

COUNTER NARCOTICS ACT 2026
(ACT NO. 32 OF 2026)

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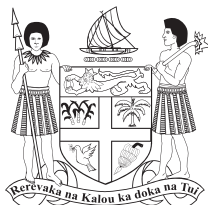
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ACT NO. 32 OF 2026

I assent.

RATU N. T. LALABALAVU
President

[2 October 2026]

AN ACT

TO ESTABLISH THE FIJI COUNTER NARCOTICS BUREAU, TO PROVIDE FOR THE ADMINISTRATION, POWERS, DUTIES AND RESPONSIBILITIES OF THE BUREAU, TO ENABLE A COORDINATED INTERAGENCY EFFORT TO REGULATE AND SUPPRESS THE MISUSE OF ILLICIT DRUGS BY CREATING CRIMINAL OFFENCES AND ENABLING THE EFFECTIVE ENFORCEMENT AND PROSECUTION OF DRUGRELATED CONDUCT, TO ESTABLISH A HOLISTIC AND EFFECTIVE REHABILITATIVE REGIME, AND FOR RELATED MATTERS

ENACTED by the Parliament of the Republic of Fiji—

PART 1—PRELIMINARY*Short title and commencement*

1.—(1) This Act may be cited as the Counter Narcotics Act 2026.

(2) This Act comes into force on a date or dates appointed by the Minister by notice in the Gazette.

Interpretation

2.—(1) In this Act, unless the context otherwise requires—

“agency” means the following entities—

- (a) Republic of Fiji Military Forces, including the Fiji Navy;
- (b) Fiji Police Force;
- (c) the ministry responsible for immigration;
- (d) Fiji Revenue and Customs Service;
- (e) Biosecurity Authority of Fiji;
- (f) Maritime Safety Authority of Fiji;
- (g) Civil Aviation Authority of Fiji;
- (h) Financial Intelligence Unit established under section 22 of the Financial Transactions Reporting Act 2004; and
- (i) any other entity that—
 - (i) is established, continued or empowered by law to monitor compliance with, implement and enforce any written law; and
 - (ii) the Minister appoints by notice in the Gazette;

“ancillary offence” means any offence under—

- (a) section 96;
- (b) section 97;
- (c) section 98;
- (d) section 99; and
- (e) this Act, to the extent that the offence arises out of the operation of sections 100, 101 and 102;

“auditing standards” means—

- (a) international auditing standards applicable to supreme audit institutions, subject to such modifications as the Auditor-General considers appropriate and notifies by notice published in the Gazette; or
- (b) any other relevant standards that the Auditor-General considers appropriate and notifies by notice published in the Gazette;

“Auditor-General” means the person appointed as the Auditor-General under section 151(2) of the Constitution or a person appointed to act as the Auditor-General under section 151(3) of the Constitution;

“authorised agency” means an agency authorised by the Director-General under section 25 as either a coordinated agency or a directed agency;

“arms” includes —

- (a) a lethal weapon with or without barrel of any description from which any shot, bullet or other missile can be discharged;
- (b) a weapon of any description designed or adapted for the discharge of any noxious liquid or gas, electric charge or other thing dangerous to persons; and
- (c) any component part of the weapon and any accessory to the weapon designed or adapted to be used with the weapon or to diminish the noise or flash caused by firing the weapon;

“biographic details” includes a person’s name, address and date of birth;

“biometric information”, in relation to a person who is a candidate, a member of Bureau staff or a Bureau associate, means any of the following —

- (a) a DNA profile derived from a body sample of the person; and
- (b) fingerprints and palm-prints of the person;

“body sample” means a blood sample or a buccal sample;

“buccal sample” means a sample of epithelial cells from inside the mouth;

“Bureau” means the Counter Narcotics Bureau established under section 11;

“Bureau animal” means an animal that —

- (a) has completed an animal training course at a facility approved by the Director General; and
- (b) is used or is likely to be used for Bureau duties;

“Bureau animal handler” means a member of Bureau staff who has successfully completed a course of instruction approved by the Director General that qualifies the person to perform the duties of a Bureau animal handler;

“Bureau associate” means a person engaged to perform a specified task for the Bureau under section 39;

“Bureau consultant” means a person engaged as a Bureau consultant under section 38;

“Bureau database” means the information recording system established and maintained by the Bureau to securely store —

- (a) the biometric information of a candidate in accordance with section 43(b);
- (b) staff biometric information in accordance with section 50(b);

- (c) the identifying particulars of a person in accordance with section 111; and
- (d) the record of a forensic procedure and information related to the analysis of a forensic sample in accordance with section 188;

“Bureau employee” means a civilian employee of the Bureau employed under section 34;

“Bureau officer” means—

- (a) a Bureau officer appointed under section 33 with the rank prescribed by the Director General; and
- (b) includes the Deputy Director General appointed under section 11(2) (b);

“Bureau staff” or “a member of Bureau staff” means a—

- (a) Bureau officer; and
- (b) Bureau employee;

“candidate” means a person being considered for recruitment as a member of Bureau staff or engagement as a Bureau associate;

“Class A” or “Class A illicit drug” means an illicit drug categorised as a Class A illicit drug under section 6 and listed in Schedule 1;

“Class B” or “Class B illicit drug” means an illicit drug categorised as a Class B illicit drug under section 6 and listed in Schedule 2;

“Class C” or “Class C illicit drug” means an illicit drug categorised as a Class C illicit drug under section 6 and listed in Schedule 3;

“child in conflict with the law” means a child above the age of 14 years, who is alleged to have committed, accused of, charged with, or found guilty of, committing a criminal offence;

“Commission” means the Human Rights and Anti-Discrimination Commission established under section 5 of the Human Rights and Anti-Discrimination Act 2009;

“connected offence” has the meaning given to it by section 15;

“Constitution” means the Constitution of the Republic of Fiji;

“controlled chemical” means a controlled chemical listed in Schedule 5 and includes preparation of those controlled chemicals;

“controlled delivery” means the conveyance of an illicit drug, controlled chemical or controlled equipment or of property suspected to be directly or indirectly derived from the commission of an offence against this Act, authorised by a senior officer under section 103;

“controlled equipment” means anything listed in Schedule 6;

“corresponding overseas agency”—

- (a) means an overseas person, body or agency that is empowered to perform functions that correspond, wholly or partly, to any of the functions of the Bureau set out in section 13; and
- (b) includes Interpol and every overseas person, body or agency appointed under article 32 of the constitution of Interpol to co-operate with Interpol;

“craft” means any aircraft, ship, boat or other machine or vessel used or capable of being used for the carriage or transportation of persons, goods or both, by air or water or over or under water;

“Director General” means the Director General of the Bureau appointed under section 16;

“diversion” means diverting, from the formal justice system,—

- (a) a child in conflict with the law, and resolving the conflict through appropriate community-based interventions; or
- (b) an adult, and resolving the conflict through community-based interventions under Part 11, Division 1 and Part 12;

“diverting authority” means a person who may divert a person as provided under section 196(1);

“DNA profile”, in relation to,—

- (a) a candidate, a member of Bureau staff or a Bureau associate for the purposes of Part 4, Division 2, Subdivision 1, means information derived from an analysis of a body sample obtained from that person, being information that is clearly identifiable as relating to that person; and
- (b) any person for the purposes of an investigation into an offence through the means provided in Part 10, Division 10, means information derived from an analysis of a forensic sample obtained from that person;

“document” means any record or information and includes—

- (a) any paper, parchment or other material used for writing or printing, carrying mark of any type capable of being read;
- (b) any photograph, or any photographic negative, plate, slide, film or microfilm, or any photo static negative;

- (c) any disc, tape, wire, sound track, card or other material or device in or on which information, sounds or other data are recorded, stored or embodied so as to be capable, with or without the aid of some other equipment, of being reproduced from it;
- (d) any material by means of which information is supplied, whether directly or by means of any equipment, to any device used for recording or storing or processing information; and
- (e) any material derived, whether directly or by means of any equipment, from information recorded or stored or processed by any device used for recording or storing or processing information;

“drug rehabilitation centre”—

- (a) means a State centre as defined in section 218; but
- (b) does not include drug rehabilitation services provided by a person not licensed under section 223;

“exclusive economic zone”, in relation to Fiji, has the meaning given to it by sections 2 and 6 of the Marine Spaces Act 1977;

“export” means to take, or cause to be taken, out of Fiji and is a continuing process that includes any stage of the exportation;

“faith leader” means a person who has a status within a church or other religious or spiritual community that requires or calls for that person to provide religious or spiritual advice, benefit or comfort to adherents of that church or community’s faith;

“Fiji Medicinal Products Board” means the board established by section 4 of the Medicinal Products Act 2011;

“functions of the Bureau” means the functions provided in section 13 and throughout this Act;

“health professional” has the meaning given to it by section 2(1) of the Medical and Dental Practitioner Act 2010;

“identifying particulars”, in relation to a person, means one or more of the following—

- (a) the person’s biographical details;
- (b) the person’s photograph or visual image; or
- (c) impressions of the person’s fingerprints, palm-prints, or footprints;

“illicit drug” means any substance, preparation, mixture, or article specified or described in Schedules 1, 2 and 3, and includes any illicit drug analogue;

“illicit drug analogue” means any substance, such as the substances specified or described in Schedule 3, Part 7, that has a structure substantially similar to that of any illicit drug but does not include—

- (a) any substance specified or described in Schedule 1 or Schedule 2 or Parts 1 to 6 of Schedule 3;
- (b) any pharmacy only medicine or prescription only medicine within the meaning of the Medicinal Products Act 2011; or
- (c) a non-psychoactive THC analogue;

“import” means to bring or cause to be brought, into Fiji and is a continuing process that includes any stage of the importation until any item reaches the intended recipient;

“Interpol” means the International Criminal Police Organization;

“issuing authority” means a person authorised to issue a warrant under section 113;

“licensed dental practitioner” has the meaning given to it by section 2(1) of the Medical and Dental Practitioner Act 2010;

“licensed medical practitioner” has the meaning given to it by section 2(1) of the Medical and Dental Practitioner Act 2010;

“Minister” means the minister responsible for policing;

“non-psychoactive THC analogue” means a substance that—

- (a) occurs naturally in cannabis; and
- (b) is not capable of inducing more than a minor psychoactive effect, by any means, in a person; and
- (c) has a structure substantially similar to that of—
 - (i) a tetrahydrocannabinol;
 - (ii) an isomer, ester, or ether of a tetrahydrocannabinol;
 - (iii) an ester or ether of an isomer of a tetrahydrocannabinol; or
 - (iv) a salt of any substance described in subparagraphs (i) to (iii);

“organised criminal group” means a structured group of 3 or more persons, existing for a period of time and acting in concert with the aim of committing one or more serious offences, in order to obtain, directly or indirectly, a financial or other material benefit;

“parent”, in relation to a person, means—

- (a) a parent of the person;

(b) a legal guardian of the person;

but does not include a manager appointed under section 108 of the Mental Health Act 2010;

“person with impaired capacity” means a person whose capacity to look after or manage the person’s own interests is impaired because of either of the following—

(a) an obvious loss or partial loss of the person’s mental functions; or

(b) an obvious disorder, illness or disease that affects a person’s thought processes, perceptions of reality, emotions or judgment, or that results in disturbed behaviour;

“public office” has the meaning given to it under section 163(1) of the Constitution;

“public prosecutor” means the Director of Public Prosecutions or a person appointed by him or her under section 117(11) of the Constitution;

“prescribe” means to prescribe a thing or matter by—

(a) regulations made by the Minister under this Act if—

(i) a provision states that the Minister may prescribe the thing or matter; or

(ii) a provision does not specify who may prescribe the thing or matter; or

(b) standing orders made under this Act if a provision states that the Director General may prescribe the thing or matter;

“rank”, in relation to a Bureau officer, (3) means the badge of rank for the Bureau officer;

“registered pharmacist” has the meaning given to it by section 3 of the Pharmacy Profession Act 2011;

“registered pharmaceutical chemist” has the meaning given to it by section 3 of the Pharmacy Profession Act 2011;

“repealed Acts” means the Illicit Drugs Control Act 2004 and Dangerous Drugs Act (Cap. 114);

“self-report” means a report made by a person under section 226;

“serious offence” means an offence punishable by an imprisonment term of 4 or more years;

“ship”—

(a) means a ship, boat, or other vessel used in navigation, whether or not it has any means of propulsion; and

(b) includes—

- (i) a hovercraft or any other thing deriving full or partial support in the atmosphere from the reaction of air against the surface of the water over which it operates; and
- (ii) a submarine or other submersible;

“staff biometric information” means the biometric information of a member of Bureau staff or a Bureau associate obtained under section 47;

“structured group” means a group that—

- (a) is not randomly formed for the immediate commission of an offence under this Act or any other written law; and
- (b) does not need to have formally defined roles for its members, continuity of its membership or a developed structure;

“Substance Abuse Advisory Council” means the council established under section 3 of the Substance Abuse Advisory Council Act 1998;

“this Act” means this Act and any subsidiary legislation made under it;

“Tribunal” means the Bureau Disciplinary Tribunal established under section 64(1) but does not mean a misbehaviour tribunal appointed under section 17(3)(a)(i); and

“Vienna Convention” means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna on 19 December 1988 and acceded to by Fiji on 25 March 1993.

Meaning of ordinarily resident

3. For the purposes of this Act, a person is deemed to be ordinarily resident in Fiji if—

- (a) his or her home is in Fiji;
- (b) he or she is residing in Fiji with the intention of doing so indefinitely; or
- (c) having resided in Fiji with the intention of establishing his or her home in Fiji, or with the intention of residing in Fiji indefinitely, he or she is outside Fiji but has an intention to return to establish his or her home, or reside, in Fiji indefinitely.

Meaning of senior officer

4.—(1) A senior officer, in relation to the Bureau, means a Bureau officer of and above a rank that the Director General may prescribe for the purposes of—

- (a) administering, witnessing and certifying an oath or affirmation under section 35;
- (b) applying for a covert surveillance warrant under section 127;

- (c) authorising the placement of a tracking device under section 132;
- (d) applying for a covert or forcible entry warrant under section 133; and
- (e) constituting or acting as an ad hoc internal tribunal under section 62.

(2) A senior officer, in relation to a directed agency, means an officer or person of and above a rank or position that the Director General may prescribe for the purposes of—

- (a) applying for a covert surveillance warrant under section 127;
- (b) authorising the placement of a tracking device under section 132; and
- (c) applying for a covert or forcible entry warrant under section 133.

(3) A senior officer, in relation to a coordinated agency, means an officer or person of and above a rank or position that the head of the agency may approve for the purposes of—

- (a) applying for a covert surveillance warrant under section 127;
- (b) authorising the placement of a tracking device under section 132; and
- (c) applying for a covert or forcible entry warrant under section 133.

Meaning of vulnerable and at-risk person

5.—(1) A “vulnerable and at-risk person”, in relation to illicit drug use, means a person who is at increased risk of harm from—

- (a) the use of illicit drugs or illicit drug dependency;
- (b) exploitation in illicit drug-related activities; or
- (c) the existence of barriers to accessing treatment, rehabilitation or support services.

(2) The term includes a person who—

- (a) is a child;
- (b) suffers from drug dependence;
- (c) has a mental health condition or cognitive impairment;
- (d) is experiencing poverty, unemployment, homelessness or unstable living conditions;
- (e) is a victim of violence, abuse, neglect or exploitation, including domestic or sexual violence;
- (f) is subject to coercion, intimidation or undue influence to engage in drug-related activities;
- (g) has limited access to healthcare, education or social support services, including persons in rural or maritime communities; or
- (h) belongs to a group identified by regulations as being particularly vulnerable to drug-related harm in Fiji.

Categorisation of drugs

6.—(1) In this Act, an illicit drug is categorised based on the risk of harm the drug poses to individuals or society by its misuse.

(2) The categories of illicit drugs for the purposes of this Act are—

- (a) Class A—drugs that pose a very high risk of harm and are listed in Schedule 1;
- (b) Class B—drugs that pose a high risk of harm and are listed in Schedule 2, in 3 Parts;
- (c) Class C—drugs that pose a moderate risk of harm and are listed in Schedule 3, in 7 Parts.

Jurisdiction: exercise of powers

7.—(1) This Act, and the powers of the Bureau under this Act and any other written law, may be exercised throughout Fiji including the—

- (a) internal waters of Fiji;
- (b) archipelagic waters of Fiji; or
- (c) territorial seas of Fiji.

(2) The powers of the Bureau under this Act may extend to the contiguous zone and the exclusive economic zone of Fiji only in accordance with the provisions of the United Nations Convention on the Law of the Sea and any written law in Fiji implementing the Convention.

Jurisdiction: standard geographic

8. Except where otherwise provided in this Act, a person only commits an offence against this Act if—

- (a) the conduct constituting the alleged offence occurs—
 - (i) wholly or partly in Fiji; or
 - (ii) wholly or partly on board a Fijian craft; or
- (b) the conduct constituting the alleged offence occurs wholly outside Fiji and a result of the conduct occurs —
 - (i) wholly or partly in Fiji; or
 - (ii) wholly or partly on board a Fijian craft; or
- (c) all of the following conditions are satisfied—
 - (i) the alleged offence is an ancillary offence;
 - (ii) the conduct constituting the alleged offence occurs wholly outside Fiji; and

- (iii) the conduct constituting the principal offence to which the ancillary offence relates, or a result of that conduct occurs (or is intended by the person to occur) wholly or partly in Fiji, or wholly or partly on board a Fijian craft.

Jurisdiction: extended geographic

9.—(1) Despite section 8, a person outside Fiji commits an offence against this Act if—

- (a) subsection (2) applies; and
- (b) the person does or omits to do any act that would, if done or omitted in Fiji, constitute an offence under Part 9.

(2) Proceedings may only be brought in accordance with subsection (1) if—

- (a) the person to be charged is—
 - (i) a Fiji citizen;
 - (ii) ordinarily resident in Fiji; or
 - (iii) present in Fiji when charged; or
- (b) any of the acts or omissions is alleged to have occurred—
 - (i) on board a ship registered or required to be registered in Fiji under the Ship Registration Act 2013;
 - (ii) on board a ship used as a ship of the Republic of Fiji Military Forces;
 - (iii) on board a Fiji aircraft; or
 - (iv) on board an aircraft that is leased to a lessee—
 - A. whose principal place of business is in Fiji;
 - B. who is a Fiji citizen; or
 - C. who is ordinarily resident in Fiji; or
- (c) if a person in respect of whom the offence is alleged to have been committed is—
 - (i) a Fiji citizen; or
 - (ii) ordinarily resident in Fiji.

(3) The person is liable on conviction to the penalty the person would have been liable to had the person committed the offence in Fiji.

(4) Subsection (1) does not apply if the doing or omission of the act to which the charge relates was not an offence under the law of the place where the act was done or omitted.

(5) Despite subsection (4), if a person is charged with an offence in accordance with this section, it is to be presumed, unless the person puts the matter at issue, that the doing or omission of the act to which the charge relates was an offence under the law of the place where the act was done or omitted.

(6) Proceedings for an offence committed by a person ordinarily resident in Fiji in accordance with subsection (2)(a)(ii) require the written consent of the Director of Public Prosecutions.

(7) Before written consent is given, the person may be—

- (a) arrested and charged with the offence; and
- (b) remanded or released on bail.

Act binds State

10. This Act binds the State.

PART 2—ESTABLISHMENT, FUNCTIONS AND GOVERNANCE OF BUREAU

Division 1—Establishment of Bureau

Establishment of Bureau

11.—(1) The Bureau is established.

(2) The Bureau consists of—

- (a) the Director General appointed under section 16;
- (b) the Deputy Director General appointed by the Director General;
- (c) Bureau officers, appointed by and in ranks as prescribed by the Director General; and
- (d) Bureau employees.

Funding of Bureau

12.—(1) Parliament must ensure that adequate funding and resources are made available to the Director General to Parliament, to enable him or her to independently and effectively exercise the powers and perform the functions and duties under this Act.

(2) The funding—

- (a) must be provided as a dedicated budget allocation in each financial year as a part of the budget of the ministry responsible for policing; and
- (b) must not be decreased except as a part of overall austerity measures applying across the civil service.

Division 2—Functions and Jurisdiction of Bureau

Functions, duties and powers of Bureau

13.—(1) In addition to any functions or duties provided elsewhere in this Act, the functions and duties of the Bureau are to—

- (a) prevent, investigate and control the supply and demand of illicit drugs and controlled chemicals and equipment;
- (b) prevent and investigate any related crimes, including transnational organised crime;

- (c) develop strategies for the prevention of abuse of drugs and ensure treatment, rehabilitation or support for victims of drug abuse with particular emphasis on special measures for children;
 - (d) co-operate with authorised agencies in investigating, prosecuting, preventing and combating drug trafficking and prohibited activities relating to illicit drugs and controlled chemicals and equipment;
 - (e) consult, co-operate and exchange information with appropriate bodies regionally or internationally that are authorised to conduct inquiries or investigate cases of drug trafficking and other transnational crimes; and
 - (f) maintain a national database on drug trafficking, abuse, money laundering and other related information.
- (2) In performing its functions and duties under this Act, the Bureau—
- (a) may exercise the powers provided under this Act; and
 - (b) must exercise the powers, perform its functions and carry out its duties in accordance with the—
 - (i) Constitution;
 - (ii) international human rights obligations of Fiji; and
 - (iii) principles of legality, necessity, proportionality, reasonableness and non-arbitrariness.

Jurisdiction of Bureau

- 14.—**(1) Subject to subsection (2), the Bureau has exclusive jurisdiction over the—
- (a) investigation of offences under this Act; and
 - (b) enforcement of this Act.

(2) An authorised agency may, in accordance with section 27, also investigate offences under and enforce this Act.

Bureau role and power in investigating transnational organised crime

15.—(1) In this section, a “connected offence” means an offence under any other written law that is committed in connection with an offence under this Act.

(2) If, in the course of investigating an offence under this Act, a Bureau officer has reasonable grounds to believe that a connected offence is being or has been committed by a transnational organised criminal group, the Bureau officer may—

- (a) investigate the connected offence; and
- (b) exercise any of the powers of—
 - (i) a Bureau officer under this Act; and

- (ii) a law enforcement officer (other enforcement officer) that is empowered by the written law establishing the connected offence to investigate the connected offence (other law),

for the purposes of investigating the connected offence.

(3) Subject to subsection (4), if a Bureau officer exercises a power under subsection (1)(b)(ii), a reference in the other law is deemed to include the Bureau officer but only in relation to the investigation of the connected offence.

(4) The Bureau officer, in exercising the power of the other enforcement officer—

- (a) subject to subsection (5), is bound by the same responsibilities and limits that apply to the other enforcement officer under the other law; and
- (b) is entitled to the same protections that apply to the other enforcement officer under the other law.

(5) Notwithstanding subsection (2)(a) and anything contained in the other law, the Bureau officer remains under the authority of the Director General and is subject to the disciplinary mechanisms under this Act.

(6) Notwithstanding anything contained in the other law, if the other law requires approval, consent, authorisation or permission from a person with the executive or administrative authority to do so under the other law, the Director General may give the required approval, consent, authorisation or permission.

(7) For the avoidance of doubt, subsection (6) does not include the exercise of any authority solely reserved for a member of the judiciary.

Division 3—Governance of Bureau

Appointment of Director General

16.—(1) Subject to this section, the Minister, after consulting the Public Service Commission—

- (a) appoints the Director General; and
- (b) determines the terms and conditions under which the Director General holds office.

(2) A person is only qualified to be appointed as the Director General if he or she has—

- (a) at least 10 years of experience in law enforcement; and
- (b) a record of integrity and professionalism.

(3) The Director General must independently and impartially perform his or her duties and exercise his or her powers under this or any other Act.

(4) The Minister must not appoint a person as Director General if the person has been convicted of a criminal offence.

Removal from office for cause

17.—(1) The Minister, after consulting the Public Service Commission, may remove the Director General from office for inability to perform the functions of his or her office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.

(2) Removal from office must be pursuant to this section.

(3) If the Minister considers that the question of removal from office ought to be investigated, then—

(a) the Minister must appoint—

(i) in the case of alleged misbehaviour, a misbehaviour tribunal, consisting of a chairperson and not less than 2 other members, selected from amongst persons who hold or are qualified to hold the office of a Judge; and

(ii) in the case of alleged inability to perform the functions of office, a medical board, consisting of a chairperson and 2 other members, each of whom is a qualified medical practitioner;

(b) the misbehaviour tribunal or medical board enquires into the matter and furnishes a written report of the facts to the Minister and advises the Minister of its recommendation whether or not the person concerned should be removed from office; and

(c) in deciding whether or not to remove the person concerned from office, the Minister must act in accordance with the advice of the tribunal or medical board, as the case may be.

(4) The Minister, after consulting the Public Service Commission may, on such terms and conditions as he or she deems fit, suspend the person concerned from office pending investigation and pending referral to and appointment of a misbehaviour tribunal or a medical board under subsection (3), and may at any time, revoke the suspension.

