

2020-11-19

**OBJECTS AND REASONS**

This Bill would amend the *Drug Abuse (Prevention and Control) Act*, Cap. 131, to provide for the payment of a fixed penalty for persons found in possession of small quantities of cannabis.

*Arrangement of Sections*

1. Short title
2. Insertion of sections 6A and 6B into Cap. 131
3. Amendment of the principal Act

SCHEDULE

*Notice of Fixed Penalty*

## **BARBADOS**

A Bill entitled

An Act to amend the *Drug Abuse (Prevention and Control) Act*, Cap. 131, to provide for the payment of a fixed penalty for persons found in possession of small quantities of cannabis.

ENACTED by the Parliament of Barbados as follows:

**Short title**

1. This Act may be cited as the *Drug Abuse (Prevention and Control) (Amendment) Act, 2020*.

**Insertion of sections 6A and 6B into Cap. 131**

2. *The Drug Abuse (Prevention and Control) Act, Cap. 131, in this Act referred to as the principal Act, is amended by inserting immediately after section 6 the following new sections:*

**“Fixed penalty**

**6A.(1)** Notwithstanding section 6(2), a member of the Police Force may serve on a person whom he has reasonable cause to believe has no more than 14 grammes of cannabis in his possession, a notice in the form set out in Part I of the *Third Schedule*, offering him an opportunity of discharging any liability that would arise out of a conviction for that offence by payment of a fixed penalty, in the amount set out in Part II in the *Third Schedule*.

(2) Where a person referred to in subsection (1) is under the age of 18 years he shall, in addition to paying the fixed penalty referred to in that subsection, within 14 days of the service on him of the fixed penalty notice, attend the National Council on Substance Abuse for an assessment and undergo counselling for such period as the Council recommends.

(3) Where a person referred to in subsection (1) is

- (a) 18 years of age or older; and
- (b) the member of the Police Force issuing the notice has reasonable cause for believing that he is addicted to cannabis

the member of the Police Force may direct that person to attend the National Council on Substance Abuse for assessment and counselling.

(4) A notice referred to in subsection (1) shall be served personally on the person alleged to have committed the offence and shall

- (a) contain a statement of the offence alleged;
- (b) contain such particulars of the offence as are necessary for giving reasonable information of the allegation;
- (c) specify a period of 30 days for the payment of the fixed penalty;
- (d) specify that it is required for the person to attend the National Council on Substance Abuse for assessment and counselling in accordance with subsection (2) or (3), as the case may be;
- (e) contain the amount of the fixed penalty; and
- (f) specify the magistrate's court to the clerk of which the fixed penalty is to be paid;

(5) Where a person referred to in subsection (1) disputes that he is in possession of cannabis, he may be prosecuted under section 6(2).

(6) The fixed penalty under this section shall be paid to the clerk of the magistrate's court stated in the notice given pursuant to subsection (1).

(7) In any criminal proceedings for an offence under this section, a certificate that payment of a fixed penalty was or was not made to the clerk of the magistrate's court by the date specified in the certificate signed by the clerk is *prima facie* evidence of the facts stated therein.

(8) A person who is under the age of 18 years who fails to

- (a) pay the fixed penalty; and

- (b) attend the National Council on Substance Abuse for assessment and counselling

in the time specified in the notice is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

- (9) A person who is 18 years of age or older who fails to

- (a) pay the fixed penalty; or

- (b) attend the National Council on Substance Abuse for assessment and counselling

in the time specified in the notice is guilty of an offence and is liable on summary conviction to a fine of \$1 000.

(10) Where the Court acts in accordance with subsection (7), the Court may, where it considers it appropriate in the circumstances, deal with the offender in accordance with the provisions of the *Penal System Reform Act, Cap. 139*.

(11) A person who, defaces, destroys or mutilates a notice referred to in subsection (1) is guilty of an offence and is liable on summary conviction to a fine of \$1 000 or to imprisonment for a term of one month.

(12) The Minister may, by order, amend, vary or revoke the *Third Schedule*.

