

DANGEROUS DRUGS AMENDMENT BILL

EXPLANATORY NOTE

THIS Bill makes miscellaneous amendments to the Dangerous Drugs Act 1927.

Clause 2 inserts definitions of the terms “cultivate” and “prohibited plant”.

Clause 3 transfers the function of licensing the importation and exportation of dangerous drugs from the Comptroller of Customs to the Director-General of Health as from 1 January 1961.

Clause 4 provides that no person shall import, produce, manufacture, sell, distribute, or otherwise deal in any product which is obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf and which is not a dangerous drug. This clause is subject to the proviso that if the Governor-General is satisfied that any such product is of medical or scientific value he may by Order in Council declare that this clause shall not apply to that product.

New Zealand undertook to apply this restriction in acceding to the Geneva Convention (No. 2) governing narcotic drugs which was signed at Geneva on 13 July 1931.

Clause 5 is designed to control the cultivation of prohibited plants.

Clause 6 makes it a more serious offence to unlawfully deal in or supply or be in possession of dangerous drugs. It deals in particular with the supply of dangerous drugs to minors.

Clause 7 increases the general penalty for an offence against the principal Act from a fine of £50 to a fine of £100 or three months imprisonment or both.

Clause 8 repeals the section which requires minimum fines to be imposed for offences against the principal Act.

Clause 9 clarifies the position in respect of the exercise of summary jurisdiction for offences against the Act or any regulations made under the Act.

Clause 10 gives specific power to make certain regulations.

Clause 11 provides that all regulations made under the principal Act shall be laid before Parliament.

Clause 12 provides that the principal Act shall bind the Crown.

Hon. Mr Mason

DANGEROUS DRUGS AMENDMENT

ANALYSIS

Title	5. Cultivation of prohibited plants
1. Short Title	6. Unlawful supply or possession of dangerous drugs
2. Interpretation	7. General penalty increased
3. Licensing of importation and exportation of dangerous drugs transferred from Comptroller of Customs to Director-General of Health	8. Minimum fines abolished
4. Control of products obtained from the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf	9. Summary jurisdiction
	10. Power to make additional regulations
	11. Regulations to be laid before Parliament
	12. Act to bind the Crown

A BILL INTITULED

An Act to amend the Dangerous Drugs Act 1927

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. **Short Title**—This Act may be cited as the Dangerous Drugs Amendment Act 1960, and shall be read together with and deemed part of the Dangerous Drugs Act 1927 (hereinafter referred to as the principal Act).

2. Interpretation—Section 2 of the principal Act is hereby amended by inserting in subsection (1), in their appropriate alphabetical order, the following definitions:

“To ‘cultivate’ includes to sow or to plant; and ‘cultivation’ has a corresponding meaning: 5

“‘Prohibited plant’ means—

“(a) *Cannabis sativa*:

“(b) Every variety of *Papaver somniferum*:

“(c) *Erythroxylum coca* and *Erythroxylum truxillense* and every species of *Erythroxylum* from which 10
a dangerous drug can be produced:

“(d) Any other plant which is declared to be a prohibited plant by regulations made under this Act”.

**3. Licensing of importation and exportation of dangerous 15
drugs transferred from Comptroller of Customs to Director-General of Health**—(1) Section 4 of the principal Act is hereby amended by repealing subsections (1) and (3).

(2) Section 5 of the principal Act is hereby amended:

(a) By omitting from subsection (2) the word “Comptroller”, and substituting the words “Director-General of Health”: 20

(b) By inserting in subsection (4), after the word “Minister”, the words “of Health”.

(3) Section 6 of the principal Act is hereby amended by 25
omitting the word “Comptroller”, and substituting the words “Director-General of Health”.

(4) Section 25 of the principal Act is hereby amended by adding to subsection (2) (as amended by subsection (2) of section 2 of the Dangerous Drugs Amendment Act 1928) the 30
words “or a Medical Officer of Health”.

(5) This section shall come into force on the first day of January, nineteen hundred and sixty-one.

**4. Control of products obtained from the phenanthrene 35
alkaloids of opium or from the ecgonine alkaloids of the coca leaf**—The principal Act is hereby further amended by inserting, after section 6, the following section:

“6A. (1) No person shall import, produce, manufacture, sell, distribute, or otherwise deal in any product which is 40
obtained from any of the phenanthrene alkaloids of opium or from any of the ecgonine alkaloids of the coca leaf and which is not a dangerous drug:

“Provided that if the Governor-General is satisfied that any such product is of medical or scientific value, he may by Order in Council declare that this section shall not apply to that product.