(5) The suspension of the Director General from office under subsection (4) ceases to have effect if the Minister determines that the Director General should not be removed from office.

(6) The report of the misbehaviour tribunal or the recommendations of the medical board, as the case may be, made under subsection (3) must be made public.

Powers and responsibilities of Director General

18.—(1) The Director General has the powers granted to the Director General under this Act.

(2) Subject to section 22, the Director General is responsible for the—

(a) organisation and administration of the Bureau; and

(b) deployment and control of its operations.

(3) The Director General has the authority to appoint, remove and discipline all Bureau staff in accordance with this Act.

(4) The Director General has the authority to determine all matters pertaining to the employment of all Bureau staff, including—

- (a) the terms and conditions of employment;
- (b) the qualification requirements for appointment and the process to be followed for appointment, which must be an open, transparent and competitive selection process based on merit and in accordance with Part 4 of this Act;
- (c) the salaries, benefits and allowances payable, in accordance with its budget as approved by Parliament; and
- (d) the total establishment or the total number of staff that are required to be appointed, in accordance with the budget as approved by Parliament.

Delegation of Director General's powers

19.—(1) The Director General may delegate the Director General's powers, duties or functions under this Act to the Deputy Director General or a senior Bureau officer.

(2) The delegation—

- (a) may be made subject to any conditions or restrictions that the Director General considers appropriate, including any factors that must be taken into account when the delegation is made;
- (b) may be made generally or for any particular case or to any particular area in Fiji;
- (c) must not be delegated by the delegate to any other person;
- (d) may be revoked by the Director General at will; and
- (e) does not prevent the Director General from exercising the delegated power, or performing the delegated duty or function.

(3) A delegate may, subject to any conditions or restrictions, exercise the powers, or perform the functions or duties in the same manner and with the same effect as if the powers, functions or duties had been conferred on the person directly by this Act.

(4) A member of Bureau staff purporting to act under a delegation under this section is, unless the contrary is proved, presumed to be acting in accordance with the terms of the delegation.

Duties of Director General

20.—(1) It is the duty of the Director General, through Bureau staff, to—

- (a) receive and consider complaints alleging a contravention of this Act and investigate those complaints as he or she considers practicable;

- (b) investigate the suspected or alleged occurrence of an offence under this Act;
- (c) educate the public against the harm of illicit drug use; and
- (d) enlist and foster public support in investigating and enforcing this Act.

(2) The Director General may not, while he or she holds office as the Director General, discharge the duties of—

- (a) any person holding an office of emolument, whether permanent or temporary, under the Government; and
- (b) the following persons, to the extent that they are not persons included in paragraph (a)—
 - (i) any official of the Government appointed by the President or who has sworn an oath of office before the President;
 - (ii) chairperson of the Public Service Commission;
 - (iii) any judicial officer holding a judicial office and any judicial officer appointed by the Chief Justice, and any member of the staff of the Judiciary.

Division 4—Accountability and Oversight

Subdivision 1—Bureau Monitoring

The Human Rights and Anti-Discrimination Commission

21.—(1) The Commission is empowered to monitor, review and report on the Bureau's exercise of powers and performance of functions and duties under this Act, the Constitution and applicable human rights standards.

(2) The Commission may require the Director General to provide information, documents, records, or data, including operational policies, standing orders and anonymised case material.

(3) The Commission may, at reasonable times and with or without notice, inspect the premises, facilities, systems and records of the Bureau, including detention facilities, for the purpose of monitoring compliance with this Act, the Constitution and applicable human rights standards.

(4) The Commission may monitor and assess the treatment of persons dealt with by the Bureau, including suspects, detainees and persons participating in diversion or rehabilitation programmes, with particular regard to vulnerable and at-risk persons.

(5) The Director General must—

- (a) comply with a request under subsection (2), unless—
 - (i) the information requested is certified by the Attorney-General under section 35 of the Human Rights and Anti-Discrimination Commission Act 2009; or

- (ii) the release of the information may materially affect or interfere with the person's right to a fair trial; and
- (b) not hinder or prevent the Commission's exercise of their powers under this section.

(6) The Commission must prepare quarterly reports on its monitoring activities, including findings and recommendations and submit those reports to the Minister.

Subdivision 2—Director General

Ministerial direction

22.—(1) The Minister may issue a general policy direction to the Director General.

(2) The Director General must comply with the general policy direction.

(3) In this section, “general policy direction” means a direction that does not relate to specific investigations, prosecutions or operational decisions.

Accountability and Transparency Commission

23.—(1) The Director General holds a public office and must comply with the code of conduct mandated by section 149 of the Constitution.

(2) In addition to the removal procedure under section 17 of this Act, the Accountability and Transparency Commission established under section 121 of the Constitution may investigate and enforce the code of conduct against the Director General.

Subdivision 3—Bureau staff

Relationship to Part 6 and other laws

24.—(1) A complaint against a member of Bureau staff must be dealt with under Part 6 of this Act.

(2) Notwithstanding subsection (1), if the complaint alleges that a member of Bureau staff has committed a criminal offence under this Act or any other written law, the complaint must be—

- (a) for an alleged offence under this Act, investigated as an offence under this Act; and
- (b) for an alleged offence under any other written law, referred to the appropriate law enforcement agency.

PART 3—INTERAGENCY COORDINATION AND INTERNATIONAL COOPERATION

Division 1—Authorised Agencies

Authorised agencies

25.—(1) Subject to this Division, the Director-General may authorise an agency to monitor compliance with and enforce this Act as a—

- (a) coordinated agency, if the agency is a disciplined force continued under the Constitution; or

- (b) directed agency, if the agency is not a disciplined force continued under the Constitution.
- (2) The authorisation must be in writing and may —
 - (a) apply throughout Fiji or be specific to an area in Fiji;
 - (b) specify the duty, function or power that the authorised agency may perform or exercise; and
 - (c) specify conditions limiting the authorised agency in the performance of the duty or function, or exercise of the power.

Relationship with authorised agencies

26.—(1) The Director-General may —

- (a) request assistance from a coordinated agency to undertake joint operations or to perform a specific monitoring or enforcement activity in relation to a possible or on-going breach of this Act; and
- (b) coordinate a coordinated agency during joint operations but may not exercise direct control over the agency.
- (2) Subject to subsection (3), the Director-General may —
 - (a) conduct joint operations with a directed agency in relation to a possible or on-going breach of this Act;
 - (b) direct a directed agency to perform a duty or function or exercise a power —
 - (i) under this Act; or
 - (ii) which the directed agency can perform or exercise under any other written law.

(3) The Director-General may only make a directive under subsection (2)(b) if the purpose of the directive is to achieve the functions of the Bureau.

(4) The directed agency must comply with the Director General's directive under subsection (2)(b).

Duties, functions and powers of authorised agencies

27.—(1) During the period in which the authorisation under section 25 is valid —

- (a) a reference in this Act to a Bureau officer is deemed to include an officer of the authorised agency but only in relation to the duty, function or power specified in the authorisation; and
- (b) an officer of the authorised agency, in performing the duty or function or exercising the power of a Bureau officer specified in the authorisation is —
 - (i) bound by the same responsibilities and limits that apply to a Bureau officer in that capacity; and

- (ii) entitled to the same protections that apply to a Bureau officer in that capacity.

(2) A duty or function performed, or a power exercised by an officer of an authorised agency in accordance with this Division has the same effect as if the duty, function or power had been performed or exercised by a Bureau officer.

Exercise of powers of authorised agencies

28.—(1) A Bureau officer may exercise the powers of a law enforcement officer of an authorised agency as provided under any written law for the purposes of investigating an offence under this Act.

(2) Subject to subsection (3), if a Bureau officer exercises a power under subsection (1), a reference in the other law is deemed to include the Bureau officer but only in relation to the investigation of the offence under this Act.

(3) The Bureau officer, in exercising the power of the other enforcement officer—

- (a) subject to subsection (4), is bound by the same responsibilities and limits that apply to the other enforcement officer under the other law; and
- (b) is entitled to the same protections that apply to the other enforcement officer under the other law.

(4) Notwithstanding subsection (3)(a) and anything contained in the other law, the Bureau officer remains under the authority of the Director General and is subject to the disciplinary mechanisms under this Act.

(5) Notwithstanding anything contained in the other law, if the other law requires approval, consent, authorisation or permission from a person with the executive or administrative authority to do so under the other law, the Director General may give the approval, consent, authorisation or permission.

(6) For the avoidance of doubt, subsection (5) does not include the exercise of any authority solely reserved for a member of the judiciary.

Division 2—International Cooperation

Cooperation with corresponding overseas agencies

29.—(1) The Director General may cooperate and conduct joint operations with a corresponding overseas agency for—

- (a) the enforcement of this Act; or
- (b) the investigation of an offence committed or coordinated by an organised criminal group under any other written law.

(2) Without limiting the generality of subsection (1), the Director General may on behalf of the Bureau enter into a cooperation agreement or memorandum of understanding with a corresponding overseas agency for the efficient coordination of joint operations for the purposes of subsection (1).

*Information sharing***30.—(1)** In this section—

“international disclosure instrument” means an instrument that provides for the disclosure of personal information to a corresponding overseas agency, and may include—

- (a) an international arrangement or agreement to which the Government of Fiji is a party;
- (b) an agreement between the Bureau and one or more corresponding agencies; or
- (c) the constitution of Interpol and any instrument adopted under article 44 of that constitution; and

“personal information” means information about an identifiable individual and includes biometric information.

(2) If the requirements of this section are met, the Director General may disclose any personal information held by the Bureau to a corresponding overseas agency.

(3) The disclosure of the personal information must be reasonably necessary to enable the corresponding overseas agency to perform a function in its jurisdiction that is similar to any of the functions of the Bureau.

(4) Personal information under this section may be disclosed only—

- (a) in accordance with an international disclosure instrument; or
- (b) in accordance with directions issued by the Director General.

(5) For the purposes of this section, personal information may be disclosed to a corresponding overseas agency by disclosing the information to an overseas person, body, or agency that is authorised to act on behalf of the corresponding overseas agency.

(6) Subsections (2) to (5) do not affect any other written law that requires or allows disclosure of personal information (whether or not of a particular kind and whether or not disclosure is required to be made in a prescribed manner).

(7) This section does not limit or prohibit the sharing of information, not being personal information, between the Bureau and a corresponding overseas agency.

Requests under Mutual Assistance in Criminal Matters Act 1997

31. The Director General may be authorised by the Attorney-General under section 9 of the Mutual Assistance in Criminal Matters Act 1997 to receive requests by a foreign country under that Act.

PART 4—ENGAGEMENT, PROCESSING AND TRAINING OF BUREAU

*Division 1—Recruitment of Bureau staff and others**Subdivision 1—Recruitment and promotion of Bureau staff**Merit based recruitment and promotion*

32.—(1) The appointment, employment and promotion of Bureau staff must be based on merit with preference to the person who is best qualified and suited for the position.

(2) In determining the merit of an applicant, consideration must be given to—

- (a) the person's integrity, emotional maturity, and psychological suitability for Bureau duties;
- (b) the conduct of the person;
- (c) if applicable, the past performance of the person;
- (d) the educational or vocational training qualifications of the person;
- (e) the ability, aptitude, skill, knowledge and experience of the person to meet the requirements of the position; and
- (f) the physical fitness of the person to perform the duties of the position.

(3) If the applicants are of equal merit, the Director General may take into account the need for the Bureau to contain officers from diverse backgrounds and to promote gender and ethnic equity.

Appointment of Bureau officers

33.—(1) The Director General may appoint a person as a Bureau officer.

(2) The Bureau officer must, on joining the Bureau and before making an oath or affirmation under section 35, give an honest answer to any question which may be put to him or her in relation to—

- (a) the person's previous service in any other organisation; and
- (b) whether he or she has at any time been convicted of any criminal offence.

Bureau employees

34.—(1) The Director General may employ a person as a Bureau employee to serve in the Bureau.

(2) The Bureau employee must be employed—

- (a) under a written employment contract; and
- (b) subject to terms and conditions determined by the Director General and as set out in the employment contract.

(3) The Bureau employee must, on being employed and before making an oath or affirmation under section 35, give an honest answer to any question which may be put to him or her in relation to—

- (a) the person's previous service in any other organisation; and

(b) whether he or she has at any time been convicted of any criminal offence.

(4) The Director General may authorise a Bureau employee to exercise a specified power, duty or function of a Bureau officer for the purposes of this Act or any other written law.

(5) The authorisation must be in writing and may be—

(a) general in scope and apply throughout Fiji; or

(b) specific to a person, class, rank, or area in Fiji.

(6) During the period in which the authorisation is valid—

(a) a reference in this Act or any other written law to a Bureau officer is deemed to include the Bureau employee but only in relation to the duty, function or power specified in the authorisation; and

(b) the Bureau employee, in performing the duty or function or exercising the power of a Bureau officer specified in the authorisation is—

(i) bound by the same responsibilities and limits that apply to a Bureau officer in that capacity; and

(ii) entitled to the same protections that apply to a Bureau officer in that capacity.

(7) A duty or function performed, or a power exercised by a Bureau employee authorised under subsection (4) has the same effect as if the duty, function or power had been performed or exercised by a Bureau officer.

Oaths or affirmations

35. On joining the Bureau, a member of Bureau staff must make a declaration of allegiance and secrecy on oath or affirmation before the Director General or a senior officer in the form set out in Schedule 7.

Subdivision 2—Bureau Animals

Bureau animals may accompany Bureau animal handlers

36. Notwithstanding any other written law—

(a) a Bureau animal under the control of a Bureau animal handler may enter and be in a place that the Bureau animal handler may in the course of Bureau duties lawfully enter or be in; and

(b) neither the Director General nor a Bureau animal handler in charge of a Bureau animal is liable in any way by reason only of a Bureau animal's having entered or been in or on any place under paragraph (a).

Killing or injuring Bureau animals

37.—(1) A person must not intentionally kill, maim, wound or otherwise injure a Bureau animal without lawful authority or reasonable excuse.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$15,000 or imprisonment for a term not exceeding 2 years or both.

Subdivision 3—Engagement of external persons

Engaging Bureau consultants

38.—(1) The Director General may engage a person, by written contract, as a Bureau consultant to provide a service to the Bureau for a period of time determined by the Director General.

(2) The Director General may approve specific duties and functions for the Bureau consultant.

(3) A Bureau consultant may include—

- (a) a counsellor for the purposes of section 54; and
- (b) a health professional for assessments under sections 227, 230, 231 and 232.

(4) A Bureau consultant is not an agent or representative of the Bureau and must not hold himself or herself out to be an agent or representative of the Bureau.

Engaging Bureau associates

39.—(1) The Director General may engage as a Bureau associate a person who is not a member of Bureau staff but—

- (a) performs, or may in the future perform, duties with or for the Bureau, and whose duties may involve the risk of accidentally contaminating a crime scene or any evidence at the crime scene; and
- (b) is a professional and has the capacity to assist the Bureau during the course of an investigation.

(2) In this section, “professional” means—

- (a) a health professional;
- (b) a person who is employed as a welfare officer in the ministry responsible for welfare;
- (c) a teacher who is registered under the Fiji Teachers Registration Act 2008;
- (d) a legal practitioner as defined in the Legal Practitioners Act 2009; or
- (e) a person of a profession prescribed by the Director General.

Division 2—Engagement Requirements and Training

Subdivision 1—Requirements for information to be provided

Candidate to provide details

40.—(1) The Director General may require a candidate to do any of the following—

- (a) provide their identification and biographic details;

- (b) provide evidence of any qualifications or experience required for the position;
 - (c) take a test approved by the Director General, which assesses physical and mental fitness;
 - (d) submit to a psychological evaluation;
 - (e) provide biometric information or a body sample under section 41;
 - (f) make a declaration containing the following information of the candidate and his or her spouse and children—
 - (i) the total assets whether in Fiji or abroad (including money and other property in the possession or under the control of each of them);
 - (ii) the total income for the prescribed period whether in Fiji or abroad, and the source of such income, received by each of them during the prescribed period;
 - (iii) any business connections whether in Fiji or abroad of each of them;
 - (iv) any directorships or other office in a corporation or other organisation whether in Fiji or abroad held by each of them;
 - (v) any business transaction entered into by each of them during the prescribed period whether in Fiji or abroad;
 - (vi) subject to subsection (2), any gift received by each of them whether in Fiji or abroad during the prescribed period, and the value of those gifts;
 - (vii) any assets acquired by each of them whether in Fiji or abroad during the prescribed period; and
 - (viii) the liabilities incurred, or discharged, by each of them whether in Fiji or abroad during the prescribed period, and the amount of each such liability;
 - (g) declare any conflict of interest; and
 - (h) provide medical or other reports relevant to determining whether the applicant is capable of performing the required duties.
- (2) Subsection (1)(f)(vi) does not apply to a gift—
- (a) received in the normal course of events from close relatives;
 - (b) received in accordance with custom, in the course of a traditional exchange of gifts; or
 - (c) given on behalf of the nation, if the gift is transferred to the Government as soon as it is possible to do so without giving offence to the giver.

(3) If the Director General requires a candidate to do a thing under subsection (1) or section 37, the Director General must notify the candidate of the requirement as soon as practicable.

(4) If the candidate is unwilling to or does not do the thing required, the candidate must not be considered for recruitment as a member of Bureau staff.

Candidate may be required to provide body sample and biometric information

41. The Director General may require a candidate to—

- (a) provide a body sample suitable for establishing a DNA profile pursuant to section 43(a);
- (b) allow biometric information the Director General thinks appropriate to be taken for the purposes of section 42.

Use of candidate biometric information restricted

42. Biometric information relating to a candidate must be used only for the following purposes—

- (a) verifying that the candidate is not a user of an illicit drug;
- (b) matching the information against other information held by the Bureau for the purpose of—
 - (i) determining whether the candidate has been convicted of an offence; or
 - (ii) if, when matched against other information held by the Bureau, it indicates that the candidate may have been involved in the commission of an offence,—
 - A. investigating the offence; and
 - B. if relevant, prosecuting a person charged with committing the offence; or
 - (iii) if the candidate later becomes a member of Bureau staff or a Bureau associate, eliminating him or her from being considered a suspect in the investigation of a crime.

Storage of profile and destruction of sample

43. The Director General must ensure that—

- (a) a DNA profile is established, derived from the body sample obtained under 41(a);
- (b) the biometric information relating to a candidate is stored in the Bureau database; and
- (c) except in the circumstances described in section 42(b)(ii), every body sample obtained under section 41(a) is destroyed promptly.

Candidate biometric information to be deleted or destroyed if person not recruited

44.—(1) This section does not apply in the circumstances described in section 42(b)(ii).

(2) If the Director General decides not to recruit a candidate, the Director General must ensure that biometric information held by the Bureau that relates to the candidate is promptly —

- (a) deleted permanently from the Bureau database; or
- (b) for information held in hard-copy form, destroyed.

(3) The Director General must ensure that, promptly after the deletion or destruction of information under this section, the person to whom the information relates, or his or her personal representative, is given written notice of its deletion or destruction.

Subdivision 2—Training and Education

Training and education

45.—(1) The Director General must prescribe, for the efficient and proper exercise and performance of the powers, duties, and function of the Bureau, the following training programmes for Bureau staff —

- (a) a recruitment training course; and
- (b) a continuing education course.

(2) A member of Bureau staff must —

- (a) successfully complete the training course before recruitment; and
- (b) undertake the continuing education course within each period prescribed by the Director General.

(3) Each course must contain training in at least —

- (a) the rights of every person as guaranteed under the Constitution and international treaties that Fiji has ratified or acceded to, in the context of law enforcement;
- (b) gender sensitisation, addressing gender-based violence, protection from sexual exploitation and abuse and the proper treatment of cases involving women;
- (c) effective handling and engagement of and support for vulnerable and at-risk persons, local communities and marginalised and minority groups;
- (d) the use of reasonable and necessary force;
- (e) the use of negotiation and de-escalation techniques in law enforcement;
- (f) policies, programmes and services developed, implemented or promoted under section 72;
- (g) ethics, integrity and the code of conduct of the Bureau;

- (h) the powers, duties and responsibilities of the Bureau and the limits to and proper exercise of each.
- (4) The courses must as much as is practicable be conducted in collaboration with training partners with expertise in the course content and experience in the Fijian context.
- (5) The Director General must seek to include, as the training partners—
 - (a) the ministry responsible for public health;
 - (b) the Substance Abuse Advisory Council;
 - (c) universities operating in Fiji;
 - (d) civil society and non-governmental organisations; and
 - (e) human rights, faith-based and cultural institutions.
- (6) The Director General may confer certificates or awards to a person who has successfully completed a training or education course under this section.

PART 5—SERVICE

Division 1—Duties and Service Generally

Duties

46.—(1) A Bureau officer must—

- (a) perform the duties imposed on him or her by this or any other Act; and
 - (b) be fair and impartial in performing his or her duties and exercising his or her powers under this or any other Act.
- (2) A Bureau officer must obey all lawful directions received from an officer of a higher rank in the Bureau in relation to performing his or her duty or exercising any power.
- (3) A Bureau officer is deemed to be on duty at all times and may at any time be detailed for duty in any part of Fiji or any other place in accordance with this Act.
- (4) It is the duty of a Bureau officer promptly to—
- (a) obey and execute all orders and warrants lawfully issued to him or her by an issuing authority;
 - (b) collect and communicate intelligence in relation to an offence under this Act or a connected offence;
 - (c) prevent the commission of any offence under this Act or a connected offence;
 - (d) detect and bring offenders to justice; and
 - (e) apprehend all persons whom he or she is legally authorised to apprehend and for whose apprehension sufficient ground exists.

*Division 2—Mandatory testing**Purpose and relationship with Part 10, Division 10*

47.—(1) The purpose of this Division is to enable the Director General to—

- (a) determine if a member of Bureau staff or a Bureau associate has unlawfully used an illicit drug; and
- (b) eliminate a member of Bureau staff or a Bureau associate from being considered a suspect in the investigation of a crime.

(2) The Director General may at his or her discretion, opt to forego the use of this Division and instead investigate a member of Bureau staff or a Bureau associate using Part 10, Division 10 of this Act.

Bureau staff to provide body sample and biometric information

48.—(1) Subject to subsection (3), the Director General may require a member of Bureau staff or a Bureau associate to provide a body sample if the Director General has reasonable grounds to suspect that the person may have used an illicit drug.

(2) The Director General may request a member of Bureau staff or a Bureau associate to provide a body sample or biometric information the Director General thinks appropriate to eliminate a member of Bureau staff or a Bureau associate from being considered a suspect in the investigation of a crime.

(3) The Director General may only require or request a body sample or biometric information that is relevant to the purpose of the request.

Use of staff biometric information restricted

49.—(1) Staff biometric information provided under section 48 is not admissible as evidence in any criminal proceedings against the person who provided the information and must be used only for determining whether the person has used an illicit drug for the purpose of this section.

(2) The use of an illicit drug may be determined by an analysis of the biometric information conducted at a laboratory or facility established under section 184 or approved under section 185.

(3) If the analysis determines that the person has used the illicit drug, he or she is deemed to have breached the code of conduct and Part 6 applies.

(4) Subsection (1) applies even after the person ceases to be a member of Bureau staff or a Bureau associate.

Storage of profile and destruction of sample

50. The Director General must ensure that —

- (a) a DNA profile is established, derived from the body sample obtained under section 48;
- (b) the staff biometric information is stored in the Bureau database; and
- (c) every body sample obtained under section 48 is destroyed promptly.

Staff biometric information to be deleted or destroyed

51.—(1) If a person ceases to be a member of Bureau staff or a Bureau associate, the Director General must ensure that all staff biometric information collected by the Bureau under section 42 is—

- (a) deleted permanently from the Bureau database; and
- (b) for information held in hard-copy form, destroyed.

(2) The information must be deleted or destroyed no later than 12 months after the person ceases to be a member of Bureau staff or a Bureau associate.

(3) The Director General must ensure that, promptly after the deletion or destruction of information under this section and a body sample under section 50(c), the person to whom the information relates, or his or her personal representative, is given written notice of its deletion or destruction.

*Division 3—Staff Rules of Service and Well-being**Bureau staff not to engage in other employment or political activities*

52. No member of Bureau staff may—

- (a) engage in any employment or hold any office unless provided under this Act;
- (b) take an active part in any political organisation or electoral campaign; or
- (c) engage in any activity which is likely to interfere with the impartial discharge of his or her duties under this Act.

Extended service in times of war etc.

53.—(1) The Director General may extend the appointment or employment of a member of Bureau staff if the member of Bureau staff's appointment or employment is due to expire or terminate during a state of war or emergency or a period of insurrection or hostilities.

(2) The extension may only be for a period not exceeding 6 months.

Counselling and support for Bureau staff

54.—(1) The Director General must employ or engage a qualified and trained counsellor to provide counselling services to Bureau staff.

(2) The Director General may also engage or facilitate access to a faith leader to provide religious or spiritual advice, benefit, comfort or encouragement to Bureau staff.

