call it the "Prohibited Drugs (Prohibition and Control) Act to more accurately reflect those drugs controlled by the Act. To include methyl-amphetamine known as "ice or speed", synthetic cathinones known as "bath salts" and methylenedioxymethamphetamine known as "MDMA, or ecstasy" in the Act to reflect changes in the prohibited drugs that are now available. To include cash in the items law enforcement may seize in a crime and alter to burden of proof to the accused to establish the seized articles were not used in commission of a crime.

BE IT ENACTED BY THE NITIJELA OF THE REPUBLIC OF THE MARSHALL ISLANDS

§101. Short title.

This Act may be cited as the Prohibited Drugs (Prohibition and Control) (Amendment) Act, 2020. .

§102. Amendments.

The Narcotic Drugs (Prohibition and Control) Act, 7 MIRC Chp. 9, is amended to read as follows:

§901. Short Title.

This Chapter may be cited as the *Prohibited Drugs (Prohibition and Control) Act 1987.*

SECTION 2. Amendment to Section 901 of the Narcotic Drugs (Prohibition and Control) Act.

§902. Interpretation.

(1) In this Chapter:

"**cash**" means any legal tender of any currency, whether, notes, coins, checks, accounts containing electronic currency.

"**manufacture**" knowingly participate in any way with the creation or production of any prohibited drug.

"**Methylenedioxymethamphetamine**" means a drug that chemically stimulates the central nervous system chemically described as C11H15NO2 and colloquially known among other things "ecstasy or MDMA"

'methyl-amphetamine" means a drug that chemically stimulates the central nervous system chemically described as $C_{10}H_{15}N$ and colloquially known among other things "ice or speed" .

"**prohibited 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, isonipecaine, cocoa-leaves, opiates, methyl-amphetamine, synthetic cathinones and methylenedioxymethamphetamine ;

(ii) Any compound, manufacture, salt, derivative or preparation of opium, meperidine, isonipercaine, coca-leaves, opiates, methyl-amphetamine synthetic cathinones and methylenedioxymethamphetamine;

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

"**synthetic cathinones**" means any drugs manufactured to chemically stimulates the central nervous system. Produced from, or to mimic that effect of derivatives of the khat plant colloquially known among other things as "bath salts".

SECTION 3. Amendment to Section 903 of the Narcotic Drugs (Prohibition and Control) Act.

§903. Control of prohibited 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 prohibited drug.

SECTION 4. Amendment to Section 904 of the Narcotic Drugs (Prohibition and Control) Act.

§904. Exemption for medical use.

(1) The provisions of Section 903 of this Chapter shall not apply to the possession of prohibited 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 panty; 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.

SECTION 5. Amendment to Section 905 of the Narcotic Drugs (Prohibition and Control) Act.

§905. Professional use of prohibited drugs.

A medical practitioner, in good faith and in the course of his professional practice only may prescribe, administer, or dispense prohibited drugs, or may cause the same to be administered by a nurse or intern under his direction and supervision.

SECTION 6. Amendment to Section 906 of the Narcotic Drugs (Prohibition and Control) Act.

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

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

2) No medical practitioner shall knowingly prescribe or dispense any prohibited drugs to any person, if that person has been treated and supplied with or prescribed any prohibited drugs by another medical practitioner within a reasonable time prior to his examination with respect to the same sickness.

SECTION 7. Amendment to Section 907 of the Narcotic Drugs (Prohibition and Control) Act.

§907. Issuance of licenses.

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

(2) The Marshall Islands Board of Health Professions 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 prohibited 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 Marshall Islands Board of Health Professions 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.

SECTION 8. Amendment to Section 908 of the Narcotic Drugs (Prohibition and Control) Act.

§908. Records to be kept.

(1) Every medical practitioner and a person acting under him shall keep a record of all prohibited 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 Marshall Islands Board of Health Professions 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.

SECTION 9. Amendment to Section 909 of the Narcotic Drugs (Prohibition and Control) Act.

§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 any prohibited drug or marijuana concentrate, with the exception of marijuana 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 not less than $100,000 or a term of imprisonment of not less than twenty-five years, or both.

(3) Any prohibited drug, marijuana concentrate, or marijuana seized under the provisions of this Chapter shall be forfeited.

SECTION 10. Amendment to Section 910 of the Narcotic Drugs (Prohibition and Control) Act.

§910. Seizure and forfeiture.

(1) All goods and vehicles, ships, aircraft carriages and cash in any way used or made use of in the transportation, importation, or exportation of prohibited 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 carriages and cash shall include, 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 prohibited 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 prohibited 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 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

SECTION 10. Amendment to Section 912 of the Narcotic Drugs (Prohibition and Control) Act.

§912. Distribution or Prohibited Drugs to Minors.

(1) Every person who distributes any amount of marijuana to a minor shall, upon conviction, in addition to the penalties in Section 909 , 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 prohibited drug or marijuana concentrate other than marijuana to a minor shall, upon conviction, be punished in addition to the penalties in Section 909, with a fine of not less than $100,000 or a term of imprisonment of not less than twenty-five years, or both.

§103. Effective Date.

This Act shall take effect on the date of certification in accordance with Article IV, Section 21 of the Constitution.

CERTIFICATE

I hereby certify:

1. That Nitijela Bill No: 16ND1 was passed by the Nitijela of the Republic of the Marshall Islands on the 21st day of May 2020; and

2. That I am satisfied that Nitijela Bill No: 16ND1 was passed in accordance with the relevant provisions of the Constitution of the Republic of the Marshall Islands and the Rules of Procedures of the Nitijela.

I hereby place my signature before the Clerk this 4th day of June 2020.

Hon. Kenneth A. Kedi
Speaker
Nitijela of the Marshall Islands

Attest:

Morean S. Watak
Clerk
Nitijela of the Marshall Islands