



THE PARLIAMENT OF
TRINIDAD AND TOBAGO

BILL ESSENTIALS

Date introduced: 22 November, 2019

House: House of Representatives

Minister: Attorney General

HOR Bill No: 24 of 2019

Links: The links to the Bill, and its progress can be found on the Bill's home page through the Parliament's website, www.ttparliament.org

BILL ESSENTIALS

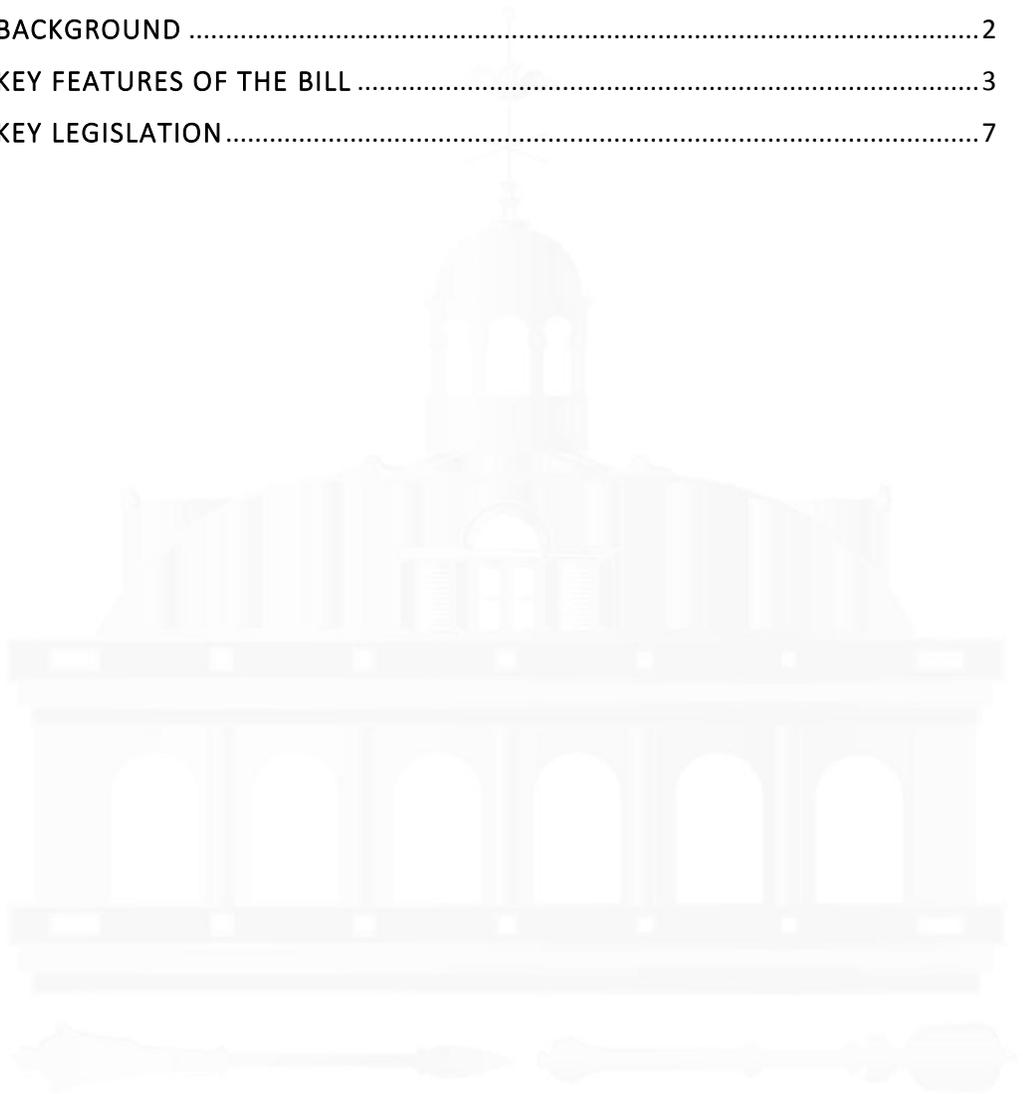
BILL ESSENTIALS NO. 27, 2019–20

December 10, 2019

The Dangerous Drugs (Amendment) Bill, 2019

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BACKGROUND

1. **The Dangerous Drugs (Amendment) Bill, 2019**¹ (hereinafter referred to as “the Bill”) seeks to amend the **Dangerous Drugs Act, Chap. 11:25**² (hereinafter referred to as the “Act”). The Bill was introduced in the House of Representatives by the Attorney General on November 22, 2019, alongside the alongside the **Cannabis Control Bill 2019**³. It is expected that these two Bills working in tandem would further the policy objective of cannabis decriminalisation.
2. The Government’s policy propelling these legislative amendments is multipronged as it seeks:
 - i. to reform the criminal justice system by alleviating the burden placed on the system at all levels by the plethora of cases relating to the possession of cannabis; and
 - ii. to reduce the harmful impact of marijuana convictions which has been borne primarily by poor and underprivileged men.
3. The Bill aims to:
 - i. define marijuana comprehensively as cannabis;
 - ii. decriminalise certain quantities of cannabis and cannabis resin;
 - iii. prohibit the use of the substance in public spaces, all educational institutions, and places of work; and
 - iv. modernise the criminal justice system by introducing a tiered penalty system, premised upon the quantum of the substance in possession.

¹ <http://www.ttparliament.org/legislations/b2019h24.pdf>

² http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.25.pdf

³ <http://www.ttparliament.org/legislations/b2019h23.pdf>

KEY FEATURES OF THE BILL

BILL SUMMARY

- Decriminalises the possession of 30 grammes or less of cannabis
- Decriminalises the possession of 5 grammes or less of cannabis resin
- The possession of more than 30 grammes but not more than 60 grammes of cannabis will be governed by a fixed penalty system
- The possession of more than 5 grammes but not more than 10 grammes of cannabis resin will be governed by a fixed penalty system
- Community service as an alternative remedy for failure/ refusal to pay prescribed fines
- Criminalises smoking or using cannabis resin in a public place
- Prohibits the operation, actual physical control and navigation of motor vehicles, aircrafts and ships while under the influence of cannabis
- Criminalises anything that a person does which constitutes negligence, professional malpractice or professional misconduct whilst under the influence of cannabis