(3) The Director General must extend the services of a counsellor or faith leader employed, engaged or made accessible under this section to the family members of any member of Bureau staff who is adversely affected in the course of duty.

(4) The Director General must ensure that any member of Bureau staff adversely affected by service related to undercover work or covert operations, or a member of that person's family similarly affected, has access to the relevant services provided by a drug rehabilitation centre.

Protection from liability

55.—(1) No civil or criminal proceedings lie against any Bureau officer for any act done or not done by the Bureau officer—

- (a) in good faith; and
- (b) in obedience to a warrant, summons or order that is or appears to be lawfully issued.

(2) No civil or criminal proceedings lie against any Bureau officer or the Bureau for any act done or not done by a person impersonating a Bureau officer or the Bureau, or by a person purporting an affiliation with the Bureau in breach of this Act, resulting in loss or damage to any third party.

PART 6—BUREAU STAFF DISCIPLINE

*Division 1—Preliminary**Application of Part 6*

56. This Part does not apply to the Director General.

*Division 2—Disciplinary Offences**Subdivision 1 — Code of Conduct**Code of conduct*

57. The Minister may prescribe a code of conduct for Bureau staff.

Compliance with this Act and the code of conduct

58.—(1) A member of Bureau staff must—

- (a) comply with this Act and the code of conduct; and
- (b) perform his or her duties or functions, and exercise his or her powers, in accordance with this Act and the code of conduct.

(2) A member of Bureau staff who contravenes this Act or the code of conduct commits a disciplinary offence.

Extended jurisdiction

59. A member of Bureau staff who contravenes any provision of the code of conduct may be dealt with under the provisions of this Act, whether or not the alleged contravention has taken place in or outside Fiji.

*Subdivision 2—Complaints**Complaints against member of Bureau staff*

60.—(1) The Director General must establish a platform to receive complaints about the Bureau or a member of Bureau staff.

(2) The platform—

- (a) may be in electronic form;

- (b) must be readily available to the general public; and
- (c) must contain a component that allows for—
 - (i) the complainant to be anonymous; or
 - (ii) for the identity of the complainant to be protected and only disclosed to Bureau staff involved in the complaints handling process.
- (3) A person may make a complaint against any member of Bureau staff to the Director General through the platform.
- (4) The Director General must ensure that, for any complaint lodged by a person through the platform or otherwise—
 - (a) the complaint is dealt with promptly; and
 - (b) the anonymity or confidentiality of the complainant is protected.

Subdivision 3—Investigations

Investigation and summary dismissal

61.—(1) The Director General may summarily dismiss a complaint if—

- (a) further and material information and details are not provided by the complainant;
 - (b) further and material information and details are not verified by the complainant;
 - (c) the complaint is vexatious, misconceived, frivolous, or lacking in substance;
 - (d) the conduct complained of has been the subject of a previous complaint that has been dismissed or dealt with, either under this Act or under the repealed Act;
 - (e) the conduct complained about is the subject of another complaint;
 - (f) the conduct complained of is not one that the Director General is empowered to deal with under this Act.
- (2) If subsection (1)(e) applies, the Director General must refer the complaint to the relevant authority empowered to deal with the complaint.
- (3) If the Director General summarily dismisses a complaint, the Director General must promptly give the complainant a written notice of the dismissal including the reasons for the dismissal.
- (4) If a complaint has been summarily dismissed by the Director General, the complainant may appeal the decision to the Bureau Disciplinary Tribunal.
- (5) If the Director General does not summarily dismiss the complaint, the Director General must refer the complaint to a senior officer of the Bureau to serve as an ad hoc internal tribunal under section 62.

Ad hoc internal tribunals

62.—(1) The senior officer selected by the Director General may serve as the ad hoc internal tribunal to hear and determine the complaint.

(2) If the tribunal finds the accused person has committed the disciplinary offence the tribunal may, subject to subsection (3), determine the penalty to be imposed and measures to be taken.

(3) The Minister may prescribe the range and types of penalties which may be imposed and measures to be taken.

(4) The charge must be read and investigated in the accused person's presence, and he or she must be given sufficient opportunity to make his or her defence.

(5) The accused person is entitled to representation before the proceedings, either by an internal advocate of his or her choice or by an external legal practitioner.

*Subdivision 4—Review of decisions of ad hoc internal tribunal**Director General to review decisions of ad hoc internal tribunal*

63.—(1) A person aggrieved by a decision of the ad hoc internal tribunal may appeal the decision, within the prescribed period, to the Director General.

(2) The Director General may, in relation to a decision of the tribunal—

- (a) quash the decision;
- (b) alter the decision, find the offender liable for any other offence and punish him or her in accordance with the Director General's powers under section 18;
- (c) confirm the decision and punish the offender in accordance with his or her powers under section 18;
- (d) remit the proceedings to the tribunal which heard it, or a different internal ad hoc tribunal, for rehearing.

(3) A person aggrieved by the decision of the Director General under this section may appeal the decision to the Bureau Disciplinary Tribunal.

*Subdivision 5—Bureau Disciplinary Tribunal**Establishment of Bureau Disciplinary Tribunal*

64.—(1) The Bureau Disciplinary Tribunal is hereby established.

(2) The Tribunal consists of the following members appointed by the Chief Justice after consultation with the Minister —

- (a) the chairperson, who must be a person who is, or is qualified to be appointed as, a Judge;
- (b) one member with experience and qualifications in law enforcement but who is not a member of Bureau staff on the date of appointment; and

- (c) one member with expertise related to human rights advocacy and protection.
- (3) The members of the Tribunal are to be appointed for a term of 3 years, and are eligible for reappointment.
- (4) The Chief Justice, after consultation with the Minister, must appoint a person to act as a member of the Tribunal during any period where—
- (a) there is a vacancy in the membership of the Tribunal;
 - (b) a member is absent from duty, including being absent from Fiji; or
 - (c) a member is, for any reason, unable to perform the functions of office.
- (5) The Chief Justice, after consultation with the Minister, may remove a member of the Tribunal from office for inability to perform the functions of office, whether arising from infirmity of body or mind or any other cause, or for misbehaviour, and may not otherwise be removed.
- (6) The Tribunal has the function of—
- (a) hearing and determining appeals against decisions of the Director General under section 61(1) and 63(2); and
 - (b) any other prescribed authority, function or responsibility.
- (7) A decision of the Tribunal is subject to further appeal to the High Court.
- (8) The Tribunal must be independent and is not subject to the direction or control of any person or authority, except by a court of law or as otherwise required by written law.
- (9) The members of the Tribunal are entitled to an allowance as determined by the Chief Justice after consultation with the Minister, which must not be varied to their disadvantage, except as part of an overall austerity reduction similarly applicable to all officers of the State.
- (10) The Tribunal may regulate its own procedure and may make such rules and regulations as it deems fit for regulating and facilitating the performance of its functions.
- (11) The Tribunal must provide regular updates and advice to the Minister on any matter relating to its functions and responsibilities.
- (12) The allowances payable to the members of the Tribunal are a charge on the Consolidated Fund.
- (13) The Ministry must ensure that adequate funding and resources are made available to the Tribunal, to enable it to independently and effectively exercise its powers and perform its functions and duties.

Division 3 — Employment Grievances

Employment Relations Act 2007

65. An employment grievance concerning a member of Bureau staff that does not amount to a disciplinary offence under this Act and which has not been or is not being pursued under Division 2 of this Part is to be dealt with in accordance with the Employment Relations Act 2007.

PART 7—RESIGNATION, RETIREMENT AND TERMINATION

Application of Part 7

66. This Part does not apply to the Director General.

Resignation

67.— (1) A member of Bureau staff may resign from the Bureau by giving the Director General a signed notice of resignation.

(2) The member must give the notice to the Director General at least 30 days before the proposed date of resignation.

(3) A resignation is not effective unless it is approved in writing by the Director General.

(4) The Director General must decide whether or not to approve the resignation no later than 30 days after receiving the notice.

(5) The Director General must not unreasonably refuse to accept a resignation.

(6) Where the member has incurred debts with the Bureau, he or she must pay his or her debts before resigning from the Bureau.

Compulsory retirement age

68. Subject to section 69, the compulsory retirement age for a member of Bureau staff is 55 years of age or as prescribed in the Standing Orders.

Performance review on reaching compulsory retirement age

69.—(1) Subject to subsection (2), if the Director General considers it necessary, the Director General may continue the appointment of a member of Bureau staff who has reached the compulsory retirement age.

(2) The member must undertake a performance review to determine whether the member is able to continue to perform the duties of a member in a satisfactory manner.

(3) The nature of the performance review must be determined by the Director General.

(4) If the member fails to undertake the performance review or fails to satisfactorily complete the performance review, the Director General must not continue the appointment of the member.

Termination of appointment

70.—(1) The Director General may order the termination of the appointment of a person who is a Bureau officer—

- (a) if the person fails to meet the health standard prescribed by the Director General;
- (b) if the person fails, fails to undertake, or fails to satisfactorily complete, a performance review; or
- (c) due to a reduction in the establishment of the Bureau.

(2) The Director General may also order the termination of the person's appointment if the Director General loses confidence in the person's suitability to be a Bureau officer due to the—

- (a) person's lack of sufficient competence or integrity;
- (b) manner in which the person has performed his or her duties; or
- (c) the person's conduct, either on duty or off duty.

Termination of employment or engagement

71. The Director General may terminate the employment or engagement of a person who is a Bureau employee, Bureau associate or Bureau consultant in accordance with the terms of the employment contract or engagement agreement between the Bureau and the person and for any of the following reasons—

- (a) if the person fails, fails to undertake, or fails to satisfactorily complete, a performance review; or
- (b) due to a reduction in the establishment of the Bureau.

PART 8—PREVENTATIVE MEASURES

Policies, programmes and services

72.—(1) The Director General must develop, implement or promote policies, programmes and services for the protection and support of vulnerable and at-risk persons.

(2) The policies, programmes and services may include—

- (a) prevention and early intervention programmes, including public education campaigns, school-based awareness initiatives and community outreach programmes;
- (b) screening and assessment services to identify persons at risk of drug use, dependency or exploitation, including standardised risk assessment tools and referral pathways;
- (c) voluntary treatment, rehabilitation and support programmes, including outpatient, inpatient, and community-based services for persons affected by disorders due to substance use;
- (d) harm reduction services, including counselling, psychosocial support, overdose prevention education and other evidence-based interventions aimed at reducing the health and social harms associated with drug use;
- (e) aftercare and reintegration programmes, including support for housing, employment, education, and family reunification to reduce relapse and reoffending;
- (f) diversion programmes, including pre-charge and post-charge diversion schemes that enable eligible persons to be referred to treatment, rehabilitation or support services, including education or community-based programmes, instead of prosecution;

- (g) specialised services for children and young persons, including family-centred interventions, school reintegration programmes and youth mentoring initiatives;
- (h) services for persons in custody or detention, including access to treatment, rehabilitation and support services (such as counselling and through-care programmes) to support transition back into the community upon release;
- (i) programmes to address the needs of persons in rural and maritime areas, including mobile outreach services, telehealth support, and partnerships with traditional and community leaders and structures;
- (j) protection and support services for persons at risk of exploitation or coercion in drug-related activities, including safe reporting mechanisms, witness protection support where appropriate and access to legal assistance;
- (k) gender-responsive and culturally appropriate programmes, including services tailored for women, persons with disabilities, and communities with specific cultural or customary needs;
- (l) data collection, research, and monitoring programmes to assess trends in illicit drug use, evaluate programme effectiveness and inform evidence-based policy development;
- (m) training and capacity-building programmes for law enforcement, health professionals, social workers and traditional and community leaders and structures on responding to vulnerable and at-risk persons;
- (n) coordination mechanisms with government agencies, non-governmental organisations, faith-based organisations and international partners to ensure a whole-of-government and whole-of-society response;
- (o) support for the establishment of a Drug Court Programme by a relevant agency to divert eligible drug-dependent offenders into treatment and rehabilitation; and
- (p) any other programme or service prescribed by regulations and necessary to give effect to the objectives of this Act.

(3) In carrying out his or her duty under this section, the Director General must collaborate with State entities, non-government and civil society organisations, faith-based organisations, traditional and community leaders and community policing committees.

PART 9—ILLICIT DRUGS AND RELATED OFFENCES

Division 1—Preliminary

Interpretation of Part 9

73. In this Part—

“administer” or “administration” means to cause or administer the use of an illicit drug by another person;

“cultivate” or “cultivation”—

- (a) means planting, sowing, scattering seed, growing, nurturing, tending or harvesting a plant which can be used as an illicit drug or from which an illicit drug can be extracted; and
- (b) includes the separating of opium, coca leaves, cannabis and its extracts from the plants from which they are obtained;

“manufacture” means to carry out any process by which an illicit drug or controlled chemical is produced, and includes extracting, refining, formulating, preparing, mixing, compounding, transforming it into another drug or chemical, making an illicit drug or controlled chemical into dosage form, and packing;

“storage” means to—

- (a) possess an illicit drug; or
- (b) to arrange or facilitate the possession of an illicit drug by another person;

“supply” includes to distribute or give to a person; and

“use” means to inject or take into one’s body an illicit drug by any means and includes to sniff, snort, chew, eat, drink or smoke the illicit drug.

Meaning of “lawful authority”

74. In this Part, “lawful authority” means authority given or permitted under this Act or any other written law expressly authorising conduct prohibited under this Part, and which may be in the form of—

- (a) a court order;
- (b) a licence;
- (c) a medical prescription;
- (d) an exemption, including an exemption under section 103;
- (e) an authorisation, including an authorisation—
 - (i) for controlled delivery under section 104;
 - (ii) for a covert operation under Part10, Division 6, Subdivision 2; and
 - (iii) under a public health programme for the purposes of harm reduction and disease prevention.

Proof of lawful authority

75. In any proceedings for an offence under this Part, proof of lawful authority lies upon the accused person.

Division 2—Illicit Drug Offences

Unlawful importation and exportation

76.—(1) A person must not, without lawful authority, import or export an illicit drug.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

Unlawful cultivation, production, manufacture etc

77.—(1) A person must not, without lawful authority —

- (a) cultivate, produce or manufacture;
- (b) procure or offer to procure;
- (c) sell or offer to sell;
- (d) supply or offer to supply;
- (e) administer or offer to administer; or
- (f) possess for the purpose of selling, supplying or administering,

an illicit drug.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

(3) In subsection (1)(f), if a person possesses an amount, level or quantity of an illicit drug at or over the amount, level or quantity specified in Schedule 4 the person is presumed unless the contrary is proved to possess the illicit drug for the purpose of selling, supplying or administering the illicit drug.

Unlawful dealings in illicit drugs

78.—(1) A person must not, without lawful authority, engage in any dealings with any other person for the storage, transfer, transport, offer, supply, use, administration, manufacture, sale, import or export of an illicit drug.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;

- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

Unlawful personal acquisition, possession or use

79.—(1) A person must not, without lawful authority—

- (a) acquire for personal use;
- (b) possess, other than for the purpose of selling, supplying or administering;
or
- (c) use,

an illicit drug.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$1000 or a term of imprisonment not exceeding 6 months, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$500 or a term of imprisonment not exceeding 3 months, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$500 or a term of imprisonment not exceeding 3 months, or both, provided that a court must not impose a custodial sentence unless, by reason of the person's previous convictions or of any exceptional circumstances relating to the offence or the person, the court is of the opinion that a custodial sentence should be imposed.

(3) In subsection (1), if a person acquires or possesses an amount, level or quantity of an illicit drug at or over the amount specified in Schedule 4 the person is presumed unless the contrary is proved to—

- (a) acquire the illicit drug for a purpose other than for personal use; or
- (b) possess the illicit drug for the purpose of selling, supplying or administering the illicit drug.

Offence of supplying, administering to, or procuring, child

80.—(1) A person of or above the age of 18 years must not, without lawful authority—

- (a) to a child—
 - (i) sell or offer to sell;
 - (ii) supply or offer to supply;
 - (iii) administer or offer to administer,

an illicit drug of any amount, level or quantity; or

- (b) procure a child to—
 - (i) sell or offer to sell;
 - (ii) supply or offer to supply;
 - (iii) administer or offer to administer,

an illicit drug of any amount, level or quantity to any other child or person.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

Offence of failing to prevent use by child

81.—(1) A person of or above the age of 18 years who has—

- (a) without lawful authority, an illicit drug in his or her possession or control at premises where a child is present;
- (b) control over the premises; and
- (c) authority over the child,

must take reasonable steps to prevent the child from administering or using the illicit drug in his or her presence.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

(3) In subsection (1), a person is presumed unless the contrary is proved to have authority over a child if—

- (a) the person is the child's parent or legal guardian; or
- (b) at an educational institution, the person is a teacher with regular care of or supervision over the child.

*Division 3—Controlled Chemicals and Equipment Offences**Unlawful import, export, manufacture etc of controlled chemicals and equipment***82.—**(1) A person must not, without lawful authority—

- (a) import or offer to import;
- (b) export or offer to export;
- (c) produce or offer to produce;
- (d) manufacture or offer to manufacture;
- (e) procure or offer to procure;
- (f) sell or offer to sell;
- (g) supply or offer to supply; or
- (h) possess for the purpose of sale or supply,

any controlled chemical or controlled equipment—

- (i) knowing that the chemical or equipment is to be used in, or for, the commission of an offence under Division 2; or
- (ii) being reckless as to whether that chemical or equipment is to be used in or for the commission of an offence under Division 2.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both.

*Unlawful acquisition, possession or use of controlled equipment***83.—**(1) A person must not, without lawful authority—

- (a) acquire; or
- (b) possess, other than for the purpose of selling, supplying or administering,

any controlled equipment for use in or for the commission of an offence against section 79.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$500 or a term of imprisonment not exceeding 3 months, or both, provided that a court must not impose a custodial sentence unless, by reason of the person's previous convictions or of any exceptional circumstances relating to the offence or the person, the court is of the opinion that a custodial sentence should be imposed.

*Division 4—Smuggling offences outside Fiji**Subdivision 1—Preliminary**Interpretation*

84. In this Division—

“high seas” means all parts of the sea not included in—

- (a) the internal waters, territorial sea, or exclusive economic zone of Fiji or another State; or
- (b) the archipelagic waters of Fiji or another archipelagic State;

“ship” has the meaning given to it by section 2;

“applicable ship” means a ship that is in—

- (a) the exclusive economic zone of Fiji;
- (b) the high seas; or
- (c) the exclusive economic zone of another State.

Consent of Director of Public Prosecutions

85.—(1) Proceedings for an offence under this Division require the written consent of the Director of Public Prosecutions.

(2) Before written consent is given, the person may be—

- (a) arrested and charged with the offence; and
- (b) remanded or released on bail.

*Subdivision 2—Illicit Drug Smuggling on Ships outside Fiji**Offence to possess, transport etc illicit drugs on ship where intention to import*

86.—(1) A person (person A) who is on an applicable ship must not—

- (a) possess an illicit drug; or
- (b) be knowingly concerned in the transportation, holding or handling of the illicit drug on the applicable ship,

if—

- (c) the person or any other person (person B) intends to import the illicit drug into Fiji; and
- (d) the importation would, if completed, be an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;

- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
 - (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.
- (3) For the purposes of subsection (1)(c), it does not matter if—
 - (a) person B is not on an applicable ship;
 - (b) person A does not know person B's identity;
 - (c) person A does not know of person B's intention to import the controlled chemicals or equipment into Fiji; or
 - (d) the intended importation does not actually occur.
- (4) It is a defence to a prosecution for an offence against this section if the person charged proves—
 - (a) as the case may be, that—
 - (i) he or she was in possession of the illicit drug solely for the purpose of preventing its use or dealing; or
 - (ii) he or she was knowingly concerned in the transportation, holding, or handling of the controlled drugs solely for the purpose of preventing its use or dealing; and
 - (b) that, as soon as possible after the person became aware that the illicit drug was on the ship—
 - (i) he or she took all reasonable steps to inform the person in charge of the ship that the illicit drug was on the ship;
 - (ii) if he or she was the person in charge of the ship, he or she took all reasonable steps to inform at least one of the following that the illicit drug was on the ship—
 - A. a representative of the company operating the ship, other than a representative who was on the ship; or
 - B. an appropriate governmental authority at the port that, at the time he or she became aware that the illicit drug was on the ship, was the next intended port of arrival for the ship.

Offence to arrange for movement of illicit drugs where intention to import

- 87.—**(1) A person (person A) who is on an applicable ship (the first ship) must not—
- (a) knowingly take steps to implement, or to facilitate the implementation of, an arrangement for the movement of an illicit drug from another applicable ship (the second ship) to the first ship; or

- (b) knowingly make preparations for the arrival of the illicit drug onto the first ship from the second ship,

if—

- (c) person A or any other person (person B) intends to import the illicit drug into Fiji; and
- (d) the importation would, if completed, be an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

(3) For the purposes of subsection (1)(a), it does not matter if person A does not know the identity of the second ship.

(4) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;
- (b) person A does not know person B's identity;
- (c) person A does not know of person B's intention to import the controlled chemicals or equipment into Fiji; or
- (d) the intended importation does not actually occur.

Offence to possess, transport etc an exported illicit drug

88.—(1) A person (person A) who is on an applicable ship must not—

- (a) possess an illicit drug; or
- (b) be knowingly concerned in the transportation, holding, or handling of the illicit drug on the ship,

if—

- (c) another person (person B) exported the illicit drug from Fiji; and
- (d) the exportation is an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;

- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
 - (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.
- (3) For the purposes of subsection (1)(c), it does not matter if—
 - (a) person B is not on an applicable ship;
 - (b) person A does not know person B's identity;
 - (c) person A does not know of the exportation of the illicit drug from Fiji.
- (4) It is a defence to a prosecution for an offence against this section if the person charged proves—
 - (a) as the case may be, that—
 - (i) he or she was in possession of the illicit drug solely for the purpose of preventing its use or dealing; or
 - (ii) he or she was knowingly concerned in the transportation, holding, or handling of the controlled drugs solely for the purpose of preventing its use or dealing; and
 - (b) that, as soon as possible after the person became aware that the illicit drug was on the ship—
 - (i) he or she took all reasonable steps to inform the person in charge of the ship that the illicit drug was on the ship;
 - (ii) if he or she was the person in charge of the ship, he or she took all reasonable steps to inform at least one of the following that the illicit drug was on the ship—
 - (A) a representative of the company operating the ship, other than a representative who was on the ship; or
 - (B) an appropriate governmental authority at the port that, at the time he or she became aware that the illicit drug was on the ship, was the next intended port of arrival for the ship.

Offence to arrange for movement of illicit drugs where intention to export or was exported

- 89.—**(1) A person (person A) who is on an applicable ship (the first ship) must not—
- (a) knowingly take steps to implement, or to facilitate the implementation of, an arrangement for the movement of an illicit drug from another applicable ship (the second ship) to the first ship; or
 - (b) knowingly make preparations for the arrival of the illicit drug onto the first ship from the second ship,

if—

- (c) another person (person B) intends to export, or has exported, the illicit drug from Fiji; and
- (d) the exportation would, if completed, be or was an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to—

- (a) for a Class A illicit drug, a fine not exceeding \$50 million or a maximum term of imprisonment for life, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both.

(3) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;
- (b) person A does not know person B's identity;
- (c) person A does not know of the exportation of, or of person B's intention to export, the illicit drugs from Fiji; or
- (d) the intended exportation does not actually occur.

Subdivision 3—Smuggling Controlled Chemicals and Equipment

Offence to possess, transport etc a controlled chemical or equipment on ship where intention to import

90.—(1) A person (person A) who is on an applicable ship must not—

- (a) possess a controlled chemical or equipment; or
- (b) be knowingly concerned in the transportation, holding or handling of the controlled chemical or equipment on the applicable ship,

if—

- (c) person A or any other person (person B) intends to import the controlled chemical or equipment into Fiji; and
- (d) person A or person B knows that, if the importation is completed, the controlled chemical or equipment will be used to commit an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both.

(3) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;

- (b) person A does not know person B's identity;
- (c) person A does not know of person B's intention to import the controlled chemical or equipment into Fiji; or
- (d) the intended importation does not actually occur.

(4) It is a defence to a prosecution for an offence against this section if the person charged proves—

- (a) as the case may be, that—
 - (i) he or she was in possession of the controlled chemical or equipment solely for the purpose of preventing its use or dealing;
 - (ii) he or she was knowingly concerned in the transportation, holding, or handling of the controlled chemical or equipment solely for the purpose of preventing its use or dealing; and
- (b) that, as soon as possible after the person became aware that the controlled chemical or equipment was on the ship—
 - (i) he or she took all reasonable steps to inform the person in charge of the ship that the controlled chemical or equipment was on the ship; or
 - (ii) if he or she was the person in charge of the ship, he or she took all reasonable steps to inform at least one of the following that the controlled chemical or equipment was on the ship—
 - A. a representative of the company operating the ship (other than a representative who was on the ship); or
 - B. an appropriate governmental authority at the port that, at the time he or she became aware that the controlled chemical or equipment was on the ship, was the next intended port of arrival for the ship.