### **Expungement of conviction**

**6B.** Notwithstanding the provisions of the *Criminal Records (Rehabilitation of Offenders) Act, Cap. 127A*, a person convicted for the offence of possession of not more than 14 grammes of cannabis who has served his sentence, whether custodial or non-custodial,

- (a) shall be deemed to be rehabilitated; and

- (b) his conviction shall be deemed to be expunged.”.

**Amendment of the principal Act****3.        *The principal Act is amended by***

- (a) renumbering the Third Schedule, Fourth Schedule and Fifth Schedule as the Fourth Schedule, Fifth Schedule and Sixth Schedule, respectively; and*
- (b) inserting as the Third Schedule, the Third Schedule contained in the Schedule to this Act.*

**SCHEDULE**

*(Section 3)*

**"THIRD SCHEDULE**

*(Section 6A(1))*

PART I



*Drug Abuse (Prevention and Control) Act*  
Cap. 131

NOTICE OF FIXED PENALTY

Section A

Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

National Registration No.: \_\_\_\_\_ Telephone No.: \_\_\_\_\_

Name of Parent/Guardian (if applicable): \_\_\_\_\_

Place apprehended: \_\_\_\_\_

\_\_\_\_\_

on the \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_ in circumstances



*Third Schedule - (Cont'd)*

giving me reasonable cause to believe that you committed an offence, to wit, possession of cannabis, contrary to section 6(2) of the *Drug Abuse (Prevention and Control) Act*, Cap. 131, in that you had in your possession \_\_\_\_grammes of cannabis, contrary to section 6(2) of the said Act.

---

*(Signature of Police Officer)*

---

*(Number)*

### **Instructions to Offender**

If before the end of **THIRTY (30) DAYS** from the above date, the sum of \$200.00 (being the fixed penalty for the offence) is paid to the Clerk at District \_\_\_\_ Magistrate's Court, the Police will not take proceedings for the offence, and any liability to conviction for the offence will be discharged.

Cash should be paid to the Clerk. Cheques, postal orders or money orders may be sent by post and made payable to the Clerk of the Magistrate's Court of District \_\_\_\_\_. A receipt for the payment will be given. Part payment will not be accepted by the Clerk.

The person paying the fixed penalty must forward with the remittance, Section B of this notice or identify this notice by quoting its serial number.

If the fixed penalty is not paid, further action may be taken.

*Third Schedule - (Cont'd)*

Section B

Serial No.(of notice) \_\_\_\_\_

To: Clerk of District\_\_\_\_\_Magistrate's Court

I enclosed the sum of \$200.00 as payment of the fixed penalty for the offence mentioned in Part A of this notice.

Name:\_\_\_\_\_

Address:\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_  
*(Signature)*

\_\_\_\_\_  
*(Date)*

*(If the offender is a minor this section shall be completed by the parent or guardian of the minor.)*

*Third Schedule - (Cont'd)*

Section C

To: Manager  
National Council on Substance Abuse  
'The Armaira Building'  
Cnr. 1<sup>st</sup> Avenue and Pine Road  
Belleville  
St. Michael

The undermentioned person,

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Name of Parent/Guardian (if applicable): \_\_\_\_\_

Date of Birth: \_\_\_\_\_, who was in possession of no more than

14 grammes of cannabis

- being under the age of 18 years
- being 18 years of age or over and who I have reasonable cause to believe to be addicted to cannabis

is referred for assessment and counselling.

\_\_\_\_\_

*(Signature of Police Officer)*

\_\_\_\_\_

*(Number)*

**Instructions to Offender**

The offender shall report to the National Council on Substance Abuse within **FOURTEEN DAYS** of receipt of this Notice.

If the offender is under the age of 18 years, the offender should be accompanied by their parent or guardian.

The National Council on Substance Abuse is located at 'The Amaira Building', Corner of 1<sup>st</sup> Avenue and Pine Road, Belleville, St. Michael, telephone number (246) 535-6272. The office is open to the public between 8:00 am to 4:30 pm Mondays to Fridays, except on public holidays.

*Third Schedule - (Concl'd)*

PART II

FIXED PENALTY

Fixed penalty	\$200.00".
---------------	------------

Read three times and passed the House of Assembly this  
day of \_\_\_\_\_, 2020.

**Speaker**

Read three times and passed the Senate this \_\_\_\_\_ day of  
\_\_\_\_\_, 2020.

**President**