5 “(2) For the purposes of sections 11 and 13 of this Act every product to which subsection (1) of this section applies shall be deemed to be a dangerous drug within the meaning of this Act.”

10 **5. Cultivation of prohibited plants**—The principal Act is hereby amended by inserting, after section 9, the following section:

“9A. (1) No person shall cultivate any prohibited plant except pursuant to a licence issued by the Director-General.

15 “(2) No person shall be in possession of the seed of any prohibited plant for the purpose of sowing it unless he is the holder of a licence to cultivate that prohibited plant.

20 “(3) Any officer of Customs, or any officer of the Department of Health, or any member of the Police, with such assistants as he thinks necessary, may seize and destroy any prohibited plant which is being cultivated other than in accordance with the conditions of a licence granted under this section, and may also seize and destroy the seed of any prohibited plant if that seed is in the possession of any person who is not the holder of a licence to cultivate that plant
25 granted under this section or if it is in the possession of any person who is cultivating any prohibited plant other than in accordance with the conditions of a licence granted under this section.

30 “(4) It shall be a defence to a charge under subsection (1) or subsection (2) of this section if the person charged proves that the prohibited plant or seed to which the charge relates was a variety of *Papaver somniferum*, and that it was not intended to be a source of any dangerous drug or that it was not being developed as a variety from which a dangerous drug
35 could be produced.”

6. Unlawful supply or possession of dangerous drugs—

(1) The principal Act is hereby further amended by repealing section 15, and substituting the following section:

40 “15. (1) Every person is liable on conviction on indictment to imprisonment for a term not exceeding fourteen years who, contrary to the provisions of this Act or of any regulations made under this Act, sells, gives, supplies, or administers, or

offers to sell, give, supply, or administer, any dangerous drug to any person if that person is under the age of twenty-one years.

“(2) Every person is liable on conviction on indictment to imprisonment for a term not exceeding seven years who, contrary to the provisions of this Act or of any regulations made under this Act,— 5

“(a) Produces, manufactures, distributes, or deals in or has in his possession any dangerous drug:

“(b) Sells, gives, supplies, or administers, or offers to sell, give, supply, or administer, any dangerous drug to any person if that person is of or over the age of twenty-one years: 10

“Provided that if the Judge is satisfied that the contravention of the Act or regulations was not wilful or that it constituted merely a breach of a provision relating to the keeping of books or the issuing or dispensing of prescriptions or other matters of a procedural character, the offender is liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred pounds or to both.” 20

(2) The First Schedule to the Summary Proceedings Act 1957 is hereby amended by inserting in Part II, after the reference to the Customs Act 1913, the following words:

“The Dangerous Drugs Act 1927	15	Offences as to supply and possession of dangerous drugs”.	25
----------------------------------	----	---	----

7. General penalty increased—Section 20 of the principal Act is hereby amended by omitting the words “fifty pounds”, and substituting the words “one hundred pounds or to imprisonment for three months or to both”. 30

8. Minimum fines abolished—The principal Act is hereby further amended by repealing section 21.

9. Summary jurisdiction—Section 25 of the principal Act is hereby further amended by adding the following subsection:

“(4) Except where this Act otherwise provides, every offence against this Act or against any regulations made under this Act shall be punishable on summary conviction.” 35

10. Power to make additional regulations—Section 26 of the principal Act is hereby amended by omitting from the end of paragraph (e) of subsection (1) the word “and”, and repealing paragraph (f) of that subsection and substituting
5 the following paragraphs:

- “(f) Declaring plants to be prohibited plants;
- “(g) Controlling or restricting the cultivation of prohibited plants and the sale, distribution, and possession of the seeds of prohibited plants;
- 10 “(h) Providing for the weighing, counting, measuring, sealing, seizing, and taking of samples of dangerous drugs; and
- “(i) Generally for prohibiting, controlling, or restricting
15 the importation, exportation, production, manufacture, sale, distribution, possession, purchase or procuring, and use of dangerous drugs, and prescribing fees and all matters which are required or permitted to be prescribed by this Act or with respect to which regulations are necessary or convenient for giving full effect to this Act.”
20

11. Regulations to be laid before Parliament—Section 26 of the principal Act is hereby further amended by adding the following subsection:

- 25 “(3) All regulations made under this Act and all Orders in Council made under section 3 or section 6A hereof shall be laid before Parliament.”

12. Act to bind the Crown—The principal Act is hereby further amended by inserting, after section 27, the following section:

- 30 “27A. This Act shall bind the Crown.”