Offence to arrange for movement of controlled chemicals or equipment where intention to import

91.—(1) A person (person A) who is on an applicable ship (the first ship) must not—

- (a) knowingly take steps to implement, or to facilitate the implementation of, an arrangement for the movement of a controlled chemical or equipment from another applicable ship (the second ship) to the first ship; or
- (b) knowingly make preparations for the arrival of the controlled chemical or equipment onto the first ship from the second ship,

if—

- (c) person A or any other person (person B) intends to import the controlled chemical or equipment into Fiji; and

- (d) person A or person B knows that, if the importation is completed, the controlled chemical or equipment will be used in Fiji to commit an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both.

(3) For the purposes of subsection (1)(a), it does not matter if person A does not know the identity of the second ship.

(4) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;
- (b) person A does not know person B's identity;
- (c) person A does not know of person B's intention to import the controlled chemicals or equipment into Fiji; or
- (d) the intended importation does not actually occur.

Offence to possess, transport etc a controlled chemical or equipment

92.—(1) A person (person A) who is on an applicable ship must not—

- (a) possess a controlled chemical or equipment; or
- (b) be knowingly concerned in the transportation, holding, or handling of the controlled chemical or equipment on the ship,

if —

- (c) another person (person B) exported the controlled chemical or equipment from Fiji; and
- (d) person B did so knowing that it will be used to commit an offence under the law of the country to which it is being exported that corresponds to an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both.

(3) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;
- (b) person A does not know person B's identity; or
- (c) person A does not know of the exportation of the controlled chemical or equipment from Fiji.

(4) It is a defence to a prosecution for an offence against this section if the person charged proves—

(a) as the case may be, that—

- (i) he or she was in possession of the controlled chemical or equipment solely for the purpose of preventing its use or dealing;
- (ii) he or she was knowingly concerned in the transportation, holding, or handling of the controlled chemical or equipment solely for the purpose of preventing its use or dealing; and

(b) that, as soon as possible after the person became aware that the controlled chemical or equipment was on the ship—

- (i) he or she took all reasonable steps to inform the person in charge of the ship that the controlled chemical or equipment was on the ship;
- (ii) if he or she was the person in charge of the ship, he or she took all reasonable steps to inform at least one of the following that the controlled chemical or equipment was on the ship—

A. a representative of the company operating the ship (other than a representative who was on the ship); or

B. an appropriate governmental authority at the port that, at the time he or she became aware that the illicit drug was on the ship, was the next intended port of arrival for the ship.

Offence to arrange for movement of controlled chemical or equipment where intention to export or was exported

93.—(1) A person who is on an applicable ship (the first ship) must not—

- (a) knowingly take steps to implement, or to facilitate the implementation of, an arrangement for the movement of a controlled chemical or equipment from another applicable ship (the second ship) to the first ship; or
- (b) knowingly make preparations for the arrival of the controlled chemical or equipment onto the first ship from the second ship,

if —

- (c) another person (person B) intends to export, or has exported, the controlled chemical or equipment from Fiji; and
- (d) person B did so knowing that it will be used to commit an offence under the law of the country to which it would be, or is being, exported that corresponds to an offence under section 76.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$30 million or a term of imprisonment not exceeding 30 years, or both.

(3) For the purposes of subsection (1)(c), it does not matter if—

- (a) person B is not on an applicable ship;
- (b) person A does not know person B's identity;
- (c) person A does not know of the exportation of, or of person B's intention to export, the controlled chemical or equipment from Fiji; or
- (d) the intended exportation does not actually occur.

Division 5— Miscellaneous Offences

Use of premises or vehicle, etc

94.—(1) A person must not, without lawful authority, knowingly permit any premises or any vessel, aircraft, hovercraft, motor vehicle, or other mode of conveyance to be used for the purpose of the commission of an offence under this Part.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to imprisonment for a term—

- (a) for a Class A illicit drug, a fine not exceeding \$15 million or a term of imprisonment not exceeding 15 years, or both;
- (b) for a Class B illicit drug, a fine not exceeding \$10 million or a term of imprisonment not exceeding 10 years, or both; or
- (c) for a Class C illicit drug, a fine not exceeding \$5 million or a term of imprisonment not exceeding 5 years, or both.

Interfering with evidence

95.—(1) A person must not—

- (a) without lawful authority, use, take or dispose of a seized illicit drug, controlled chemical or controlled equipment or any sample of it;
- (b) interfere with a seized illicit drug, controlled chemical or controlled equipment or any sample of it;
- (c) remove, alter, destroy or in anyway interfere with any seized document; or
- (d) interfere with or falsify the results of any analysis with the intention of interfering with the proper course of justice.

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$10 million or imprisonment not exceeding 10 years or both.

Division 6—Extension of criminal responsibility

Subdivision 1— Inchoate offences

Offence of attempt

96.—(1) A person must not, without lawful authority, attempt to commit an offence under this Part (the principal offence).

(2) A person who contravenes subsection (1) commits an offence (the offence of attempt) and is punishable on conviction as if the principal offence had been committed.

(3) For the person to be guilty—

- (a) the person's conduct must be more than merely preparatory to the commission of the offence of attempt; and
- (b) the question whether conduct is more than merely preparatory to the commission of the offence of attempt is one of fact.

(4) Subject to subsection (8), intention and knowledge are fault elements in relation to each physical element of the offence of attempt.

(5) A person may be found guilty even if—

- (a) committing the principal offence is impossible; or
- (b) the person who actually committed the principal offence is found not guilty.

(6) A person who is found guilty of an offence of attempt cannot be subsequently charged with the principal offence.

(7) Any defences, procedures, limitations or qualifying provisions that apply to the principal offence apply also to the offence of attempt.

(8) Any special liability provisions that apply to the principal offence apply also to the offence of attempt.

(9) It is not an offence of attempt to commit an offence against section 98 or pursuant to sections 99 and 100.

Offence of incitement

97.—(1) A person must not urge or incite the commission of an offence under this Part (the principal offence).

(2) A person who contravenes subsection (1) commits an offence (the offence of incitement) and is liable on conviction to—

- (a) if the principal offence is punishable by life imprisonment, imprisonment for a term not exceeding 10 years;
- (b) if the principal offence is punishable by imprisonment for a term not exceeding 30 years, imprisonment for a term not exceeding 7 years;
- (c) if the principal offence is punishable by imprisonment for a term not exceeding 15 years, imprisonment for 5 years; or
- (d) if the principal offence is otherwise punishable by imprisonment, imprisonment for a term not exceeding 3 years or for the maximum term of imprisonment for the principal offence, whichever is the lesser.

(3) Subject to subsection (6), for the person to be guilty, the person must intend that the principal offence be committed.

(4) A person may be found guilty even if committing the principal offence is impossible.

(5) Any defences, procedures, limitations or qualifying provisions that apply to the principal offence apply also to the offence of incitement in respect of that offence.

(6) Any special liability provisions that apply to the principal offence apply also to the offence of incitement in respect of that offence.

(7) It is not an offence to incite the commission of an offence against section 96, this section, section 98 or section 99.

Offence of conspiracy

98.—(1) In this section, “person for whose benefit or protection the principal offence exists” means a child in relation to an offence under section 80 or 81.

(2) A person must not conspire with another person to commit an offence under this Part (the principal offence).

(3) A person who contravenes subsection (2) commits an offence (the offence of conspiracy) and is punishable on conviction as if the principal offence had been committed.

(4) Subject to subsection (10), for the person to be guilty—

- (a) the person must have entered into an agreement with one or more other persons;
- (b) the person and at least one other party to the agreement must have intended that an offence would be committed pursuant to the agreement; and
- (c) the person or at least one other party to the agreement must have committed an overt act pursuant to the agreement.

(5) A person may be found guilty of the offence of conspiracy even if—

- (a) committing the principal offence is impossible;
- (b) the only other party to the agreement is a body corporate;
- (c) each other party to the agreement is at least one of the following—
 - (i) a person who is not criminally responsible;
 - (ii) a person for whose benefit or protection the principal offence exists;
 or

(d) subject to subsection (6)(a), all other parties to the agreement have been acquitted of the conspiracy.

(6) A person cannot be found guilty of the offence of conspiracy if—

- (a) all other parties to the agreement have been acquitted of the conspiracy and a finding of guilt would be inconsistent with their acquittal; or

(b) he or she is a person for whose benefit or protection the principal offence exists.

(7) A person cannot be found guilty of the offence of conspiracy if, before the commission of an overt act pursuant to the agreement, the person—

(a) withdrew from the agreement; and

(b) took all reasonable steps to prevent the commission of the principal offence.

(8) A court may dismiss a charge of the offence of conspiracy if it thinks that the interests of justice require it to do so.

(9) Any defences, procedures, limitations or qualifying provisions that apply to the principal offence apply also to the offence of conspiracy.

(10) Any special liability provisions that apply to the principal offence apply also to the offence of conspiracy.

(11) Proceedings for an offence of conspiracy require the consent of the Director of Public Prosecutions.

(12) A person may be arrested for, charged with, or remanded in custody or on bail in connection with, an offence of conspiracy before the necessary consent under subsection (11) has been given.

Offence of narco-terrorism

99.—(1) A person commits an offence of narco-terrorism if that person knowingly engages in any activity relating to illicit drugs, whether directly or indirectly, for the purpose of supporting, facilitating, financing, promoting, or carrying out a terrorist act or the activities of a terrorist organisation.

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for life and the court may order the forfeiture of any proceeds, assets, funds, property, vehicles, vessels, bank accounts, or other instrumentalities connected with the commission of the offence.

Subdivision 2—Derivative Liability

Complicity and common purpose

100.—(1) A person who, aids, abets, counsels or procures the commission of an offence (the principal offence) by another person is deemed to have committed the principal offence and is punishable accordingly.

(2) For the person to be guilty —

(a) the person's conduct must have in fact aided, abetted, counselled or procured the commission of the principal offence by the other person; and

(b) the principal offence must have been committed by the other person.

(3) Subject to subsection (5), for the person to be guilty, the person must have intended that—

- (a) his or her conduct would aid, abet, counsel or procure the commission of any offence, including its fault elements, of the type the other person committed; or
- (b) his or her conduct would aid, abet, counsel or procure the commission of an offence and have been reckless about the commission of the offence, including its fault elements, that the other person in fact committed.

(4) A person cannot be found guilty under subsection (1) if, before the principal offence was committed, the person—

- (a) terminated his or her involvement; and
- (b) took all reasonable steps to prevent the commission of the principal offence.

(5) A person may be found guilty under subsection (1) even if the person who commits the principal offence has not been prosecuted or has not been found guilty.

(6) Any special liability provisions that apply to the principal offence apply also to the extension of criminal responsibility under subsection (1).

(7) If the trier of fact is satisfied beyond reasonable doubt that a person is guilty of the principal offence but is not able to determine if the principal offence was committed—

- (a) because the person was aided, counselled or procured to commit the principal offence; or
- (b) not because the person was aided, counselled or procured to commit the principal offence,

the trier of fact may still find the person guilty of the principal offence.

Joint offenders and parties

101.—(1) Subject to subsection (2), if—

- (a) 2 or more persons form a common intention to carry out an unlawful purpose together; and
- (b) in carrying out the purpose, an offence is committed,

each of them is deemed to have committed the offence.

(2) Subsection (1) only applies if the offence committed is of such a nature that its commission was a probable consequence of the carrying out of the purpose.

(3) Without affecting the generality of subsections (1) and (2), if a person (the first person) enables any other person (the second person) to—

- (a) escape punishment for an offence, committed by the second person, under this Part; or

- (b) dispose of the proceeds of an offence, committed by the second person, under this Part,

the first person is a party to the offence committed by the second person and is deemed to have also committed that offence.

Innocent agency

102. A person who—

- (a) has, in relation to each physical element of an offence, a fault element applicable to that physical element; and
- (b) procures conduct of another person that, whether or not together with conduct of the procurer, would have constituted an offence on the part of the procurer if the procurer had engaged in it,

is taken to have committed that offence and is punishable accordingly.

Division 7—Exemptions and authorisation

Exempted persons

103.—(1) This section does not apply to section 95.

(2) The following persons are exempted from this Part—

- (a) a person undergoing treatment of a medical condition, who is entering, leaving or transiting through Fiji, may possess such quantities of an illicit drug that have been, under lawful authority, prescribed or supplied to that person or a person under his or her care for the purpose of treating a medical condition for a period of not more than one month;
- (b) a person in possession of quantities of an illicit drug that have been, under lawful authority, prescribed or provided—
 - (i) for the purpose of treating a medical condition; and
 - (ii) to that person or a person under his or her care; and
- (c) subject to subsection (3), a person—
 - (i) whose occupation or profession; or
 - (ii) who carries out an activity that,

involves the possession, supply, distribution or administration of an illicit drug, controlled chemical or controlled equipment.

(3) Subsection (2)(c) only applies if the possession, supply or administration is—

- (a) under, and in accordance with, lawful authority; and
- (b) for the specific purpose of the activity or his or her occupation or profession.

(4) The minister responsible for health, in consultation with the Fiji Medicinal Products Board, may issue a licence with or without conditions for the lawful import, export or manufacture of an illicit drug, controlled chemical or controlled equipment.

Controlled delivery

104.—(1) If a senior officer suspects on reasonable grounds that any person has committed, is committing or is about to commit an offence against this Act, the officer may authorise a controlled delivery.

(2) Notwithstanding any other written law, authorisation of a controlled delivery includes authorisation of—

- (a) the arrival into, departure from or transit through Fiji of any craft or person undertaking the controlled delivery;
- (b) covert and forcible entry into any craft and into anything containing the items subject to the controlled delivery for the purpose of replacing all or any part of those items or placing a tracking device upon them.

(3) For the avoidance of doubt—

- (a) the placement of a tracking device pursuant to subsection (2)(b) does not require a warrant for covert or forcible entry under section 133; and
- (b) a controlled delivery does not require an authorisation for a covert operation under section 123.

PART 10—INVESTIGATIVE AND ENFORCEMENT POWERS

Division 1—Preliminary Provisions

Interpretation for Part 10

105. In this Part—

“access information”, for a digital device, means information necessary for a person to access or read device information from the device and includes a user identification or username, passcode or password;

“covert operation” means an operation that—

- (a) is conducted, or intended to be conducted, for the purpose of obtaining evidence that may lead to the prosecution of a person for a covert operation offence; and
- (b) involves, or may involve, conduct for which a person would, if not for an authorisation under section 123, be criminally liable,

but does not include a controlled delivery under section 104;

“covert operation offence” means—

- (a) an offence under Part 9 of this Act; or
- (b) a connected offence under section 15,

that the Minister prescribes as a covert operation offence and for which—

- (c) a covert operation may be conducted; or

(d) the following warrants may be issued—

- (i) a covert surveillance warrant under section 127; and
- (ii) a covert or forcible entry warrant under section 134;

“crime scene” has the meaning given in section 140;

“crime scene powers” means the powers a Bureau officer may exercise over a crime scene under Division 8, Subdivision 4;

“crime scene threshold offence” means an indictable offence—

- (a) that carries a penalty threshold prescribed under regulations; and
- (b) involving deprivation of liberty;

“device information”, from a digital device, means—

- (a) information stored on the device; or
- (b) information accessed, communicated or distributed by using the device, including by using an application on the device;

“digital device”—

- (a) means a device on which information may be stored or accessed electronically; and
- (b) includes a computer, memory stick, portable hard drive, smart phone and tablet computer;

“place” includes any land, building, premises, or vehicle;

“post-search approval order” means an order made under section 118 to approve an urgent search conducted under section 117;

“relevant evidence”, in relation to an offence, means anything that would be admissible in evidence at a trial for the offence;

“responsible officer” means a Bureau officer who —

- (a) establishes or has control of a crime scene under section 142;
- (b) has powers and responsibilities in relation to the crime scene under Division 8, Subdivision 4;

“stop departure offence” means a prescribed offence for which the Director General may issue a stop departure order under this Part, Division 7; and

“urgent search offence” means a prescribed offence for which an urgent search may be conducted under section 117.

Use of force

106.—(1) A Bureau officer may, in exercising or attempting to exercise a power under this Act or any other written law against an individual, use reasonable and necessary force to exercise the power.

(2) A Bureau officer may also use reasonable and necessary force to prevent a person from escaping from lawful custody.

(3) The force used must—

- (a) be proportionate to the seriousness of the circumstances in which it is used;
- (b) be proportionate to the legitimate objective to be achieved;
- (c) as far as possible, be only used if other non-violent means are ineffective; and
- (d) not be likely to cause death or grievous bodily harm to a person unless it is necessary to prevent death or serious injury to the officer or any other person.

(4) In determining what force is reasonable and necessary in a particular circumstance, regard must be had to—

- (a) the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- (b) the United Nations International Covenant on Civil and Political Rights;
- (c) the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and
- (d) international treaties or instruments which Fiji has ratified or acceded to.

Assistance and use of aids

107. In exercising any power of monitoring, surveillance, inspection, examination, controlled delivery, boarding, entry or search conferred by this Act, a Bureau officer may use any assistance and aids as the officer considers reasonable and necessary.

Reasonable care for seized property

108. The Bureau must take reasonable care to not lose or damage any lawfully seized property while it is in the possession of the Bureau.

Division 2—Identification of Persons

Identifying particulars of person in custody

109.—(1) The purpose of this section is to enable the Bureau to obtain information that may be used by the Bureau for a lawful purpose.

(2) For the purpose of this section, a Bureau officer may take the identifying particulars of a person who is in the lawful custody of the Bureau if that person is detained for committing an offence and is at—

- (a) a Bureau station; or
- (b) any other place being used for Bureau purposes.

(3) The Bureau officer—

- (a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and
- (b) subject to section 106, may use force to secure the person's identifying particulars.

(4) A person who, after being cautioned, without reasonable excuse, fails to comply with a direction of the Bureau officer exercising his or her powers under this section commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both.

Identifying particulars for summons

110.—(1) The purpose of this section is to enable the Bureau to obtain information that may be used by the Bureau for any lawful purpose.

(2) For the purpose of this section, a Bureau officer who has reasonable cause to suspect a person of committing an offence and who intends to bring proceedings against the person in respect of that offence by way of summons, may detain that person at any place—

- (a) in order to take the person's identifying particulars; and
- (b) only for the period necessary to take the person's identifying particulars.

(3) A Bureau officer—

- (a) must take the person's identifying particulars in a manner that is reasonable in the circumstances; and
- (b) subject to section 106, may use force to secure the person's identifying particulars.

(4) A person who, after being cautioned, without reasonable excuse, fails to comply with a direction of a Bureau officer exercising his or her powers under this section commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 6 months or both.

Storage, etc, on database of identifying particulars

111.—(1) The identifying particulars of a person that are obtained under sections 109 or 110 must be stored on the Bureau database.

(2) Photographs or visual images of a person, and impressions of a person's fingerprints, palm-prints, or footprints, that are obtained under sections 109 or 110 must be destroyed or deleted, by a person authorised by the Director General or Deputy Director General, as soon as practicable after—

- (a) a decision is made not to commence criminal prosecution proceedings against the person in respect of the offence for which the particulars were taken;
- (b) criminal proceedings have been withdrawn by the prosecuting authority; or

- (c) criminal prosecution proceedings that are commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome that is not an outcome under subsection (3) that authorises continued storage.

(3) An outcome which authorises continued storage is—

- (a) the person admits to, and completes a programme of diversion, being a programme conducted by the Bureau, for the offence for which the particulars were taken;
- (b) the person is convicted of the offence for which the particulars were taken; or
- (c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the particulars were taken.

(4) The Bureau must take reasonable care to ensure that the identifying particulars obtained under sections 109 or 110 are safely and securely entered, recorded and stored and may only be accessed for a lawful purpose and by a person who is lawfully authorised to access the particulars.

Division 3—Power to arrest

Arrest without warrant

112.—(1) A Bureau officer may arrest, without a warrant, any person—

- (a) who is about to commit an offence;
- (b) who is in the act of committing an offence;
- (c) who the officer suspects on reasonable grounds is about to commit an offence; or
- (d) whom the officer has reasonable grounds for suspecting to be committing an offence.

(2) If a Bureau officer has reasonable grounds for suspecting that an offence has been committed, the officer may arrest without a warrant anyone whom he or she has reasonable grounds to suspect of having committed the offence.

(3) If an offence has been committed, a Bureau officer may arrest, without a warrant, any person—

- (a) who committed the offence; or
- (b) whom he or she has reasonable grounds for suspecting of having committed the offence.

(4) The power of summary arrest conferred by subsections (1), (2) or (3) is exercisable only if the Bureau officer has reasonable grounds for believing that for any of the reasons mentioned in subsection (5) it is necessary to arrest the person in question.

(5) The reasons that necessitate the summary arrest of a person referred to in subsection (4) are to—

- (a) enable the name and address of the person in question to be ascertained in the case where the Bureau officer does not know, and cannot readily ascertain, the person's name and address, or has reasonable grounds to doubt whether the name and address given by the person is the person's real name and address;
- (b) prevent the person in question from—
 - (i) causing physical injury to himself or herself or any other person;
 - (ii) suffering physical injury;
 - (iii) causing loss of or damage to property; or
 - (iv) causing an unlawful obstruction of a public road;
- (c) protect a child or other vulnerable person from the person in question;
- (d) allow the prompt and effective investigation of the offence or of the conduct of the person in question; or
- (e) prevent any prosecution for the offence from being hindered by the disappearance of the person in question.

Division 4—General Search and Seizure

Subdivision 1—Preliminary Provision

Meaning of issuing authority

113. In this Division, “issuing authority” means the following persons for the applicable warrant as described below—

- (a) a Justice of the Peace, for a general search warrant under this Division, Subdivision 2;
- (b) a Magistrate, for—
 - (i) a warrant a Justice of the Peace may issue under paragraph (a); and
 - (ii) a post-search approval order under this Division, Subdivision 3; and
- (c) a Judge of the High Court of Fiji, for—
 - (i) a warrant a Justice of the Peace may issue under paragraph (a);
 - (ii) a warrant a Magistrate may issue under paragraph (b);
 - (iii) a covert surveillance warrant under Division 6, Subdivision 3; and
 - (iv) a covert or forcible entry warrant under Division 6, Subdivision 4.

*Subdivision 2—General Search Warrants**General search warrants*

114.—(1) A Bureau officer may apply in the prescribed form and manner to the issuing authority for a search warrant.

(2) The issuing authority may issue a warrant authorising a Bureau officer to enter and search the premises in relation to each premises specified in the application, if the issuing authority is satisfied that there are reasonable grounds for believing that—

- (a) an offence has been committed;
- (b) there is material on the premises mentioned in subsection (3) which is likely to be of substantial value, whether by itself or together with other material, to the investigation of the offence;
- (c) the material is likely to be relevant evidence;
- (d) it does not consist of or include items subject to legal privilege, or which are similarly protected under law; and
- (e) any of the conditions specified in subsection (7) applies.

(3) The premises referred to in subsection (2)(b) are—

- (a) one or more premises specified in the application, in which case the application is for a “specific premises warrant”; or
- (b) any premises occupied or controlled by a person specified in the application, including such premises as are so specified, in which case the application is for an “all premises warrant”.

(4) If the application is for an all premises warrant, the issuing authority must also be satisfied that—

- (a) because of the particulars of the offence referred to in subsection (2)(a), there are reasonable grounds for believing that it is necessary to search premises occupied or controlled by the person in question which are not specified in the application in order to find the material referred to in subsection 2(b); and
- (b) it is not reasonably practicable to specify in the application all the premises which the person occupies or controls and which might need to be searched.

(5) The warrant may authorise entry to and search of premises on more than one occasion if, on the application, the issuing authority is satisfied that it is necessary to authorise multiple entries in order to achieve the purpose for which he or she issues the warrant.

(6) A Bureau officer may seize and retain anything for which a search has been authorised under subsection (2).

(7) The conditions mentioned in subsection (2)(e) are that—

- (a) it is not practicable to communicate with any person entitled to grant entry to the premises;
- (b) it is practicable to communicate with a person entitled to grant entry to the premises but it is not practicable to communicate with any person entitled to grant access to the evidence;
- (c) entry to the premises will not be granted unless a warrant is produced; or
- (d) the purpose of a search may be frustrated or seriously prejudiced unless a Bureau officer arriving at the premises can secure immediate entry to the premises.

(8) The power to issue a warrant conferred by this section is in addition to any such power otherwise conferred.

Execution of warrant

115.—(1) A warrant to enter and search premises may be executed by any Bureau officer.

(2) The warrant may authorise persons to accompany any Bureau officer who is executing the warrant.

(3) The authorised person has the same powers as the Bureau officer whom he or she accompanies in respect of the—

- (a) execution of the warrant; and
- (b) seizure of anything to which the warrant relates,

provided that he or she exercise those powers only in the company, and under the supervision, of the Bureau officer.

