

THE DANGEROUS DRUGS (AMENDMENT) BILL
(No. XXXI of 2008)

Explanatory Memorandum

The object of the Bill is to amend the Dangerous Drugs Act in order –

- (a) to provide, *inter alia*, that a person who unlawfully possesses, sells, distributes, delivers, transports, imports or exports dangerous drugs listed in Schedules II and III may be liable to prosecution as a drug dealer or drug trafficker, as is the case presently for dangerous drugs listed in Schedule I; furthermore the existing provisions relating to the freezing and forfeiture of assets may apply to any such person;
- (b) to provide for higher penalties for drug offences and other unlawful activities under the Act;
- (c) to resolve the conflict between sections 30 and 48 of the Act, with respect to minimum sentences applicable.

The opportunity has been taken to repeal section 32 of the Act which has been declared unconstitutional and void by the Supreme Court and the Judicial Committee of the Privy Council.

S.V. FAUGOO
Minister of Health and Quality of Life

14 August 2008

ARRANGEMENT OF CLAUSES

Clause

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| 1. Short title | 10. Section 37 of principal Act amended |
| 2. Interpretation | 11. Section 38 of principal Act amended |
| 3. Section 29 of principal Act amended | 12. Section 41 of principal Act amended |
| 4. Section 30 of principal Act amended | 13. Section 43 of principal Act amended |
| 5. Section 32 of principal Act repealed | 14. Section 45 of principal Act amended |
| 6. Section 33 of principal Act amended | 15. Section 48 of principal Act amended |
| 7. Section 34 of principal Act amended | 16. Section 54 of principal Act amended |
| 8. Section 35 of principal Act amended | 17. Commencement |
| 9. Section 36 of principal Act amended | |

A BILL

To amend the Dangerous Drugs Act

ENACTED by the Parliament of Mauritius, as follows –

1. Short title

This Act may be cited as the Dangerous Drugs (Amendment) Act 2008.

2. Interpretation

In this Act –

“principal Act” means the Dangerous Drugs Act.

3. Section 29 of principal Act amended

Section 29 of the principal Act is amended –

- (a) in subsection (1), by deleting the words “100,000 rupees” and “5 years” and replacing them by the words “500,000 rupees” and “15 years”, respectively;
- (b) in subsection (2), by deleting the words “5 years” and replacing them by the words “15 years”.

4. Section 30 of principal Act amended

Section 30 of the principal Act is amended in subsection (1) –

- (a) by repealing subparagraph (i), and replacing it by the following subparagraph –
 - (i) where the offence is in respect of a dangerous drug specified in Part I of Schedule I, Schedule II or Schedule III, to a fine not exceeding one million rupees and to penal servitude for a term not exceeding 25 years;
- (b) in subparagraph (ii), by deleting the words “20 years” and replacing them by the words “25 years”.

5. Section 32 of principal Act repealed

Section 32 of the principal Act is repealed.

6. Section 33 of principal Act amended

Section 33 of the principal Act is amended by deleting the words “10 years” and replacing them by the words “15 years”.

7. Section 34 of principal Act amended

Section 34 of the principal Act is amended in subsection (5)(a), by inserting immediately after the words “Part I of the Schedule I”, the words “, Schedule II or Schedule III”.

8. Section 35 of principal Act amended

Section 35 of the principal Act is amended by repealing subsection (1) and replacing it by the following subsection –

- (1) Any person who unlawfully offers, offers to buy, sells, offers to sell, distributes or offers to distribute any dangerous drug to a person for his personal consumption shall commit an offence and shall, on conviction, be liable to a fine not exceeding 500,000 rupees and to imprisonment for a term not exceeding 15 years.

9. Section 36 of principal Act amended

Section 36 of the principal Act is amended by deleting the words “10 years” and replacing them by the words “15 years”.

10. Section 37 of principal Act amended

Section 37 of the principal Act is amended by deleting the words “10,000 rupees” and “5 years” and replacing them by the words “100,000 rupees” and “10 years”, respectively.

11. Section 38 of principal Act amended

Section 38 of the principal Act is amended by deleting the words “100,000 rupees” and “10 years” and replacing them by the words “500,000 rupees” and “15 years”, respectively.

12. Section 41 of principal Act amended

Section 41 of the principal Act is amended –

- (a) in subsection (2), by deleting the words “sections 30 and 33 to 39 inclusive” and replacing them by the words “section 29(2), 30, 33, 34, 35, 36, 37, 38 or 39”;
- (b) in subsection (3), by deleting the words “section 30 shall be sentenced to” and replacing them by the words “section 29(2) or 30 shall be sentenced to a fine not exceeding 2 million rupees together with”.

13. Section 43 of principal Act amended

Section 43 of the principal Act is amended by deleting the words “sections 30 and 33 to 39” and replacing them by the words “section 29(2), 30, 33, 34, 35, 36, 37, 38 or 39”.

14. Section 45 of principal Act amended

Section 45 of the principal Act is amended in subsection (5) –

- (a) in paragraphs (a) and (b), by deleting the words “50,000 rupees” and “3 years” and replacing them by the words “100,000 rupees” and “10 years”, respectively;

- (b) in paragraph (c), by deleting the words “50,000 rupees” and replacing them by the words “100,000 rupees and to imprisonment for a term not exceeding 10 years”;
- (c) in paragraph (d), by deleting the words “50,000 rupees” and “5 years” and replacing them by the words “100,000 rupees” and “10 years”, respectively.

15. Section 48 of principal Act amended

Section 48 of the principal Act is amended by deleting the words “sections 30, 33,” and replacing them by the words “section 33,”.

16. Section 54 of principal Act amended

Section 54 of the principal Act is amended in subsection (3), by deleting the words “10,000 rupees” and “5 years” and replacing them by the words “100,000 rupees” and “10 years”, respectively.

17. Commencement

This Act shall come into operation on a date to be fixed by Proclamation.