- Persons with charges before the court for the possession of up to 60 grammes of cannabis and up to 10 grammes of cannabis resin may apply for the offence to be discharged.
- Persons convicted for the possession of up to 60 grammes of cannabis and up to 10 grammes of cannabis resin shall have that offence expunged from their criminal record and may apply under the Constitution for a pardon.

4. **Clause 4** of the Bill seeks to amend **section 3(1)** of the Act by introducing new definitions to ensure harmony with the **Cannabis Control Bill 2019**. The definition of cannabis means the plant of the genus cannabis and includes any part of the plant, as well as the seeds or any compound. The Bill excludes inter alia cannabis resin, fibre from the plant's stalk, and any other ingredient combined with the plant or a compound or derivative of the plant used for the production of food, drink or any other product.
5. As the Bill makes it an offence to smoke in a public place, these two elements have also been defined and the definitions are expansive.

“Public place” means an indoor or outdoor area, whether privately or publicly owned, to which the public has access by right or by invitation, expressed or implied, whether by payment of money or not;

“smoke”, in relation to a substance, means –

- (a) to inhale, exhale, burn, combust or vaporize the substance;*
 - (b) to carry any lighted or heated device, pipe or other product, whether natural or synthetic, for the inhalation of the substance in any manner or in any form,*
- and includes the use of an electronic smoking device that creates an aerosol or vapour, in any manner or in any form, or the use of any orally used device, for the purpose of the inhalation of the substance;”.*

6. **Clause 6** amends **section 5** of the Act which prescribes offences for the possession and trafficking of dangerous drugs. Clause 6 adds new exceptions to **section 5(2)** of the Act. It will no longer be an offence to be in possession of thirty (30) grammes or less of cannabis; five (5) grammes or less of cannabis resin; or possessing/and or cultivating not more than four (4) growing male plants.
7. Clause 6 also introduces **subsection 2(A)** which imposes a stiff penalty for those found in possession of cannabis above the prescribed limit. Persons in possession of more than more thirty (30) grammes of cannabis; or five (5) grammes of cannabis resin commit an offence and are liable on summary conviction to a fine of fifty thousand dollars.
8. Further, **subsection 2(B)**, also introduced under clause 6, allows the Court the flexibility to order thirty hours of community service be performed by a person convicted under subsection 2(A), who fails or is unable to pay the fine imposed.
9. Clause 6 makes clear that the subsection 3 does not apply to persons who cultivates and/or has in his possession not more than four (4) growing male plants of the genus cannabis.
10. Amendments introduced under clause 6 which increase penalties for offences are outlined below:

SECTION AMENDED	EXISTING PENALTY	INCREASED PENALTY
Section 5(3)	(a) upon summary conviction to a fine of fifty thousand dollars and to imprisonment for ten years; or (b) upon conviction on indictment to a fine of one hundred thousand dollars or where there is evidence of the street value of the marijuana, ten times the street value of the marijuana, whichever is greater or to imprisonment for twenty-five years to life .	(a) upon summary conviction to a fine of seven hundred and fifty thousand dollars and to imprisonment for ten years; or (b) upon conviction on indictment to a fine of two million dollars or where there is evidence of the street value of the plant, ten times the street value of the plant, whichever is greater or to imprisonment for life .
Section 5(5)	Conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of twenty-five years to life .	Conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of life .
Section 5(6)	Conviction on indictment to a fine of one hundred thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of twenty-five years to life .	Conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of life .
Section 5(7)	Conviction on indictment to a fine of one hundred and fifty thousand dollars or, where there is evidence of the street value of the dangerous drug, three times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of thirty-five years to life .	Conviction on indictment to a fine of three million dollars or, where there is evidence of the street value of the dangerous drug, ten times the street value of the dangerous drug, whichever is greater, and to imprisonment for a term of life .
Section 5(7B)	a fine of fifty thousand dollars	a fine of seven hundred and fifty thousand dollars

11. The proposed legislation also seeks to amend **Section 5(9)** of the Act by including prescribed amounts of the following drugs methylenedioxymethamphetamine (ecstasy); lysergic acid diethylamide (LSD); and ketamine, to the list of dangerous drugs for the purpose of trafficking.
12. **Clause 7** introduces a new **section 5A** to the Act which prohibits the smoking or using of cannabis or cannabis resin in a public place. Persons contravening this section will be liable on summary conviction to a fine of two hundred and fifty thousand dollars (\$250,000.00 TTD) and to imprisonment for five (5) years.
13. A new **section 5B**, proposed under clause 7, outlines the procedure for the issuance, payment and expiration of a fixed penalty notice for persons who fall within **section 5(2A)** of the Act.
14. Clause 7 adds **section 5C** to the Act which makes it an offence:
 - i. to do anything constituting negligence, professional malpractice or professional misconduct while under the influence of cannabis;
 - ii. to possess cannabis or cannabis resin in or on premises where children are engaged in educational, cultural or sporting activity; or
 - iii. to operate motor vehicles, aircrafts or ships while under the influence of cannabis.
15. Clause 7 introduces **section 5D** which proposes that any offence on the criminal record of a person for the possession of not more than sixty (60) grammes of cannabis or not more than ten (10) grammes of cannabis resin prior to the commencement of the Dangerous Drugs (Amendment) Act, 2019 shall be expunged by the Commissioner of Police. The Person may subsequently apply for a pardon under **section 87** of the **Constitution**.⁴

⁴ <https://rgd.legalaffairs.gov.tt/laws2/Constitution.pdf>

KEY LEGISLATION

- **Community Service Orders Act, Chap. 13:06**
http://rgd.legalaffairs.gov.tt/Laws2/Alphabetical_List/lawspdfs/13.06.pdf
- **Constitution of the Republic of Trinidad and Tobago**
<https://rgd.legalaffairs.gov.tt/laws2/Constitution.pdf>
- **The Dangerous Drugs Act, Chap. 11:25**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/11.25.pdf
- **The Electronic Payments into and out of Court Act, 2018**
<http://www.ttparliament.org/legislations/a2018-14g.pdf>
- **The Police Service Act, 2006**
<http://www.ttparliament.org/legislations/a2006-07.pdf>
- **The Summary Courts Act, Chap. 4:20**
http://rgd.legalaffairs.gov.tt/laws2/alphabetical_list/lawspdfs/4.20.pdf



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