(4) Entry and search under a warrant must be within 3 months from the date of its issue.

(5) Entry and search under a warrant must be at a reasonable hour unless it appears to the Bureau officer executing it that the purpose of a search may be frustrated on an entry at a reasonable hour.

(6) Where the occupier of premises which are to be entered and searched is present at the time when a Bureau officer seeks to execute a warrant to enter and search them, the Bureau officer must—

- (a) identify himself or herself to the occupier and, if not in uniform, produce to the occupier the identity document issued under section 242;
- (b) produce the warrant to the occupier; and
- (c) supply the occupier with a copy of the warrant.

(7) Where—

- (a) the occupier is not present at the time when a Bureau officer seeks to execute such a warrant; but
- (b) some other person who appears to the Bureau officer to be in charge of the premises is present,

subsection (6) has effect as if any reference to the occupier were a reference to that other person.

(8) If there is no person who appears to the Bureau officer to be in charge of the premises, the officer must leave a copy of the warrant in a prominent place on the premises.

(9) A search under a warrant may only be a search to the extent required for the purpose for which the warrant was issued.

(10) A Bureau officer executing a warrant must make an endorsement on the warrant stating whether—

- (a) the articles or persons sought were found; and
- (b) any articles were seized, other than articles which were sought and, unless the warrant is a warrant specifying one set of premises only, the officer must do so separately in respect of each set of premises entered and searched, which the officer must in each case state in the endorsement.

(11) A warrant must be returned to the issuing authority—

- (a) when it has been executed; or
- (b) upon the expiry of the warrant in the case of a specific premises warrant which has not been executed, or an all premises warrant, or any warrant authorising multiple entries.

(12) A warrant which is returned must be retained by the issuing authority for 12 months from its return.

(13) If during the period for which a warrant is to be retained the occupier of premises to which it relates asks to inspect it, he or she must be allowed to do so.

Subdivision 3—Urgent Searches

Application of Subdivision

116. This Subdivision applies only in relation to a prescribed urgent search offence.

Urgent search to prevent loss of evidence

117.—(1) This section applies if a Bureau officer reasonably suspects—

- (a) a thing at or about a place, or in the possession of a person at or about a place is evidence of the commission of an urgent search offence; and
- (b) the evidence may be concealed or destroyed unless the place is immediately entered and searched.

(2) This section also applies if a Bureau officer reasonably suspects an urgent search offence has been, is being, or may be committed in, on or in relation to a craft and involves the safety of the craft or anyone who may be in or on it.

(3) A Bureau officer may enter the place or craft and perform a search at the place or craft as if they were empowered to do so under a search warrant issued under Subdivision 2 of this Division.

(4) The officer may use such force as is reasonable and necessary in the circumstances, but must not—

- (a) cause structural damage to a building; or
- (b) damage a craft or any container found in or on the craft by forcing open a part of the craft or container unless—
 - (i) the person apparently in charge of the craft has first been given a reasonable opportunity to open that part or container; or
 - (ii) it is not possible to give that person the opportunity.

Post-search approval order

118.—(1) As soon as reasonably practicable after exercising powers under section 117(3) but within the prescribed period, the Bureau officer must apply to a magistrate for a post-search approval order.

(2) The application must—

- (a) be in the prescribed form and manner;
- (b) state the grounds on which the order is sought; and
- (c) be duly sworn by the Bureau officer.

(3) The applicant does not need to be present at the consideration of the application unless the magistrate requires the applicant's presence.

(4) The magistrate may refuse to consider the application until the Bureau officer gives the magistrate all the information the magistrate requires about the application in the manner the magistrate requires.

Making of post-search approval order

119.—(1) The magistrate may make a post-search approval order only if satisfied that—

- (a) in the circumstances existing before the search—
 - (i) the Bureau officer, before exercising the powers, had a reasonable suspicion for exercising the powers; and
 - (ii) there was a reasonable likelihood that the evidence would be concealed or destroyed or may have caused injury to a person;
- (b) it is likely that the magistrate would have issued a general search warrant under section 114(2) if the circumstances listed in paragraph (a)(ii) had not existed or time had permitted; or

- (c) having regard to the nature of the evidence found during the search, it is in the public interest to make the order.

(2) If a post-search approval order is not made within the prescribed period or the magistrate refuses to make a post-search approval order, the evidence gathered under section 117 is inadmissible.

Appeal

120.—(1) If a magistrate refuses to make a post-search approval order, the Director General may appeal against the order to the High Court within 28 days after the magistrate's refusal.

(2) If the Director General appeals, the Director General may retain the thing seized until the appeal is decided.

Division 5—Boarding, search and detention of craft

Boarding, search and detention of craft

121.—(1) A Bureau officer may stop and board a craft—

- (a) at any time while the craft is in Fiji;
- (b) that is in the exclusive economic zone; or
- (c) that is registered in Fiji and that is not within the territorial sea of any country,

if the officer has reason to suspect that the craft is or has been involved in the commission of an offence against this Act.

(2) A Bureau officer may, when necessary for the exercise of his or her functions under this Act, direct the craft be taken to a suitable place and detain it for the purpose of search.

(3) On boarding a craft, a Bureau officer may search and detain the craft, anyone on it and anything on it including its cargo and may undertake tests and take samples of anything on the craft.

(4) A Bureau officer may question any person on board the craft or require the production of any documents relating to the craft or anything on the craft and may copy any documents produced.

(5) A Bureau officer may seize and detain anything found on the craft which appears upon reasonable grounds to be evidence of an offence against this Act.

(6) A Bureau officer boarding a craft may remain on the craft for such time as is reasonably necessary for the purpose of boarding, searching and detaining the craft.

(7) If a craft fails to stop at the request of a Bureau officer, it may be pursued into international waters and such action as is reasonably necessary may be undertaken to stop the craft provided that reasonable steps have first been taken to communicate the request.

(8) The master or commander of the craft must provide any Bureau officer who remains on board the craft with proper and sufficient food and suitable accommodation and no charge is to be levied.

(9) A Bureau officer may require the master, a member of the crew or any person on board to take such action as may be reasonably incidental to the exercise of any of the powers in subsections (1) to (8).

(10) A master or commander of a craft or any other person who contravenes a provision of this section commits an offence and is liable on conviction to a fine not exceeding \$250,000 or imprisonment for a term not exceeding 7 years or both and to the forfeiture of the craft.

Division 6—Covert Operations

Subdivision 1—Preliminary Provision

Application of Division

122. This Division applies only to a covert operation offence.

Subdivision 2—Covert Operations

Authorisation for covert operation

123.—(1) The Director General may authorise a covert operation subject to this Division.

(2) The Director General may only authorise a covert operation if the intended operation complies with—

- (a) section 125; and
- (b) regulations prescribed by the Minister.

(3) The authorisation—

- (a) must be—
 - (i) in writing;
 - (ii) signed by the Director General; and
 - (iii) in the prescribed form; and
- (b) may be made with or without conditions as determined by the Director General.

Application for covert operation

124.—(1) A Bureau officer may apply to the Director General for authorisation to conduct a covert operation.

(2) The application must be made in the prescribed manner and form.

(3) The application must—

- (a) provide sufficient information to enable the Director General to decide whether or not to grant the application;

- (b) without limiting paragraph (a) contain the following information—
 - (i) an identifying name or number;
 - (ii) a description of the criminal activity in relation to which it is proposed to conduct the operation;
 - (iii) the name of each person who it is intended will act as a participant in the operation;
 - (iv) a general description of the conduct a Bureau officer will be required to engage in for the operation; and
- (c) state—
 - (i) whether or not the proposed operation, or any other operation in relation to the same criminal activity, has been the subject of an earlier application and the result of that application; and
 - (ii) if the authorisation was given, the details of the operation authorised.

(4) The Director General may require the applicant to give additional information about the proposed operation the Director General considers appropriate for consideration of the application.

Matters to be taken into account

125.—(1) An authorisation may only be granted if the Director General is satisfied on reasonable grounds—

- (a) that a covert operation offence has been, is being, or is likely to be committed; and
- (b) that the nature and extent of the suspected criminal activity justify the conduct of a covert operation—
 - (i) in Fiji; or
 - (ii) in Fiji and outside Fiji, if the covert operation will be or is likely to be conducted in another jurisdiction; and
- (c) that any unlawful conduct involved in conducting the operation will be limited to the maximum extent consistent with conducting an effective covert operation;
- (d) that the operation will be conducted in a way that will minimise the risk of any illicit property being under the control of persons, other than Bureau officers, at the end of the operation than are reasonably necessary to enable the officers to achieve the purpose of the covert operation;
- (e) that the proposed conduct will be capable of being accounted for in a way that will enable prescribed reporting requirements to be complied with;

- (f) that the operation will not be conducted in a way that makes it likely for a person to be induced to commit an offence against a law of any country that the person would not otherwise have intended to commit; and
- (g) that any conduct involved in the operation will not—
 - (i) seriously endanger the health or safety of any person;
 - (ii) cause the death of, or serious injury to, any person;
 - (iii) involve the commission of a sexual offence against any person; or
 - (iv) result in serious loss of or serious damage to property, other than illicit property; and
- (h) that any proposed participant in the operation has received appropriate training for the purpose.

Effect of authorisation

126.—(1) Notwithstanding any written law, an authorisation authorises a person specified in the authorisation to engage in conduct, except for conduct listed in section 125(1)(g), that—

- (a) would amount to a covert operation offence; and
- (b) for which a person would have been criminally liable if not for the authorisation.

(2) For the avoidance of doubt, the authorisation does not affect the operation of subdivisions 3 and 4 of this Division and a Bureau officer who wishes to exercise the powers provided under those subdivisions must comply with those subdivisions.

Subdivision 3—Covert Surveillance Warrants

Application for covert surveillance warrants

127.—(1) A senior officer may apply to the issuing authority for a covert surveillance warrant to authorise the covert monitoring and recording, by any means, of the conduct and communications, including telecommunications, of a person.

(2) The application must state that the senior officer has reasonable grounds to suspect or believe that a person has committed, is committing or is about to commit a covert operation offence.

(3) The application must also state—

- (a) the facts relied upon to show reasonable grounds for suspicion or belief;
- (b) the manner by which it is proposed to undertake the monitoring;
- (c) the name or names of the person or persons to be monitored, if known;
- (d) the place at which it is intended to monitor the person;
- (e) the identity of any person who may be required by the court to provide assistance for the purpose of giving effect to the warrant;

- (f) the requested duration of the warrant; and
- (g) where the application is made orally, the circumstances said to render a written application not reasonably practicable.

(4) If a written application under subsection (1) is not reasonably practicable in the circumstances, an application may be made orally, including by telephone.

Issue and renewal of covert surveillance warrant

128.—(1) The issuing authority may issue the warrant if satisfied that there are reasonable grounds to suspect or believe that a person has committed, is committing or is about to commit a covert operation offence.

(2) The covert surveillance warrant may authorise Bureau officers to—

- (a) overtly or covertly enter or, in the case of a renewed warrant, re-enter any place specified in the warrant, by force if necessary, for the purpose of executing the warrant; and
- (b) in the case of a renewed warrant, continue monitoring and recording pursuant to the original warrant subject to any variation specified in accordance with section 130(g).

(3) A warrant issued under this Subdivision may be renewed by further application.

Considerations for issuing authority

129. In determining whether a warrant should be granted under this Subdivision, the issuing authority may have regard to the following—

- (a) the nature and gravity of the offence in respect of which the warrant is sought;
- (b) the extent to which the privacy of any person is likely to be affected;
- (c) alternative means of obtaining the information or evidence sought and the extent to which employing these means could prejudice the investigation, through delay or any other reason;
- (d) the extent to which information that may be obtained is likely to assist the investigation of the offence;
- (e) the evidentiary value of any information sought to be obtained;
- (f) any previous warrant sought or issued in connection with the same offence; and
- (g) in the case of an oral application, the circumstances that render a written application not reasonably practicable.

Form of warrant

130. A warrant issued under this Subdivision must—

- (a) specify the manner by which monitoring is authorised;

- (b) if known, specify the name of any person or persons who may be monitored;
- (c) specify the place or places at which monitoring is authorised;
- (d) specify any conditions subject to which premises may be entered pursuant to the warrant;
- (e) specify any person required to provide assistance for the purpose of giving effect to the warrant and order that person to provide such assistance;
- (f) specify the duration of the warrant;
- (g) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and
- (h) authorise and require the retrieval of the monitoring and recording device

Term, cancellation and revocation of warrant

131.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) If the Director General is satisfied that the grounds upon which a warrant was issued have ceased to exist, the Director General must, if the warrant is still in force, cancel the warrant in writing.

(3) The issuing authority may revoke a warrant issued under this Subdivision that is in force.

Subdivision 4—Tracking

Bureau officer may authorise tracking

132.—(1) A senior officer may authorise the placement of a tracking device in or on any craft, vehicle or goods and may subsequently service or retrieve that device.

(2) The officer may only make the authorisation if he or she suspects or believes on reasonable grounds that it is expeditious for the investigation of a covert operation offence.

Application for covert or forcible entry warrant

133.—(1) If placement, service or retrieval of the tracking device requires covert or forcible entry onto or into any premises, the senior officer must apply in writing to the issuing authority for a warrant.

(2) The application must state—

- (a) the facts relied upon to show reasonable grounds for the suspicion or belief referred to in section 132(2);
- (b) the manner by which it is proposed to undertake the tracking;
- (c) the craft, vehicle or goods to be tracked;
- (d) the requested duration of the warrant; and
- (e) where the application is oral, the circumstances said to render a written application not reasonably practicable.

(3) If the circumstances are such that a written application is not reasonably practicable, an application may be made orally, including by telephone.

(4) Mere external placement of a tracking device upon any craft, vehicle or goods does not constitute entry requiring a warrant.

Issue and renewal of covert or forcible entry warrant

134.—(1) Upon application pursuant to this Subdivision, the issuing authority may, if satisfied that there are reasonable grounds to believe that the tracking device will yield information or evidence relating to the commission of an offence against this Act, issue a warrant authorising covert or forcible entry, or both covert and forcible entry, for the purpose of placing, servicing and retrieving the device.

(2) A warrant issued under this section may be renewed by further application.

(3) A renewed warrant authorises—

- (a) covert or forcible entry or both covert and forcible entry for the purpose of placing, servicing and retrieving the tracking device; and
- (b) the continued use of any tracking device pursuant to the original warrant subject to any variation specified in accordance with section 136(f).

Considerations for issuing authority

135. In determining whether a warrant should be granted under this Subdivision, the issuing authority may have regard to—

- (a) the nature and gravity of the offence in respect of which the warrant is sought;
- (b) alternative means of obtaining the information or evidence sought, the reliability of those alternative means and the resources required to employ them;
- (c) the extent to which information that may be obtained is likely to assist the investigation of the offence;
- (d) the evidentiary value of any information sought to be obtained;
- (e) any previous warrant sought or issued in connection with the same offence; and
- (f) in the case of an oral application, the circumstances said to render a written application not reasonably practicable.

Form of warrant

136. A warrant issued under this Subdivision must—

- (a) specify the manner by which tracking is authorised;
- (b) specify the craft, vehicle or goods that may be tracked;
- (c) specify the premises, vehicle or craft that may be entered pursuant to the warrant;

- (d) specify any conditions subject to which premises, vehicle, craft or goods may be entered pursuant to the warrant;
- (e) specify the duration of the warrant;
- (f) in the case of a renewed warrant, specify any variation to the authority conferred by the previous warrant; and
- (g) authorise and require the retrieval of the tracking device.

Term, cancellation and revocation

137.—(1) A warrant issued pursuant to an oral application is valid for 48 hours.

(2) Where the Director General is satisfied that the grounds upon which a warrant was issued have ceased to exist, the Director General must, if the warrant is still in force, cancel the warrant by instrument in writing.

(3) A warrant issued under this section and still in force may be revoked by the issuing authority.

Division 7—Stop Departure Orders

Application of Division

138. This Division applies only to a stop departure offence.

Director General may issue stop departure orders

139.—(1) If a person is being investigated by the Bureau for a stop departure offence, the Director General may issue a stop departure order in writing to prohibit the person from leaving the jurisdiction of the Republic of Fiji for a period of up to 30 days.

(2) The order must specify the period in which the person is prohibited from leaving the jurisdiction of the Republic of Fiji.

(3) If the Director General prohibits a person under subsection (1), the Director General must notify—

- (a) the person in writing of the prohibition by serving the order on the person at his or her last known residential address within 24 hours of the issuance of the order; and
- (b) the Director of Immigration in writing of the order.

(4) The Director of Immigration must enforce the order.

Division 8—Crime Scenes

Subdivision 1—Preliminary Provision

Meaning of “crime scene”

140. In this Division, a place is a crime scene if—

- (a) either of the following apply—
 - (i) a crime scene threshold offence was committed at the place; or

- (ii) there may be evidence at the place, of significant probative value, of the commission of a crime scene threshold offence at any other place; and
- (b) it is necessary to protect the place for the time reasonably necessary to search for and gather evidence of the commission of the crime scene threshold offence.

Subdivision 2—Establishing a Crime Scene

Gaining access to crime scenes

141.—(1) It is lawful for a Bureau officer to enter a place—

- (a) to reach any other place that the Bureau officer reasonably suspects is a crime scene; and
- (b) that the Bureau officer reasonably suspects is a crime scene and stay on the place for the time reasonably necessary to decide whether or not to establish a crime scene.

(2) In determining what is a reasonable time for subsection (1)(b), the Bureau officer must consider the particular circumstances including—

- (a) the nature of any information obtained or any observation made that suggests the place is a crime scene;
- (b) visible evidence that will help decide whether it is a crime scene; and
- (c) any preliminary inspection of the place.

Initial establishment of crime scene

142.—(1) If a Bureau officer enters a place that may be a crime scene, or is lawfully at a place, and decides the place is a crime scene, the Bureau officer may establish a crime scene and exercise crime scene powers at the place.

(2) If any other Bureau officer assumes control of the crime scene, that other Bureau officer becomes the responsible officer instead of the Bureau officer in subsection (1).

(3) The responsible officer may establish the crime scene in any way that gives any person wanting to enter the place enough notice that the place is a crime scene.

Responsibility after establishing crime scene

143.—(1) As soon as reasonably practicable after the responsible officer establishes the crime scene, the responsible officer must apply to a High Court judge or a magistrate for a crime scene order under Subdivision 3.

(2) Subsection (1) does not apply if the place is a public place.

(3) If the place is a public place only while it is ordinarily open to the public and the occupier of the place requires a Bureau officer at the place to leave the place, the Bureau officer may apply under Subdivision 3 for a crime scene order.

(4) The application must be made to a High Court judge for a crime scene order if it is intended to do something that may cause structural damage to a building.

(5) Subsection (4) applies whether or not a magistrate has issued a crime scene order for the place.

(6) If a judge or magistrate refuses to issue a crime scene order for the place, the place stops being a crime scene.

Deciding limits of crime scene

144. The responsible officer at a crime scene must—

- (a) identify what is the crime scene;
- (b) decide the boundaries necessary to protect the crime scene; and
- (c) mark the limits of the crime scene in a way that sufficiently identifies it to the public as a crime scene.

Restricting access to crime scene

145.—(1) The responsible officer must immediately take the steps the officer considers to be reasonably necessary to protect anything at the crime scene from being damaged, interfered with or destroyed, including for example, steps to—

- (a) ensure that people, including Bureau officers, whose presence at the crime scene is not essential do not enter the crime scene;
- (b) prevent unnecessary movement inside the boundaries of the crime scene; and
- (c) establish a safe walking area in the crime scene for reducing the risk of damage to any evidence that may be on the place.

(2) A person, other than the responsible officer, must not enter a crime scene unless the—

- (a) person has a special reason, associated with the investigation, for entering the crime scene;
- (b) person is a Bureau officer or Bureau associate who is asked to enter the crime scene by the responsible officer or an investigating Bureau officer;
- (c) presence of the person is necessary to preserve life or property at a crime scene; or
- (d) person is authorised to enter by the responsible officer.

(3) For subsection (2)(d), the responsible officer may authorise the entry subject to stated requirements.

(4) The responsible officer must ensure that a record is made of the—

- (a) name of each person who is present when the crime scene is established;
- (b) name of each person who enters it after it is established;

- (c) time each person entered the place after it is established; and
- (d) purpose of the entry.

Preserving evidence at crime scene

146.—(1) The responsible officer at a crime scene must ensure that any thing in the crime scene is not unnecessarily interfered with, removed, damaged, or destroyed until all necessary forensic and technical examinations are finished.

(2) The responsible officer may touch or move a thing at the crime scene if there is a possibility that the thing could be damaged, interfered with or destroyed if it is not moved.

Subdivision 3—Crime Scene Orders

Application for crime scene order

147.—(1) A Bureau officer may apply to a High Court judge or a magistrate for a crime scene order to establish a crime scene at a place.

(2) The application must be sworn and state the grounds on which it is sought.

(3) The occupier of the place must, if reasonably practicable, be given notice of the making of the application.

(4) Subsection (3) does not apply if the Bureau officer reasonably suspects or believes that giving the notice would frustrate or otherwise hinder the investigation of the offence to which the application relates.

(5) If present when the application is made, the occupier may make submissions to the judge or magistrate, but not submissions that will unduly delay the consideration of the application.

(6) The judge or magistrate may refuse to consider the application until the Bureau officer gives the Judge or magistrate all the information the Judge or magistrate requires about the application in the way the Judge or magistrate requires.

Consideration of application and issue of crime scene order

148.—(1) Before issuing a crime scene order, the judge or magistrate must have regard to the following—

- (a) the nature and seriousness of the suspected offence;
- (b) the likely extent of interference to be caused to the occupier of the place;
- (c) the time for which it is reasonable to maintain a crime scene; and
- (d) any submissions made by the occupier.

(2) The judge or magistrate may issue a crime scene order only if reasonably satisfied that the place is a crime scene.

(3) If, before the application is considered, the place stops being a crime scene, the judge or magistrate may issue a crime scene order that has effect only for the time the place was a crime scene.

What crime scene order must state

149.—(1) A crime scene order must state—

- (a) that a stated Bureau officer may establish a crime scene at the place and exercise crime scene powers at the place; and
- (b) the day, not more than 7 days after the order is issued, the order ends, unless extended under section 150(2).

(2) If the issuer is a High Court judge, the order must state whether or not a Bureau officer may, under the order, do something that may cause structural damage to a building.

Duration, extension and review of crime scene order

150.—(1) A crime scene order stops having effect on the day fixed under the order or a later time fixed under subsection (2).

(2) The Judge or magistrate may, on the application of a Bureau officer made before a crime scene order stops having effect, extend the order for a stated reasonable time of not more than 7 days.

Review of crime scene order

151.—(1) If an application for a crime scene order was made in the absence, and without the knowledge, of the occupier of the place or the occupier had a genuine reason for not being present, the occupier may apply to the judge or magistrate for an order revoking the order.

(2) The Judge or magistrate may revoke or refuse to revoke the order.

(3) The making of an application for review of the order does not stay the effect of the order.

Copy of crime scene order to be given to occupier

152.—(1) If a Bureau officer exercises powers under a crime scene order for a place that is occupied, the Bureau officer must give to the occupier a copy of the order and a statement in the approved form summarising the person's rights and obligations under the order.

(2) If the occupier is not present, the Bureau officer must leave the copy in a conspicuous place.

*Subdivision 4—Bureau Powers at a Crime Scene**Powers at crime scene*

153.—(1) The responsible officer at a crime scene, or a Bureau officer or Bureau associate acting under the direction of the responsible officer, may do any of the following in relation to the crime scene—

- (a) enter the crime scene;
- (b) if reasonably necessary, enter any other place to gain access to the crime scene;

- (c) perform any necessary investigation, including, for example, a search and inspection of the crime scene and anything in it to obtain evidence of the commission of an offence;
- (d) open anything at the crime scene that is locked;
- (e) take electricity for use at the crime scene;
- (f) dig up anything at the crime scene;
- (g) remove wall or ceiling linings or floors of a building, or panels or fittings of a vehicle;
- (h) remove or cause to be removed an obstruction from the crime scene;
- (i) photograph the crime scene and anything in it; or
- (j) seize all or part of a thing that may provide evidence of the commission of an offence.

(2) If it is necessary to do anything at the place that may cause structural damage to a building, the thing must not be done unless a High Court judge issues a crime scene order for the place before the thing is done and the order authorises the doing of the thing.

Powers of direction etc at crime scene

154. The responsible officer or a Bureau officer or Bureau Associate acting under the direction of the responsible officer may, at a crime scene, do any of the following—

- (a) direct a person to leave the crime scene or remove a vehicle or animal from the crime scene;
- (b) remove or cause to be removed from the crime scene—
 - (i) a person who fails to comply with a direction to leave the crime scene; or
 - (ii) a vehicle or animal a person fails to remove from the crime scene;
- (c) direct a person not to enter the crime scene;
- (d) direct a person to stop their vehicle or any animal in their charge from entering the crime scene;
- (e) prevent a person from entering the crime scene;
- (f) prevent a person from removing evidence from or otherwise interfering with the crime scene or anything in it and, for that purpose, detain and search the person; or
- (g) direct the occupier of the place or a person apparently in charge of the place to (a) maintain a continuous supply of electricity at the place.

Exercise of crime scene powers in public place

155.—(1) A Bureau officer may exercise powers under sections 153 and 154 at a public place without a crime scene order.

(2) If—

- (a) the place is a public place only while it is ordinarily open to the public; and
- (b) the occupier of the place asks a Bureau officer to leave the place;

the Bureau officer may, Notwithstanding the request, continue to act under subsection (1) for the time reasonably necessary for an application for a crime scene order for the place to be made and decided.

Subdivision 5—Miscellaneous

Alternative accommodation to be provided in some cases

156.—(1) This section applies to the occupier of a dwelling if—

- (a) the occupier can not continue to live in the dwelling while the crime scene is established because of a direction given at a crime scene; or
- (b) the occupier can not continue to live in the dwelling because of damage caused to the dwelling in the exercise of powers under this Division.

(2) A Bureau officer must inform the occupier of the occupier’s right to suitable alternative accommodation for the time the occupier can not live in the dwelling.

(3) The Director General must arrange suitable alternative accommodation for the occupier for the time the occupier can not live in the dwelling, if requested to do so by the occupier.

(4) This section does not apply to an occupier who is detained in lawful custody.

Division 9—Use of and Access to Digital Devices

Meaning of “specified person” in this Division

157.—(1) Subject to subsections (2) and (3), a “specified person” means any of the following persons—

- (a) a person reasonably suspected of having committed an offence in relation to which a—
 - (i) search warrant is or was issued;
 - (ii) crime scene is or was established; or
 - (iii) device was otherwise lawfully seized under this Act and removed from a place;
- (b) the owner of a device;
- (c) a person in possession of a device;
- (d) an employee of the owner or person in possession of a device;
- (e) a person who uses or has used a device; or
- (f) a person who is or was a system administrator for the computer network of which the device forms or formed a part.

(2) Subsection (1) only applies in relation to a digital device —

(a) at, or seized from a place for which—

- (i) a search warrant is or was issued; or
- (ii) a crime scene is or was established; or

(b) that is otherwise lawfully seized under this Act and removed from a place.

(3) A specified person mentioned in subsection (1)—

(a) paragraphs (a) to (e) is a specified person only if the person has, or is likely to have, knowledge about how to gain access to the digital device; and

(b) paragraph (f) is a specified person only if the person has, or is likely to have, knowledge about how to gain access to the computer network of which the device forms or formed a part.

Orders in search warrant for digital device information

158.—(1) If an issuing authority that is a magistrate or a judge issues a search warrant under Division 4, the issuing authority may, in the search warrant, order a specified person to do any of the following in relation to a digital device at the place—

(a) give a Bureau officer access to the device;

(b) give a Bureau officer access information for the device or any assistance necessary for the officer to gain access to device information from the device;

(c) allow a Bureau officer to—

- (i) use access information for the device to gain access to device information from the device;
- (ii) examine device information from the device to find out whether the information may be relevant evidence;
- (iii) make a copy of device information from the device that may be relevant evidence, including by using any other digital device; or
- (iv) convert device information from the device that may be relevant evidence into documentary form, or any other form, that enables the information to be understood by a Bureau officer.

(2) The magistrate or judge may also, in the search warrant, order that a specified person is required to do a thing mentioned in subsections (1)(b) or (c) in relation to a digital device seized and removed from the place, after the device has been removed.

(3) An order made under subsection (2) must state—

(a) the time at or by which the specified person must give a Bureau officer the information or assistance mentioned in subsection (1)(b);

- (b) the place where the specified person must provide the information or assistance;
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 161.

Order after digital device has been seized

159.—(1) This section applies if a digital device is—

- (a) seized under a search warrant and removed from a place, and either—
 - (i) the search warrant did not contain an order made under section 158(1) or (2); or
 - (ii) the search warrant contained an order made under section 158(1) or (2) but further access information is required for a Bureau officer to gain access to device information from the device that may be relevant evidence; or
- (b) otherwise lawfully seized under this Act, other than under section 153(1)(j), and removed from a place.

(2) On the application of a Bureau officer, a magistrate or a judge may make an order requiring a specified person to do a thing mentioned in section 158(1)(b) or (c).

(3) An application made under subsection (2)—

- (a) may be made at any time after the digital device has been seized; and
- (b) must be made—
 - (i) to a High Court judge, if the digital device was seized under a search warrant issued by a High Court judge; or
 - (ii) to a magistrate, if the digital device was seized under a search warrant issued by a magistrate.

(4) An order made under subsection (2) must state—

- (a) the time at or by which the specified person must give a Bureau officer the information or assistance mentioned in section 158(1)(b); and
- (b) the place where the specified person must provide the information or assistance;
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 161.

- (5) A magistrate or a judge may make an order under subsection (2) only if—
- (a) a magistrate or judge is satisfied there are reasonable grounds to believe that device information from the digital device seized under a search warrant may be relevant evidence; or
 - (b) a magistrate or judge is satisfied there are reasonable grounds to believe that device information from the digital device seized under a search warrant may be relevant evidence of a crime scene threshold offence.

Order about digital device at or seized from a crime scene

160.—(1) On the application of a Bureau officer, a High Court judge or a magistrate may make an order requiring a specified person to do a thing mentioned in subsection (2) in relation to a digital device—

- (a) at a crime scene; or
 - (b) seized from a crime scene under section 153(1)(j).
- (2) The specified person may be required to—
- (a) give a Bureau officer access to the device;
 - (b) give a Bureau officer access information for the device or any assistance necessary for the Bureau officer to gain access to device information from the device; or
 - (c) allow a Bureau officer to—
 - (i) use access information for the device to gain access to device information from the device;
 - (ii) examine device information from the device to find out whether the information may be evidence of the commission of a crime scene threshold offence;
 - (iii) make a copy of device information from the device that may be evidence of the commission of a crime scene threshold offence, including by using any other digital device; or
 - (iv) convert device information from the device that may be evidence of the commission of a crime scene threshold offence into documentary form, or any other form, that enables the information to be understood by a Bureau officer.

(3) The judge or magistrate may make the order only if satisfied there are reasonable grounds for suspecting that device information from the digital device may be evidence of the commission of the offence for which the crime scene was, or is to be, established.

(4) The order must state—

- (a) the time at or by which the specified person must give a Bureau officer the information or assistance mentioned in subsection (2)(b);

- (b) the place where the specified person must provide the information or assistance;
- (c) any conditions to which the provision of the information or assistance is subject; and
- (d) that failure to comply with the order is an offence under section 161.

(5) Without limiting when the application for the order may be made, the application may be made at the same time the Bureau officer applies for a crime scene order for the crime scene and the judge or magistrate may include the order in the crime scene order.

Contravening order about device information from digital device

161.—(1) A person who, without reasonable excuse, contravenes an order made under sections 158(1) or (2), 159(2) or 160(1) commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years.

(2) It is not a reasonable excuse to contravene an order on the basis that complying with the order will incriminate the person or expose the person to a penalty.

Application of Part 5 of Cybercrime Act 2021

162. A Bureau officer who makes an application for an order or warrant under this Part may also apply for an order or warrant under Part 5 of the Cybercrime Act 2021, if applicable, and the magistrate or judge may make the relevant orders or warrants under this Act and the Cybercrime Act 2021 as the magistrate or judge sees fit.

Division 10—Forensic Procedures

Subdivision 1—Preliminary Provisions

Interpretation

163. In this Division, unless the context otherwise requires—

“juvenile court” has the meaning given in section 2 of the Juveniles Act 1973;

“child welfare officer” means a person who is employed as a child welfare officer in the department responsible for children, and includes the Director and assistant Director of the department responsible for children and any senior welfare officer, welfare officer or temporary welfare officer;

“DNA sampler” means—

- (a) subject to section 166(2), a Bureau officer authorised by the Director General to take a non-intimate DNA sample; or
- (b) a medical practitioner or nurse who is requested by a Bureau officer to take a non-intimate DNA sample;

“forensic procedure” means—

- (a) an intimate forensic procedure; and
- (b) a non-intimate forensic procedure;

“forensic procedure consent” means consent under Subdivision 3 to a forensic procedure being performed;

“forensic procedure order” means an order under section 176 authorising a person to perform a forensic procedure;

“forensic sample” means—

- (a) a non-intimate DNA sample; or
- (b) a sample of blood, urine or other bodily fluid, excretion or substance;

“intimate area” means a person’s genital or anal area, buttocks or breasts;

“intimate forensic procedure” means any or all of the following procedures—

- (a) a procedure performed on a person’s external intimate area that involves—
 - (i) an external examination of the relevant part of the body;
 - (ii) taking a sample from the relevant part of the body, by swab, washing, vacuum suction, scraping, or by lifting by tape;
 - (iii) making an impression or cast from the relevant part of the body;
or
 - (iv) measuring the relevant part of the body;
- (b) photographing a person’s external intimate area; or
- (c) a procedure performed on a person that involves—
 - (i) an internal examination of a body cavity;
 - (ii) taking a sample of the person’s hair from an intimate area;
 - (iii) taking a sample, by swab or washing, from a body cavity other than the mouth;
 - (iv) removing a substance or thing from a body cavity other than the mouth;
 - (v) taking an X-ray or ultrasound scan of a part of the person’s body;
 - (vi) taking a dental impression; or
 - (vii) taking a sample of the person’s blood, urine or other bodily fluid or substance;

“medical practitioner” means a registered medical practitioner who holds a current medical practice licence in accordance with the Medical and Dental Practitioner Act 2020;

“non-intimate DNA sample” means a sample —

- (a) obtained by swabbing a person’s mouth; or

(b) of a person's hair—

(i) including roots of the hair; and

(ii) but not including hair from an intimate area;

“non-intimate forensic procedure” means a procedure, performed on a person, that—

(a) is not an intimate forensic procedure;

(b) does not involve an intimate area; and

(c) involves any or all of the following—

(i) an examination of an external part of the person's body, that requires clothing to be removed or contact with the person's body;

(ii) taking a sample from a part of the person's body, by swab, washing, vacuum suction, scraping, or by lifting by tape;

(iii) photographing a part of the person's body;

(iv) making an impression or cast of a part of the person's body;

(v) taking a non-intimate DNA sample;

(vi) taking a sample of saliva;

(viii) taking a sample from, or from under, a fingernail or toenail;

“nurse” has the meaning given in section 2 of the Nursing Act 2011 and who is registered under that Act;

“nurse practitioner” has the meaning given in section 2 of the Nursing Act 2011 and is a nurse practitioner who is registered under that Act;

“person subject to a procedure” means a person who is the subject or the proposed subject of a forensic procedure;

“qualified person” means the relevant person listed in section 165 who may perform the forensic procedure under that section;

“specialised nurse” means a nurse or nurse practitioner who—

(a) is registered under the Nursing Act 2011 as a specialised nurse; and

(b) has completed specific training on forensic examination; and

“support person” means—

(a) for a child—

(i) a parent of the child;

(ii) a lawyer acting for the child;

- (iii) a child welfare officer;
 - (iv) an adult relative or friend of the child who is acceptable to the child; or
 - (v) if no-one mentioned in subparagraphs (i) to (iv) is available, a representative of a civil society or non-governmental organisation that provides support to, and advocates for the rights of children; and
- (b) for a person with impaired capacity —
- (i) a parent or any other adult who provides or is able to provide support necessary to help care for the person by looking after or managing the person's interests;
 - (ii) a welfare officer; or
 - (iii) if no-one mentioned in subparagraphs (i) and (ii) is available, a representative of a civil society or non-governmental organisation that provides support to, and advocates for the rights of, persons with impaired capacity.

Division does not derogate from common law

164. This Division does not derogate from the rules of common law relating to sexual offences under the Crimes Act 2009.

Subdivision 2— Qualified Persons and Rules

Procedures qualified person may perform

165.— (1) The qualified person listed in the first column in the table below may perform the forensic procedure listed in the second column—

Qualified person	Forensic procedure
A medical practitioner, dentist or specialised nurse	An intimate forensic procedure and a non-intimate forensic procedure
DNA sampler	Taking a non-intimate DNA sample
An authorised examiner	A non-intimate forensic procedure that is a non-medical examination
A Bureau officer	Taking identifying particulars

(2) Notwithstanding subsection (1), a dentist may perform a forensic procedure only to the extent necessary to —

- (a) examine a person's mouth;
- (b) take a sample of a person's saliva;
- (c) take a dental impression of a person's mouth; or
- (d) examine a bite mark on a person.

(3) If a qualified person takes a person's identifying particulars under this Division, the qualified person may also photograph the person's identifying particulars.

DNA sampler

166.—(1) A DNA sampler may take a non-intimate DNA sample in accordance with this Division.

(2) The Director General may authorise a Bureau officer to act as a DNA sampler only if the Director General is satisfied the Bureau officer has—

- (a) the necessary experience or expertise to be able to take the samples; and
- (b) satisfactorily completed a course of training approved by the Director General for the purpose.

When forensic procedures may be performed

167. A forensic procedure may only be performed on a person under this Division if—

- (a) either of the following gives forensic procedure consent—
 - (i) the person subject to the procedure; or
 - (ii) a person authorised under Subdivision 3 to give consent for the person subject to the procedure, if the person subject to the procedure is a child of less than 14 years of age or a person with impaired capacity; or
- (b) the procedure is performed under a forensic procedure order.

Subdivision 3—Consent

General rules about asking for consent

168.—(1) A Bureau officer may ask for forensic procedure consent from—

- (a) a person who may be subject to a procedure; or
- (b) a person who may give consent under this Subdivision for the person subject to the procedure,

only if the Bureau officer is satisfied that the relevant person's ability to give the consent is not affected by alcohol or a drug.

(2) The Bureau officer may only ask for forensic procedure consent if—

- (a) the Bureau officer suspects that the person subject to the procedure has committed an indictable offence; or
- (b) the forensic procedure is the taking of a non-intimate DNA sample, for any of the following purposes—
 - (i) to help decide whether or not the person may be a suspect in relation to an offence;
 - (ii) to help locate a missing person;

- (iii) to help identify a person whose identity cannot otherwise be verified;
or
- (iv) to help identify a deceased person or the remains of a deceased person.

(3) This section applies whether or not criminal proceedings have been initiated against the person subject to the procedure and for which the results of performing the forensic procedure may be relevant.

Special requirement for child of 14 years or older

169.—(1) This section applies if a Bureau officer reasonably suspects the person subject to a forensic procedure is a child who is 14 years old or older.

(2) The Bureau officer may ask the child to give a forensic procedure consent if the officer has, in a manner and language that the child can understand and having regard to the child's age and level of maturity—

- (a) explained to the child the matters under section 173; and
- (b) give the child reasonable opportunity to ask questions and express his or her views freely.

(3) The Bureau officer must ensure that a support person is present when the explanation required under section 173 is given and when any consent is given.

(4) To assist the child in understanding the explanation and communicating his or her decision whether or not to consent, the Bureau officer must ensure that the child is given a reasonable opportunity to meet privately with the support person.

(5) Subsection (6) applies if the child gives a forensic procedure consent relating to the performance of a non-intimate forensic procedure.

(6) Before the procedure is performed, a Bureau officer must ask the child whether the child wants a support person to be present while the procedure is being performed and, if the child wants a support person to be present, a Bureau officer must ensure that a support person is present while the procedure is being performed.

(7) A consent given by a child is invalid unless the Bureau officer has complied with this section.

(8) In determining whether a child understands the matters mentioned in subsection (2), the Bureau officer must have regard to the child's age, level of maturity, and ability to understand the nature and consequences of the forensic procedure.

Special requirement for child under 14 years of age

170.—(1) This section applies if a Bureau officer reasonably suspects the relevant person is a child who is under the age of 14 years old.

(2) The Bureau officer may ask a parent of the child to give a forensic procedure consent for the child.

(3) If the parent gives a forensic procedure consent for the child authorising the taking of a sample for DNA analysis, the sample taken must be a non-intimate DNA sample and not a sample of the child's blood.

(4) Subsection (5) applies if the parent gives a forensic procedure consent for the child relating to the performance of a non-intimate forensic procedure.

(5) Before the procedure is performed, a Bureau officer must ask the child whether the child wants a support person to be present while the procedure is being performed and, if the child wants a support person to be present, a Bureau officer must ensure that a support person is present while the procedure is being performed.

Special requirement for person with impaired capacity

171.—(1) This section applies if a Bureau officer reasonably suspects the person subject to a procedure is a person with impaired capacity.

(2) The Bureau officer may ask the person to give a forensic procedure consent if the officer has, in a manner and language that the person can understand and having regard to the person's level of understanding, explained to the person the matters under section 173.

(3) The Bureau officer must ensure that a support person is present when the explanation required under section 173 is given and when any consent is given.

(4) In order to assist the person in understanding the explanation and communicating his or her decision whether or not to consent, the Bureau officer must ensure that the person is given a reasonable opportunity to meet privately with a support person.

(5) The Bureau officer must assess the person's ability to understand the purpose of the forensic procedure consent required.

(6) If the Bureau officer is satisfied that the person does not have the capacity to give a forensic procedure consent, the Bureau officer may ask a support person to give the consent for the person.

(7) Subsection (8) applies if the parent gives a forensic procedure consent for the person relating to the performance of a non-intimate forensic procedure.

(8) Before the procedure is performed, a Bureau officer must ask the person whether the person wants a support person to be present while the procedure is being performed and, if the person wants a support person to be present, a Bureau officer must ensure that a support person is present while the procedure is being performed.

(9) A consent given by the person under this section is invalid unless the Bureau officer has complied with this section.

(10) A support person who gives a forensic procedure consent under this section for a person subject to a procedure that is a child, must be present while the procedure is being performed.

Consent must be informed consent

172.—(1) A Bureau officer must ensure that a person asked to give a forensic procedure consent is given the explanation required under section 173 and a reasonable time to consider the explanation.

(2) If, under sections 170(2) or 171(6) a parent is asked to give a forensic procedure consent for a child or a person with impaired capacity and the child or person is not present when the explanation required under section 173 is given to the parent, a Bureau officer must—

- (a) to the extent that is reasonably practicable in the circumstances, give the child or person with impaired capacity an explanation of the matters mentioned in section 173; and
- (b) inform the child or person with impaired capacity that the child or person with impaired capacity may object to the performance of the forensic procedure.

Explanations to ensure informed forensic procedure consent

173.—(1) To enable a person subject to a procedure to give an informed forensic procedure consent, a Bureau officer must inform and explain all of the following to the person—

- (a) why it is proposed to perform the forensic procedure on the person;
- (b) whether an intimate forensic procedure or a non-intimate forensic procedure or both is being proposed;
- (c) the general nature of the forensic procedure;
- (d) the qualified person who may perform the forensic procedure;
- (e) that the person may refuse to give a forensic procedure consent;
- (f) that if the person gives the consent, the person may withdraw the consent before the forensic procedure is performed or while it is being performed;
- (g) if a sample is taken for forensic analysis and section 170(3) does not apply, that—
 - (i) the person may limit the purpose for which the results of the forensic analysis may be used to the purpose stated by the Bureau officer under paragraph (a); and
 - (ii) unless the person limits the purposes of the consent in that way, the results of the forensic analysis of the sample may be included in the Bureau database and used for the purposes described in section 168(2);

- (h) if a sample is taken for forensic analysis and section 170(3) does apply, that—
 - (i) the sample taken for analysis must be a non-intimate DNA sample and not a sample of blood;
 - (ii) a forensic analysis of the sample may be used only for the purpose stated by the Bureau officer under paragraph (a); and
- (i) that the forensic procedure may provide evidence that may be used in a court proceeding.

(2) The Bureau officer may give the explanation by giving the person a statement, in the approved form, containing the explanation if it is appropriate in the circumstances to do so.

Recording consent

174.—(1) If a Bureau officer gives the explanation under section 173 orally, the giving of the explanation and any forensic procedure consent must, if reasonably practicable, be electronically recorded.

(2) Unless a forensic procedure consent is electronically recorded under subsection (1), it must be written and signed by the person giving the consent.

(3) A written forensic procedure consent is only valid if it is—

- (a) in the approved form; and
- (b) signed by the person giving the consent and, if applicable, the support person present when the consent is given.

Subdivision 4—Forensic procedure orders

Application of Subdivision 4

175.—(1) This Subdivision only applies if a Bureau officer is satisfied that performing a forensic procedure on a person suspected of committing an offence may provide evidence of the commission of the offence.

(2) This Subdivision applies even if the person subject to a procedure is deceased.

(3) A Bureau officer must not apply for a forensic procedure order under this Subdivision in relation to a child if—

- (a) the only purpose of the application is to obtain authority to take fingerprints or photographs of the child;
- (b) it is practicable to make an application under section 25 of the Juveniles Act 1973 for an order of a magistrate to take fingerprints or photographs of the child; and
- (c) it is likely that an order made under section 25 of the Juveniles Act 1973 can be given immediate effect.

(4) Without limiting subsection (3)(b), it is taken not to be practicable to make the application under subsection (3)(b) if the whereabouts of the child to whom it relates are not sufficiently known to the Bureau officer to allow the officer to give notice of that application to the child.

Application for forensic procedure order

176.—(1) If there is no forensic procedure consent, a Bureau officer may apply to a magistrate in the prescribed form and manner for an order authorising a qualified person to perform on the person named in the application—

- (a) an intimate or non-intimate forensic procedure; or
 - (b) both an intimate and a non-intimate forensic procedure.
- (2) If the person is a child, the application must be made to a juvenile court.
- (3) The application—
- (a) must be sworn and state the grounds on which it is made; and
 - (b) may be made whether or not the person has previously consented to the forensic procedure being performed.
- (4) The magistrate may refuse to consider the application until the Bureau officer provides the magistrate the information the magistrate requires about the application and in the prescribed form and manner.
- (5) The prescribed manner includes an oral application or application by telephone.

Notice of application must ordinarily be given

177.—(1) The person to whom the application relates must be given notice in the approved form of the application at least 7 days before the day the application is to be heard.

- (2) The notice must state—
- (a) the grounds on which the application is made;
 - (b) the date when and the place where the application is to be heard;
 - (c) that the person must appear at the hearing and be heard on the application; and
 - (d) that if the person does not appear, the application may be decided in the absence of the person.
- (3) If the person appears at the time and place stated in the notice, the person is entitled to be heard on the application.
- (4) If the person does not appear at the time and place stated in the notice, the application may be decided in the absence of the person.
- (5) Subsection (1) does not apply if the person is deceased.
- (6) This section is subject to section 178.

When notice of application need not be given etc.

178.—(1) This section applies if the magistrate is satisfied—

- (a) that a Bureau officer has made a reasonable attempt to locate the person to whom the application relates and was unable to locate the person;
- (b) the person is likely to abscond if given notice of the application;
- (c) evidence that may be obtained by performing the forensic procedure to which the application relates on the person is likely to be lost or destroyed if the person is given notice of the application; or
- (d) giving notice of the application to the person may jeopardise the investigation of any indictable offence the person is suspected of having committed because—
 - (i) evidence relating to the offence may be concealed, fabricated or destroyed;
 - (ii) a witness may be intimidated; or
 - (iii) an accomplice or accessory of the person may take steps to avoid apprehension.

(2) The person to whom this section applies is not entitled to be given notice of the application under section 177 or to be heard on the application.

Making forensic procedure order

179.—(1) A magistrate may make a forensic procedure order in relation to a person only if he or she is satisfied that—

- (a) on the balance of probabilities, there are reasonable grounds to believe that performing the forensic procedure on the person named in the application may provide evidence of the commission of an indictable offence the person is suspected of having committed; and
- (b) carrying out the forensic procedure is justified in the circumstances.

(2) In deciding whether performing the forensic procedure on the person is justified in the circumstances, the magistrate must balance the rights and liberties of the person and the public interest.

(3) In balancing the interests in subsection (2) the magistrate may have regard to any of the following matters—

- (a) the seriousness of the circumstances surrounding the commission of the suspected offence and the gravity of that offence;
- (b) the degree of the person's alleged participation in the commission of the suspected offence;

- (c) the age, physical and mental health of the person, to the extent they are made known to the magistrate or can be reasonably ascertained by the magistrate, by asking the person or otherwise;
- (d) if the person is a child or a person with impaired capacity, the welfare of the person;
- (e) whether there is a less intrusive but reasonably practicable way of obtaining evidence that is likely to confirm or disprove that the person committed the suspected offence;
- (f) if the person has been asked for and refused to give a forensic procedure consent in relation to the suspected offence, the reasons for the refusal to the extent they are known to the magistrate or can be reasonably ascertained by the magistrate by asking the person or otherwise;
- (g) if the person is in custody for the suspected offence—
 - (i) the period for which the person has already been detained; and
 - (ii) the reason for any delay in applying for the forensic procedure order; and
- (h) any other matter the magistrate considers relevant in reaching a decision under subsection (2).

Content and duration of forensic procedure order

180.—(1) A forensic procedure order must state—

- (a) the relevant person's name;
- (b) that a forensic procedure may be performed on the person by a qualified person;
- (c) the forensic procedure to be performed; and
- (d) that a Bureau officer may exercise the powers in section 181.

(2) A forensic procedure order stops having effect—

- (a) on the day specified in the order; or
- (b) if no day is specified, when the forensic procedure authorised under the order is completed.

Powers for enforcing forensic procedure order

181.—(1) For enforcing a forensic procedure order, a Bureau officer has the following powers—

- (a) subject to subsection (2), to detain the relevant person for a reasonable time and take the person to a place with appropriate facilities and persons for performing the relevant forensic procedure;

- (b) to direct the relevant person—
 - (i) to attend at a stated place on a stated day or between stated hours, within 7 days after the direction is given to the person to enable the relevant forensic procedure to be performed; and
 - (ii) to stay at the place for the time reasonably necessary to enable the relevant procedure to be performed; and
- (c) to seize anything discharged from the body of the person for analysis under this Act.

(2) A reasonable time under subsection (1) must not exceed 10 days.

(3) Subsection (1)(a) applies whether or not the relevant person is given a direction under subsection (1)(b).

Order must be given before forensic procedure is performed

182.—(1) A Bureau officer must give a copy of a forensic procedure order to the person subject to the procedure before a qualified person performs a forensic procedure on the person under the order.

(2) Subsection (1) does not apply if the person is unconscious or deceased.

Qualified person may perform forensic procedure

183. A qualified person may perform the forensic procedure on a person under a forensic procedure order and must do so in accordance with the order.

Subdivision 5—Laboratory or other facility

Bureau laboratory or other facility

184.—(1) The Director General may establish or continue a laboratory or other facility within the Bureau where—

- (a) identifying particulars may be taken;
- (b) a body sample may be obtained under sections 41 and 48;
- (c) the testing of a body sample obtained under sections 41 and 48 may be carried out;
- (d) a DNA profile may be created, derived from a body sample obtained under sections 41 and 48;
- (e) a forensic procedure may be carried out under this Division;
- (f) the testing of a forensic sample obtained under this Division may be carried out;
- (g) a DNA profile may be created, derived from a forensic procedure carried out under this Division;
- (h) anything seized under sections 115(3) and 181(1)(c) may be tested;
- (i) any seized substance under Part 11 may be tested; or

- (j) any other material or substance may be tested through scientific methods to ascertain its make-up and properties.

(2) The Director General may employ a person to do an act listed in subsection (1) if the person has the necessary experience and qualifications.

(3) For the avoidance of doubt, this section does not restrict the doing of an act listed in subsection (1) to only a Bureau laboratory or facility.

Approved laboratory or other facility

185.—(1) The Director General may approve by order in the Gazette a laboratory or other facility where—

- (a) identifying particulars may be taken;
- (b) a body sample may be obtained under sections 41 and 48;
- (c) the testing of a body sample obtained under sections 41 and 48 may be carried out;
- (d) a DNA profile may be created, derived from a body sample obtained under sections 41 and 48;
- (e) a forensic procedure may be carried out under this Division;
- (f) the testing of a forensic sample obtained under this Division may be carried out;
- (g) a DNA profile may be created, derived from a forensic procedure carried out under this Division;
- (h) anything seized under sections 115(3) and 181(1)(c) may be tested;
- (i) any seized substance under Part 11 may be tested; or
- (j) any other material or substance may be tested through scientific methods to ascertain its make-up and properties.

(2) The approved laboratory or facility may only carry out the functions listed in subsection (1) through a person who has the necessary experience and qualifications.

(3) The information received, processed or analysed by the approved laboratory or facility is confidential and the approved laboratory or facility must not share it with any person except—

- (a) the Bureau for a purpose permitted under this Act; or
- (b) if required under an order of a court.

(4) A person who contravenes subsection (3) commits an offence and is liable on conviction to—

- (a) in the case of an individual, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both; or

- (b) in the case of a body corporate, a fine not exceeding \$100,000.

Analyst certificate as evidence

186.—(1) This section does not apply to a seized substance under Part 11, Division 2.

(2) In proceedings under this Act, the production of a certificate purporting to be signed by an analyst under sections 184 or 185 is *prima facie* evidence of the facts stated in the certificate.

(3) A copy of the analyst certificate must be served by or on behalf of the prosecutor on the accused person or his or her defence counsel at least 42 working days before the hearing at which the certificate is to be tendered as evidence and the accused must be informed in writing that the prosecutor does not propose to call the person who made the analysis as a witness.

(4) If the accused intends to cross-examine the analyst, the accused must, in writing give the prosecution at least 21 working days' notice of his or her intention to do so to enable the prosecution to produce the analyst at the hearing.

Subdivision 6—Records and storage of forensic samples

Recording forensic procedures

187. A person who carries out a forensic procedure under this Division must make and sign a record of the procedure as soon as practicable after the procedure and submit the record to the Bureau in accordance with prescribed procedures.

Storage, etc, on Bureau database of forensic sample and analysis

188.—(1) Subject to subsection (2), the record under section 187 and the information related to the forensic sample obtained under this Division must be stored on the Bureau database.

(2) The record under section 187 and, if practicable, the forensic sample and analysis obtained under this Division must be destroyed as soon as practicable after—

- (a) a decision is made not to commence criminal prosecution proceedings against the person in respect of the offence for which the forensic sample was taken; or
- (b) criminal prosecution proceedings that are commenced against the person in respect of the offence for which the particulars were taken are completed with an outcome that is not an outcome that authorises continued storage.

(3) The outcomes mentioned in subsection (2)(b) are as follows—

- (a) the person admits to and completes a programme of diversion conducted by the Bureau for the offence for which the forensic sample was taken;
- (b) the person is convicted of the offence for which the forensic sample was taken; or
- (c) the person is discharged under section 44 of the Sentencing and Penalties Act 2009 in respect of the offence for which the forensic sample was taken.

*Division 11—Informers and Whistleblowers**Protection of informer identity*

189.—(1) Subject to subsection (3), no witness in any proceedings under this Act is obliged—

(a) to disclose—

- (i) the name or address of any informer or undercover Bureau officer who has given information with respect to an offence against this Act; or
- (ii) the name and address of any person who has assisted in detecting, investigating or assisting with respect to the due administration or enforcement of this Act; or

(b) to answer any question if the answer would lead, or would likely lead, to the discovery of the name, address or identity of such informer or undercover Bureau officer, and the informer or undercover Bureau officer is not a witness in the proceedings.

(2) If any record which is in evidence or liable to inspection in any proceedings contains an entry in which an informer or undercover Bureau officer is named or described or which might lead to his or her discovery, the court must cause all such passages to be concealed from view or to be obliterated so far as may be necessary to protect the information or person from discovery.

(3) If, in any proceeding, the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he or she knew or believed to be false or did not believe to be true, or if in any other proceeding a court is of opinion that justice cannot be fully done between the parties without disclosure of the name of an informer or a person who has assisted the Bureau, the court may permit inquiry and require full disclosure concerning the informer or person.

Witness protection

190.—(1) In this section—

“assisting the Bureau or the court” includes—

- (a) appearance or impending appearance before the Bureau or the court to give evidence or produce a document or other thing;
- (b) production or proposed production of a document or other thing to the Bureau or the court under this Act; or
- (c) assisting or having assisted the Bureau or the court in some other manner as prescribed in the regulations; and

“expert”, “witness” and “victim” all include a member of Bureau staff or a member of the family of a member of Bureau staff.

(2) Where it appears to the Director General that as a result of assisting the Bureau or the court, the safety of a witness, expert, victim or other person may be prejudiced or the witness, expert, victim or other person may be subject to threats, intimidation or harassment, the Director General must make arrangements that are necessary to protect—

- (a) the safety of the witness, expert or victim; or
- (b) any other person from threats, intimidation or harassment.

(3) The Director General may, in providing the arrangements under subsection (2), collaborate with an authorised agency or State entity.

(4) The authorised agency and State entity must, as far as reasonably practicable, assist the Director General in the provision of arrangements for the protection of the persons under subsection (2).

(5) A state entity outside Fiji may, where legally permitted and as far as reasonably practicable, assist the Director General in the provision of arrangements for the protection of the persons under subsection (2).

(6) An action or proceeding, including disciplinary action, must not be instituted or maintained against a witness, expert, victim or other person who, in good faith, assists, or discloses information to, the Bureau or the court.

Reward to informer

191.—(1) The court before which any person is convicted for any offence against this Act may direct a portion of the fine actually paid into court to be paid to an informer.

(2) The amount to be paid to an informer must not exceed half of the fine.

(3) If there is more than one informer, the amount to be paid must not cumulatively exceed half of the fine.

Review of sentence for convicted person who becomes an informer

192.—(1) In this section, a “convicted informer” means a person who—

- (a) has been convicted by the court for an offence under this Act or for an equivalent or related offence under the repealed Acts;
- (b) provides to the Bureau or the public prosecutor information which—
 - (i) is of substantive probative value in the prosecution of the offence;
 - (ii) results in a successful conviction for the offence.

(2) The public prosecutor may make an application to the Hight Court for a review of the sentence of a convicted informer.

(3) Upon application under subsection (2), the court may review and decrease the sentence of a convicted informer by an amount determined by the court, having regard to the value of the information or assistance provided, but not exceeding one third of the total sentence.

PART 11—PROCEDURAL MATTERS

*Division 1—Diversion**Meaning of offender*

193. In this Division, “offender” means a person who—

- (a) has committed an offence under this Act; or
- (b) a Bureau officer has reasonable grounds to suspect has committed an offence under this Act.

Application of this Division

194.—(1) This Division only applies in relation to an offence under this Act or the repealed Acts.

(2) This Division does not apply to a child in conflict with the law under any written law relating to child justice or the administration of juvenile justice.

Objectives of diversion

195. The objectives of diversion are to—

- (a) address the root causes of low-level drug offending, such as dependency, mental health issues or social vulnerability rather than profit-driven criminality;
- (b) encourage an offender to acknowledge and repair the harm caused to any person and the community;
- (c) encourage the family and traditional or community leaders of an offender to be directly involved in holding the offender accountable and providing opportunities for the offender to correct his or her offending behaviour;
- (d) promote reconciliation between an offender and any person or community affected by the offender’s behaviour;
- (e) promote the rehabilitation and reintegration of an offender into his or her family and community;
- (f) prevent stigmatisation and other adverse consequences to an offender as a result of being subject to the criminal justice system, which may entrench disadvantage and increase the likelihood of future offending; and
- (g) prevent an offender with genuine mitigating circumstances from having a criminal record.

Persons to be considered for diversion

196.—(1) An offender may be diverted by—

- (a) in the case of a summary offence under this Act, a Bureau officer of a rank prescribed by the Director General; or
- (b) in the case of an indictable offence under this Act, a public prosecutor.

- (2) The offender may only be considered for diversion if—
 - (a) the offender, not being a person of impaired capacity, voluntarily acknowledges responsibility for the actual or potential offence;
 - (b) either of the following applies—
 - (i) the person has made a self-report under section 226; or
 - (ii) the person has not made a self-report but there is sufficient evidence to prosecute;
 - (c) the offender, having had the opportunity to consult with a legal representative, consents to diversion and the diversion plan; and
 - (d) the diverting authority is satisfied that it is in the interests of justice that the matter be resolved through diversion.
- (3) In determining whether diversion is in the interests of justice under subsection (2)(d), regard must be made to the following—
 - (a) the nature and seriousness of the offence;
 - (b) the background and circumstances of the offender;
 - (c) any views expressed by a person harmed by the behaviour of the offender; and
 - (d) the need to ensure public safety.
- (4) Diversion must not be used in respect of an offender who—
 - (a) denies participation or involvement in the commission of an offence; or
 - (b) expressly wishes to have the charge dealt with by the court.
- (5) An acknowledgement of responsibility made under subsection (2)(a) must not be used for the purposes of any criminal proceedings against the offender, including the criminal proceedings for which diversion has been contemplated.
- (6) Guidance on the exercise of discretion under this section may be issued by—
 - (a) the Director of Public Prosecutions for general and procedural matters; and
 - (b) the permanent secretary responsible for health for an assessment of whether a person is or is not a person of impaired capacity and is able to acknowledge responsibility under subsection (2)(a).

Diversion plans

197.—(1) An offender who has been diverted from the formal justice system may be subject to a diversion plan.

- (2) A diversion plan must—
 - (a) be agreed to and signed by the offender;

- (b) be proportionate to the offence;
- (c) include an undertaking by the offender to complete any condition contained in the diversion plan within the specified timeframe;
- (d) contain details of the services and assistance, if any, to be provided to the offender;
- (e) set out times, not exceeding any limits imposed by this Act, for the implementation of the diversion plan;
- (f) identify a Bureau officer to monitor the compliance with the diversion plan; and
- (g) specify what will occur to the offender if the diversion plan is not adhered to.

(3) A diversion plan may include one or more of the following conditions for the offender—

- (a) an oral or written apology to be made to a specified person;
- (b) participation in a counselling or rehabilitation programme provided by a drug rehabilitation centre;
- (c) attendance at or admission to an appropriate drug rehabilitation centre;
- (d) participation in a vocational or skills training programme approved by the Director General;
- (e) restitution, including return of any item taken or repair of any damage done;
- (f) the provision of specified services to a person harmed by the offender's behaviour, if the person consents;
- (g) the performance of up to 50 hours of community service work, set out across a reasonable schedule; or
- (h) any other measure which is consistent with the principles of this Act and appropriate to the offender and the local circumstances.

(4) A diversion plan must not include any condition that—

- (a) is exploitive, harmful or hazardous to the offender's physical or mental health;
- (b) involves punishment that is more onerous than the offender would have received through the formal criminal justice system;
- (c) involves corporal punishment, public humiliation or anything that would degrade or stigmatise the offender; or
- (d) involves any form of deprivation of liberty.

(5) If the offender is already receiving treatment, rehabilitation or support through a drug rehabilitation centre in accordance with the Director General's referral under section 227(4), the diverting authority may—

- (a) continue the treatment, rehabilitation or support through the drug rehabilitation centre as a part of the diversion plan; or
- (b) provide for the transition of the offender to a different drug rehabilitation centre in the same or a different tiered category.

Referral to community conference

198.—(1) For the purpose of developing a diversion plan, a diverting authority may—

- (a) convene a community conference; or
- (b) arrange for a Bureau officer or a traditional, faith-based or community leader to convene a community conference.

(2) The purpose of a community conference is to—

- (a) achieve the objectives of diversion under section 196;
- (b) involve the offender's family and community in supporting the offender to benefit from rehabilitative treatment or support, take responsibility for his or her actions and to promote responsible behaviour in the future;
- (c) allow a person harmed by the offender's behaviour or the person's nominee, to participate in decision making; and
- (d) agree to a means by which the offender can repair the harm caused to any person or the community.

(3) Depending on the nature of the offence, a community conference may involve any of the following—

- (a) the offender and any other person nominated by the offender;
- (b) the offender's family;
- (c) if consenting, a person harmed by the alleged offence and if applicable, their nominee;
- (d) a Bureau officer;
- (e) respected members of the community where the offender lives;
- (f) representatives from a faith-based organisation or civil society group providing or capable of providing supervision and support services to persons in that community; or
- (g) any other person whose involvement, in the opinion of the convenor, would be of assistance in developing a diversion plan.

(4) Within 14 days of receiving a request to convene a community conference under subsection (1), the convenor must organise a community conference and submit the proposed diversion plan to the diverting authority for approval.

Effect of diversion plan

199.—(1) If a diversion plan is completed—

- (a) no action or further action may be taken against the offender in respect of the offence to which the diversion plan relates; and
- (b) any criminal charge laid in relation to the offence must be withdrawn.

(2) If a diversion plan is not complied with, the offender may be subject to prosecution as if the diversion plan had not been entered into.

Division 2—Post Seizure Procedures

Interpretation of Division 2

200. In this Division—

“administrative disposal” means the disposal of seized material under section 202;

“court ordered disposal” means the disposal of seized material under sections 203, 204 and 205;

“analyst” includes an analyst under sections 184(2) or 185(2);

“objection period” means the period in which a person may object to the administrative disposal of seized material under section 202(3)(a);

“proceeds of crime” has the meaning given to it by sections 3 and 4 of the Proceeds of Crime Act 1997;

“seized material” means a seized substance and controlled equipment seized or confiscated by or in the possession of the Bureau under this Act for the purposes of investigating or prosecuting an offence under Part 9;

“seized substance” means an illicit drug or controlled chemical seized or confiscated by or in the possession of the Bureau under this Act for the purposes of investigating or prosecuting an offence under Part 9; and

“tainted property” has the meaning given to it by section 3 of the Proceeds of Crime Act 1997.

Scientific analysis and certificate

201.—(1) If an analyst conducts a scientific analysis of a sample of a seized substance and the analysis indicates that it is an illicit drug or controlled chemical, the analyst must produce a certificate in accordance with this section.

(2) The certificate must—

- (a) state the findings of the analysis;

- (b) state the name of each person who had custody or control of the seized substance prior to the analyst and the duration of the period in which the seized substance was in their custody or control; and
 - (c) be signed by the analyst and each person mentioned in paragraph (b).
- (3) The analyst must submit the certificate to the Bureau.
- (4) The Bureau must forward a copy of the certificate to the Director of Public Prosecutions.

Administrative disposal of seized material

202.—(1) This section applies if the Director General, in consultation with the Director of Public Prosecutions, is of the opinion that proceedings are likely to be brought against any person and—

- (a) physical preservation of all the seized material is not necessary for the purposes of any actual or contemplated proceedings under this Act;
 - (b) the seized substance cannot be safely, securely or conveniently stored until the final determination of such proceedings; or
 - (c) the seized substance may properly be used in Fiji for medical or scientific purposes, or in small amounts for the training of personnel responsible for carrying out functions under this Act.
- (2) If this section applies, the Director General may—
- (a) notify the suspect or accused person in writing that the Director General intends to—
 - (i) dispose of the seized material; and
 - (ii) if subsection (1)(c) applies, the way the Director General will dispose of the seized material; or
 - (b) apply to the court under section 203.
- (3) If subsection (2)(a) applies and the accused objects to the disposal—
- (a) the accused must notify the Director General in writing of the objection within 28 days of receiving the Director General’s notice under subsection (2); and
 - (b) section 203 then applies.
- (4) If the accused does not comply with subsection (3), the Director General must by administrative order dispose of any part of the seized material as the Director General determines is not necessary to retain for the due administration of justice and must do so—
- (a) within 7 days from the end of the objection period; and
 - (b) in accordance with—
 - (i) the notice under subsection (2); and

(ii) section 206.

(5) Notwithstanding subsection (4)(a), the Minister, taking into account the possible size of seized material, may prescribe a longer period for disposal.

Court order for disposal of seized material

203.—(1) This section applies if—

- (a) section 202(2)(a) applies and the accused has made an objection under section 202(3); or
- (b) section 202(2)(b) applies.

(2) If this section applies, the Director General may apply to the court for an order for disposal of any part of the seized material or samples of the seized substance as they determine are not necessary to retain for the due administration of justice.

Disposal of seized material liable to forfeiture

204. If the Director General, in consultation with the Director of Public Prosecutions is satisfied that—

- (a) the seized material is illegal property liable to forfeiture under this Act;
- (b) section 201 has been complied with;
- (c) sufficient samples of the seized substance have been taken, analysed and preserved to enable all material questions relating to the seized substance to be properly determined in any actual or contemplated proceedings under this Act; and
- (d) any suspect or accused person in relation to the seizure has had reasonable opportunity to have samples independently analysed at that person's expense,

the Director General may apply to the court for an order for disposal of the seized material.

Disposal of seized substance where no suspect identified or located

205. If, in relation to any seized substance, and after reasonable investigatory efforts, the Director General in consultation with the Director of Public Prosecutions is—

- (a) of the opinion that proceedings are not likely to be brought against any person for the reason only that no suspect has been identified or located; and
- (b) satisfied that sufficient samples have been taken, analysed and preserved to enable all material questions relating to the seized substance to be properly determined should any suspect be ultimately identified and proceedings be brought,

the Director General may apply to the court for an order for disposal of such part of the seized substance or samples that are not necessary to retain for the purposes of the due administration of justice.

Manner of disposal

206.—(1) Seized material may only be disposed of in accordance with this section and an administrative or court order under this Division.

(2) Seized material may be disposed of—

- (a) by delivery to the minister responsible for health for use exclusively in meeting lawful medical, scientific or training needs; or
- (b) by incineration or any other safe means of destruction.

(3) The disposal must be witnessed—

(a) for an administrative disposal, by—

- (i) the Bureau officer responsible for the custody and management of the seized material;
- (ii) an independent Bureau officer not involved with the investigation; and
- (iii) the forensic analyst that analysed the sample of the seized substance; and

(b) for a court ordered disposal, by—

- (i) a senior court officer; and
- (ii) the persons mentioned in paragraph (a).

(4) The Bureau officer responsible for the custody and management of the seized material must issue a certificate of disposal.

(5) The certificate must—

- (a) contain the details of the disposal and an explanation of how the disposal complies with this section and the procedures under this Division; and
- (b) be signed by—
 - (i) each witness required to be and present at the disposal under subsection (3); and
 - (ii) if the disposal is for the purposes of subsection (2)(a), by a medical officer on behalf of the ministry responsible for health.

Forfeiture

207. The Proceeds of Crime Act 1997 applies to proceeds of crime and tainted property identified in relation to an offence under this Act and a connected offence under section 15.

*Division 3—Presumptions, Evidence and Admissibility**Factual presumption relating to possession of illicit drugs*

208. In any prosecution under this Act, if it is proved that any illicit drug, controlled chemical or controlled equipment was on or in any premises, craft, vehicle or animal under the control of the accused, it is presumed, until the contrary is proved, that the accused was in possession of the illicit drug, controlled chemical or controlled equipment.

Factual presumption relating to THC concentration in Cannabis

209. In any prosecution under this Act, if a person claims that a substance, plant or part of a plant is hemp and contains a Tetrahydrocannabinol concentration that does not exceed 1%, it is presumed that the substance, plant or part of the plant is Cannabis and that the Tetrahydrocannabinol concentration exceeds 1% until the contrary is proved by the person.

Factual presumption relating to samples

210. In any prosecution for an offence against this Act, if it is proved that a sample which was taken from any illicit drug or controlled chemical possesses particular properties, it is presumed that any such illicit drug or controlled chemical possesses the same properties.

Admissibility of official records

211.—(1) A copy—

- (a) of any record of a ministry, department, agency, municipality or other body established by or under a written law; or
- (b) of any statement containing information from the records kept by any such ministry, department, agency, municipality or other body,

purporting to be certified by an official having custody of that document or those records, is admissible in evidence in any prosecution for an offence against this Act.

(2) In the absence of evidence to the contrary, the copy is proof of the facts contained in the document, without proof of the signature or official character of the person purporting to have certified it.

Proof of prohibited import or export of an illicit drug under the laws of another country

212. A certificate purporting to be issued by or on behalf of another country to the effect that the import or export of an illicit drug, controlled chemical or controlled equipment is prohibited by the law of that country is for the purpose of any proceedings under this Act, *prima facie* evidence of the matters stated in the certificate.

Presumption relating to analyst certificate and chain of evidence

213.—(1) In this section—

“analyst certificate” means the certificate produced under section 201; and

“certified custodian” means a person—

- (a) listed in the analyst certificate who had custody or control of an illicit drug, controlled chemical or controlled equipment; and
- (b) who signed the certificate.

(2) The public prosecutor or his or her representative must serve the accused or his or her defence counsel—

- (a) a copy of the analyst certificate; and
- (b) a notice complying with this section.

(3) Service must be at least 42 working days before the hearing at which the analyst certificate is to be tendered as evidence.

(4) The notice must state—

- (a) whether or not the public prosecutor intends to call the certified custodians as witnesses;
- (b) if the public prosecutor does not intend to call the certified custodians as witnesses, the action the accused may take under subsection (5); and
- (c) the effect on the proceedings if the accused does not give the prosecution a notice under subsection (6).

(5) If the accused intends to cross-examine a certified custodian, the accused must, in writing give the prosecution at least 21 working days' notice of his or her intention to do so to enable the prosecution to produce the certified custodian at the hearing.

(6) If the accused does not give notice under subsection (5) within the specified period—

- (a) the analyst certificate is—
 - (i) admissible as evidence; and
 - (ii) *prima facie* evidence of the facts stated in the certificate; and
- (b) the chain of custody of evidence as provided in the certificate is presumed to be valid.

Admissibility of certificate of disposal

214.—(1) Subject to this section, in any prosecution for an offence against Part 9 of this Act, a certificate purporting to comply with section 206 is admissible in evidence.

(2) In the absence of evidence to the contrary, a certificate is admissible under subsection (1) as proof of the statements contained in the certificate, without proof of the signature, expertise or official capacity of the person appearing to have signed it.

Division 4—Conviction and Sentencing

Effect of conviction

215.—(1) A person convicted of an offence under Part 9 may not, by reason of the conviction, hold any public office for a period of five years from the date of the conviction.

(2) For the avoidance of doubt, this section does not make a person eligible to hold a public office at the end of the 5 year period if any other law prohibits the person from holding the public office.

Notification of conviction

216.—(1) In this section—

“responsible authority” means the person or entity—

- (a) responsible for the registration, licensing, certification or regulation of professional conduct of a specified person; and

(b) as prescribed by regulations made under this Act;

“specified person” means a—

- (a) person who holds a public office;
- (b) veterinarian;
- (c) licensed medical practitioner;
- (d) licensed dental practitioner;
- (e) midwife, nurse or nurse practitioner registered under the Nursing Act 2011;
- (f) registered pharmacist;
- (g) registered pharmaceutical chemist;
- (h) registered optometrist; and
- (i) a person or class of persons prescribed by regulations—
 - (i) whose occupation or profession; or
 - (ii) who carries out an activity that,

involves the possession, supply, distribution or administration of an illicit drug, controlled chemical or controlled equipment.

(2) If a specified person is convicted of an offence under Part 9, the court must send particulars of the conviction to the responsible authority.

Supplementary guide to sentencing

217.—(1) Without limiting the Sentencing and Penalties Act 2009, a court may, in determining the nature and extent of a penalty to be ordered in relation to a person convicted of an offence under Part 9, take into account as aggravating factors whether—

- (a) the convicted person—
 - (i) belonged to an organised criminal group;
 - (ii) participated in other illegal activities facilitated by the offence;
 - (iii) used technology, including digital systems, artificial intelligence or automated tools, to—
 - (A) facilitate, plan, coordinate or execute the offence;
 - (B) conceal or disguise the commission of the offence or the identity or location of any person involved; or
 - (C) deceive, mislead or manipulate any person in connection with the offence;
 - (iv) used violence or a firearm;
 - (v) committed the offence in the exercise of a public office or duty;

- (vi) added any other substance which aggravated the danger of the illicit drug or controlled chemical to a user;
- (vii) made use or took advantage of a vulnerable and at-risk person in committing the offence; or
- (viii) has a previous conviction relating to the offence;
- (b) the offence was committed—
 - (i) by a Bureau officer or an officer of an authorised agency;
 - (ii) by a health professional or person responsible for combating drug abuse or trafficking in illicit drugs;
 - (iii) in an educational institution, a health facility, a social welfare facility or in any other establishment where learners or students resort for educational, sports or social activities, or in the immediate vicinity of the institution, facility or establishment; or
 - (iv) in a corrections centre or a law enforcement establishment;
- (c) the illicit drug or controlled chemical or equipment was supplied or offered to a vulnerable and at-risk person; or
- (d) the illicit drug or controlled chemical supplied caused death or seriously impaired the health of a person.

PART 12— REHABILITATION

Division 1—Preliminary

Interpretation

218. In this Part—

- “Director” means the director of the department responsible for children;
- “intensive outpatient treatment, rehabilitation and support services” means a structured non-residential treatment, rehabilitation and support service that consists of clinical, psychological and social support;
- “Mandatory reporter” means a person who performs professional duties with respect to a child and includes—
 - (a) health professional;
 - (b) legal practitioner;
 - (c) police officer;
 - (d) teacher;
 - (e) social worker;
 - (f) educational officer;
 - (g) psychologist;

- (h) family counsellor;
- (i) labour inspector; and
- (j) owner or employee of a daycare centre, child care service, hostel or children's home;

“permanent secretary” means the permanent secretary responsible for health;

“referring authority” means a person listed in section 225;

“Register” means the register of drug rehabilitation centres established under section 224;

“State centre” means a drug rehabilitation centre—

- (i) that the permanent secretary establishes under section 221(1); or
- (ii) that the permanent secretary classifies as a State centre under section 221(2)(b); and

“licensed centre” means a drug rehabilitation centre that—

- (a) is licensed under section 223; and
- (b) is not a State centre.

Division 2—Drug Rehabilitation Centres

Categories of drug rehabilitation centres

219.—(1) In this Act, a drug rehabilitation centre may be categorised as a—

- (a) tier 1 centre, which must provide community-based prevention and early intervention services;
- (b) tier 2 centre, which must provide outpatient treatment, rehabilitation and support services, including counselling;
- (c) tier 3 centre, which must provide intensive outpatient treatment, rehabilitation and support services;
- (d) tier 4 centre, which must be a live-in service that provides clinical and psychological treatment and support;
- (e) tier 5 centre, which must be a medically managed inpatient and specialist service that provides—
 - (i) psychological and psychiatric treatment and support; and
 - (ii) medical detoxification and management of severe withdrawal and drug related health conditions; or
- (f) tier 6 centre, which must be a secure facility capable of detaining and monitoring high risk offenders in accordance with a court order.

(2) A drug rehabilitation centre may, in addition to the mandatory services within its tiered category, also provide any of the services of a lower tiered category.

Qualifying criteria and standards

220.—(1) The Minister responsible for this Act, in consultation with the minister responsible for health, may make regulations to prescribe, for each tier of a drug rehabilitation centre,—

- (a) the qualifying criteria for the establishment of a drug rehabilitation centre;
- (b) the qualifications required for any person employed, engaged or used by the centre to provide treatment, rehabilitation or support services; and
- (c) the operating standards.

(2) A drug rehabilitation centre must comply with the regulations.

State centres

221.—(1) The permanent secretary must, in addition to the centre described in subsection (2), establish a State centre.

(2) The permanent secretary may—

- (a) approve a mental health hospital, facility or unit declared under section 8 of the Mental Health Act 2010 as a tier 5 drug rehabilitation centre if the hospital, facility or unit complies with section 220; and
- (b) if the permanent secretary deems appropriate, classify the hospital, facility or unit as a State centre.

Funding for State centre

222.—(1) The Government must ensure that adequate funding is provided for the establishment and operation of a State centre established by the permanent secretary under section 221(1).

(2) The funding—

- (a) must be provided as a dedicated budget allocation in each financial year as a part of the budget of the ministry responsible for health; and
- (b) must not be decreased except as a part of overall austerity measures applying across the civil service.

(3) A State centre person must not charge a person a fee for treatment, rehabilitation or support at, or use of the services of, the State centre.

Licensed drug rehabilitation centres

223.—(1) A person, not being the permanent secretary, may also provide drug rehabilitation services—

- (a) through or at a licensed centre under this Act; or
- (b) outside the regulatory framework under this Part, in which case the person —
 - (i) is not required to be licensed under this Act; and
 - (ii) will not be considered a drug rehabilitation centre for the purposes of this Act.

(2) A person that intends to establish a licensed centre under subsection (1)(a) must apply to the permanent secretary for a licence—

- (a) in the prescribed manner and form; and
- (b) with the prescribed fee.

(3) The permanent secretary may issue the person a licence, which must be in the relevant tiered category as provided in section 219.

(4) The permanent secretary may impose conditions, not inconsistent with this Act and the regulations, on the licence and the licensee must comply with the conditions.

(5) The Minister responsible for this Act, in consultation with the minister responsible for health, may make regulations to prescribe, for a licence, the—

- (a) validity period;
- (b) terms and conditions;
- (c) renewal procedure; and
- (d) grounds and procedures for suspension and revocation.

Register of drug rehabilitation centres

224.—(1) This section establishes the Register of drug rehabilitation centres, that must be kept and maintained by the permanent secretary.

(2) The Register must contain, in relation to a drug rehabilitation centre, the following information—

- (a) its name, location and contact address;
- (b) whether it is a State centre or licensed centre;
- (c) the tiered category of service under section 219 provided by the drug rehabilitation centre;
- (d) the qualifications of any person providing treatment, rehabilitation or support services in the centre; and
- (e) any other information that the permanent secretary considers relevant.

(3) The Register must be—

- (a) kept at an office in Suva of the ministry responsible for health; and
- (b) made available for inspection by the public at reasonable hours without charge.

(4) The permanent secretary must publish a list of drug rehabilitation centres listed on the Register in the Gazette on or before 31 July of each year.

*Division 3—Rehabilitation referrals and orders**Subdivision 1—Framework outside the criminal justice system**Referring authority*

225. For the purposes of this Part, a referring authority is a—

- (a) Mandatory reporter;
- (b) a member of Bureau staff; or
- (c) an officer of an authorised agency.

Self-reporting

226.—(1) A person may, of his or her own volition, report to a referring authority that he or she—

- (a) has become or is becoming dependent on an illicit drug; and
 - (b) intends to receive treatment, rehabilitation or support through a drug rehabilitation centre.
- (2) The referring authority must refer the self-report to the Bureau.

Effect of self-report

227.—(1) This section does not apply if—

- (a) a Bureau officer or any other law enforcement officer has reasonable grounds to believe that a person has committed an offence under Part 9; and
- (b) the reasonable grounds for belief are not on the basis of a self-report.

(2) If a person makes a self-report, the Director General must, as soon as reasonably practicable, ensure that—

- (a) the person is assessed in accordance with subsection (3); and
- (b) a recommendation is made by the health professional under subsection (3)(a).

(3) The assessment must be undertaken—

- (a) by an appropriately qualified health professional;
- (b) in consultation with—
 - (i) if the person is an adult and is not a person with impaired capacity— the person; or
 - (ii) if the person is a child or a person with impaired capacity— the person and the person’s parent; and
- (c) in accordance with regulations.

(4) After the assessment—

- (a) the Director General may refer the person—
 - (i) as recommended under subsection (2)(b), to the appropriate tiered category drug rehabilitation centre for treatment, rehabilitation or support; or
 - (ii) if the person is a child and the recommendation is for non-residential treatment, rehabilitation or support, to an approved child justice agency or organisation registered under any written law relating to child justice or the care and protection of children; and
- (b) if the person is—
 - (i) an adult, the diverting authority must consider the person for diversion under Part 11, Division 1; or
 - (ii) a child, the child must be considered for diversion under any written law relating to child justice or juvenile justice.

Subdivision 2—The Criminal Justice System

Application of Subdivision

228. This Subdivision does not apply to a child in conflict with the law under any written law relating to child justice or the administration of juvenile justice.

Pre and post charge

229.—(1) This section only applies if—

- (a) a Bureau officer or any other law enforcement officer has reasonable grounds to believe that a person has committed an offence under Part 9; and
- (b) the reasonable grounds for belief are not on the basis of a self-report under Subdivision 1.

(2) A person to whom this section applies may be considered for diversion by the diverting authority under Part 11, Division 1 before or after a criminal charge is laid.

Post conviction deferment of sentences

230.—(1) This section applies if a person has been convicted for an offence under Part 9 and the sentencing magistrate has determined that the sentence is to be deferred under section 48(2) of the Sentencing and Penalties Act 2009.

(2) Before deferring the sentence, the magistrate must direct the Director General to—

- (a) ensure that the person is assessed in accordance with subsection (3); and
- (b) in accordance with the assessment, provide a recommendation for referral to a drug rehabilitation centre for the appropriate treatment, rehabilitation or support.

(3) The assessment must be undertaken—

- (a) by an appropriately qualified health professional;
- (b) in consultation with the convicted person; and
- (c) in accordance with regulations.

(4) The magistrate may then, in accordance with the recommendation and section 48 of the Sentencing and Penalties Act 2009—

- (a) adjourn the proceeding for up to 6 months; and
- (b) subject to subsection (5), impose the condition that the convicted person undertake the appropriate support or treatment at the drug rehabilitation centre during the period of adjournment.

(5) The condition under subsection (4)(b) may only be imposed for the purposes of supporting recovery and rehabilitation and must not be used as a punitive compliance measure.

Community work

231.—(1) This section applies if a court has convicted a person for an offence under Part 9 and the court, with the consent of the offender, has determined that—

- (a) the person is to be sentenced under section 3(1) of the Community Work Act 1994; and
- (b) treatment, rehabilitation or support is appropriate.

(2) Before sentencing, the court may direct the Director General to—

- (a) ensure that the person is assessed in accordance with subsection (3); and
- (b) in accordance with the assessment, provide a recommendation for referral to a drug rehabilitation centre for the appropriate treatment, rehabilitation or support.

(3) The assessment must be undertaken—

- (a) by an appropriately qualified health professional;
- (b) in consultation with the convicted person; and
- (c) in accordance with regulations.

(4) The court may then, in accordance with the recommendation and if the convicted person consents—

- (a) refer the convicted person to the appropriate support or treatment at the drug rehabilitation centre; and
- (b) sentence the person to community work under and in accordance with the Community Work Act 1994.

Community-Based Corrections

232.—(1) This section applies if a court has convicted a person for an offence under Part 9 and the court, taking into account the severity and circumstances of the offence, has determined that—

- (a) an order is to be made under section 10(1) of the Community-Based Corrections Act 2018; and
- (b) treatment, rehabilitation or support is appropriate.

(2) Before making the order, the court must direct the Director General to—

- (a) ensure that the person is assessed in accordance with subsection (3); and
- (b) in accordance with the assessment, provide a recommendation for referral to a drug rehabilitation centre for the appropriate treatment, rehabilitation or support.

(3) The assessment must be undertaken—

- (a) by an appropriately qualified health professional;
- (b) in consultation with the convicted person; and
- (c) in accordance with regulations.

(4) The court may then, in accordance with the recommendation, order that the person—

- (a) subject to subsection (5), receive the appropriate treatment, rehabilitation or support through the drug rehabilitation centre; and
- (b) undertake community-based corrections or intensive community-based corrections under and in accordance with the Community-Based Corrections Act 2018.

(5) The order under subsection (4)(a) may only be made for the purposes of supporting recovery and rehabilitation and must not be used as a punitive compliance measure.

(6) An order made under this section is deemed to be a part of an order under section 10(1) of the Community-Based Corrections Act 2018.

PART 13—BUREAU OFFENCES*Unauthorised possession, use and manufacture of Bureau property*

233.—(1) A person commits an offence who, without an authorisation under section 234 or a reasonable excuse—

- (a) has in his or her possession Bureau property;
- (b) uses, exchanges or makes available for the use of any other person Bureau property;
- (c) designs, manufactures, produces, reproduces or creates Bureau property;
- (d) sells, offers for sale or distributes Bureau property;

- (e) buys, borrows or takes Bureau property; or
 - (f) imports or exports Bureau property.
- (2) A person who commits an offence under this section is liable on conviction to—
- (a) in the case of an individual, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$100,000.

Authorisations for section 233

- 234.**—(1) The Director General may authorise in writing a person to—
- (a) have in his or her possession Bureau property;
 - (b) use, exchange or make available for the use of any other person Bureau property;
 - (c) design, manufacture, produce, reproduce or create Bureau property;
 - (d) sell, offer for sale or distribute Bureau property;
 - (e) buy, borrow or take Bureau property; or
 - (f) import or export Bureau property.

(2) The Director General may, for a prescribed purpose, authorise in writing a person to design, manufacture, produce, reproduce, create, sell, offer for sale or distribute articles of clothing or accessories bearing the Bureau logo, insignia or emblem.

(3) A person authorised by the Director General under subsection (2) must maintain proper records in the approved form of all persons to whom the article or accessory is sold, given, or distributed.

(4) The Director General may revoke an authorisation given under subsection (2) if the person to whom it was given does not comply with subsection (3).

Unauthorised use of terms

235.—(1) A person commits an offence who, without reasonable excuse, carries on an activity and uses the words “Narcotics Bureau” in a manner likely to lead a person to believe that the activity is endorsed or authorised by the Bureau or any part of the Bureau.

- (2) A person who commits an offence under this section is liable on conviction to—
- (a) in the case of an individual, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both; or
 - (b) in the case of a body corporate, a fine not exceeding \$100,000.

Offence of misrepresenting vehicle etc as Bureau vehicle

236.—(1) A person commits an offence who, without reasonable excuse, represents any vehicle, craft, or other conveyance of any kind or description—

- (a) as being in the service of the Bureau; and

- (b) in circumstances likely to lead a person to believe the vehicle, craft, or conveyance is in the service of the Bureau.

(2) Except in the circumstances under subsection (3), a person who commits an offence under this section is liable on conviction to—

- (a) in the case of an individual, a fine not exceeding \$10,000 or imprisonment for a term not exceeding 5 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$100,000.

(3) If a person commits an offence under subsection (1) and the vehicle, craft, or other conveyance represented as being in the service of the Bureau is used in relation to the commission of an offence, the person is liable on conviction to—

- (a) in the case of an individual, a fine not exceeding \$50,000 or imprisonment for a term not exceeding 10 years or both; or
- (b) in the case of a body corporate, a fine not exceeding \$500,000.

Causing disaffection

237.—(1) A person who causes or attempts to cause or does an act calculated to cause disaffection amongst Bureau staff commits an offence and is liable on conviction to a fine not exceeding \$1,000 or imprisonment for a term not exceeding one month or both.

(2) A person who induces or attempts to induce or does any act calculated to induce a member of Bureau staff to withhold his or her services or to commit any breach of discipline commits an offence and is liable on conviction to a fine not exceeding \$1,000 or imprisonment for a term not exceeding one month or both.

Disorderly conduct in Bureau premises

238. A person who, in a Bureau station, Bureau office or cell, Bureau vehicle or vessel or in any place in which the Bureau operate, conducts himself or herself with riotous, indecent, disorderly or insulting behaviour commits an offence and is liable on conviction to imprisonment for a term not exceeding 3 months.

False declaration on oath

239. A person who wilfully makes a false statement in reply to any question put to him or her under section 33(2) and 34(3) commits an offence and is liable on conviction to a fine not exceeding \$500 or imprisonment for a term not exceeding 6 months or both.

Breach of oath

240. A person who makes an oath or affirmation under section 35 and breaches the oath or affirmation commits an offence and is liable on conviction to—

- (a) imprisonment for a term not exceeding 5 years; or
- (b) if such breach is for the purpose of committing, assisting any other person to commit or allowing the commission of an offence, imprisonment for a term not exceeding 10 years.

Failing to assist Bureau

241.—(1) A Bureau officer in the lawful execution of his or her duty may, if it is reasonably necessary in the circumstances, request a person over the age of eighteen years to assist the officer to—

- (a) arrest or secure a person who the officer is lawfully authorised to arrest or secure;
- (b) convey a person in the Bureau officer's charge to a Bureau station or other place;
- (c) prevent the escape of a person whom the officer is authorised to arrest;
- (d) re-take a person who has escaped from lawful custody;
- (e) prevent or suppress a breach of the peace; or
- (f) prevent any damage attempted to be committed to public property.

(2) A person who, without reasonable excuse, fails to aid or assist the Bureau officer when requested commits an offence and is liable to a fine not exceeding \$5,000.

PART 14—GENERAL ADMINISTRATION OF THE BUREAU*Division 1—General**Identity documents*

242.—(1) The Director General must issue a member of Bureau staff with an identity document or any other form of identity of the approved type and in the approved form.

(2) The identity document or other form of identity is evidence of the appointment of the member of Bureau staff under this Act.

(3) The identity document must state the following—

- (a) the name of the member of Bureau staff; and
- (b) if the member is a Bureau officer, that he or she is an officer and his or her rank.

(4) A Bureau officer must carry the identity document with him or her when—

- (a) performing a function under this Act; or
- (b) exercising a power under this Act,

and, when doing so, must present the identity document to any person upon request.

(5) A person visiting Bureau premises may be required to provide, or submit to the taking of, identification.

Protection of Bureau staff acting under court processes

243.—(1) A member of Bureau staff acting under a court process is not responsible for any irregularity, or any lack of jurisdiction, in its issuing.

- (2) This section applies to an action if—
- (a) it is an action against a member of Bureau staff in respect of acts done in obedience to a court process;
 - (b) the process is produced;
 - (c) it is proved that—
 - (i) the process was issued out of a court; or
 - (ii) the signature on the process is in the handwriting of the person whose name appears on it, and that the person is, is reputed to be or acts as a judicial officer; and
 - (d) it is proved that the acts were done in accordance with the process.
- (3) If subsection (2) applies to an action,—
- (a) the court trying it must enter a verdict for the member of Bureau staff concerned; and
 - (b) the member of Bureau staff may recover his or her costs.

Division 2—Bureau Property

Bureau property

244.—(1) The Director General may prescribe—

- (a) Bureau property which may be issued to Bureau staff and Bureau associates for a lawful purpose; and
 - (b) the proper use, handling, storage and maintenance of the property.
- (2) Bureau property includes protective equipment, body cameras and aerial drones.

Use and custody of Bureau property

245.—(1) A member of Bureau staff issued with Bureau property must maintain the property and must not lend, or give the property to any other person, or part with it in any way without the authority of the Director General.

(2) All Bureau staff issued with Bureau property may only use the property for the lawful purpose it was issued.

(3) All Bureau staff must as soon as practicable notify their supervisor of any theft, damage, destruction, or loss of Bureau property issued to them.

(4) A member of Bureau staff issued with Bureau property must return the property at the end of his or her period of service.

(5) A member of Bureau staff who contravenes—

- (a) subsection (2), commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 5 years or both; and

- (b) subsections (1) and (3), must be disciplined under this Act.
- (6) A member of Bureau staff who contravenes subsection (4)—
 - (a) commits an offence and is liable on conviction to a fine not exceeding \$5,000 or imprisonment for a term not exceeding 5 years or both; and
 - (b) is liable to pay to the Bureau the value of the Bureau property not returned.
- (7) The value of any Bureau property not returned in accordance with subsection (4) is to be—
 - (a) ascertained by the court, upon the value of the property provided by the Director General, by which the person was convicted; and
 - (b) is recoverable as a fine.
- (8) At the discretion of the Director General, any member of Bureau staff may, instead of returning any of the Bureau properties, make payment in such amount as may be determined by the Director General.

Loss and damage to Bureau property

246.—(1) If a member of Bureau staff—

- (a) pawns;
- (b) sells;
- (c) loses by neglect;
- (d) makes away with; or
- (e) wilfully or by neglect damages,

Bureau property or any government property supplied to him or her, the Director General may require the member of Bureau staff to pay to the Bureau the value of the loss or damage.

(2) The payment may be recovered by deductions from the member of Bureau staff's fortnightly salary.

(3) This section applies in addition to and despite any other penalty, punishment or consequence.

Division 3—Finance

Counter Narcotics Bureau Welfare Fund

247.—(1) The Counter Narcotics Bureau Welfare Fund is established.

(2) The fund consists of—

- (a) donations and voluntary contributions made to the fund;
- (b) sums which may, from time to time, be allocated by Parliament; and
- (c) sums that may accrue by way of dividend or interest from the investment of the fund or any part of it.

(3) The fund must be controlled by the Director General and applied to the following purposes—

- (a) procurement for Bureau staff gratuity, or other allowances, comforts, conveniences or other benefits as the Director General thinks fit;
- (b) granting loans to Bureau staff as the Director General thinks fit; and
- (c) any other matter as may, in the Director General's opinion, be necessary to assist Bureau staff or maintain the fund.

Audit

248. The Director General must cause the accounts and financial statements of the Bureau to be audited by an auditor authorised by the Auditor-General, in accordance with auditing standards.

Annual report

249.—(1) The Director General must prepare and submit an annual report to the Minister. (a)

(2) Subject to subsection (3), the report must contain, at minimum—

- (a) the use of the allocated budget of the Bureau;
- (b) the performance of the Bureau during the relevant year;
- (c) the audited accounts and financial statements under section 248;
- (d) a report on the policies, programmes and services developed, implemented or promoted by the Director General as required under Part 8;
- (e) a report on the establishment and operation of rehabilitation centres under Part 12; and
- (f) data pertaining to complaints made to and arrests made by the Bureau, criminal cases investigated, charged and prosecuted and disciplinary action taken by the Bureau.

(3) Sections 49 and 50 of the Financial Management Act 2004 apply.

(4) The Director General must ensure that the—

- (a) annual report is made available to the public on the Bureau website; and
- (b) data in subsection (2)(f) is made readily available on the Bureau website and updated at least quarterly.

PART 15—MISCELLANEOUS

Amendment of schedules 1 to 6

250.—(1) The Minister may by notice in the Gazette amend schedules 1 to 6 to this Act.

(2) Before amending a schedule, the Minister must consult the—

- (a) National Security and Defence Council;
- (b) Substance Abuse Advisory Council;

- (c) Director General;
 - (d) Commissioner of Police; and
 - (e) minister responsible for public health.
- (3) When exercising the power to amend a schedule, the Minister must consider—
- (a) data on trends in the international and regional illicit drugs and controlled chemicals markets; and
 - (b) changes to the Annex to the Vienna Convention.
- (4) A notice amending a schedule takes effect on the date specified in the notice.
- (5) Notwithstanding subsection (4), the notice may not have retrospective effect.

Act to prevail

251. Except as expressly provided in this Act—

- (a) this Act has effect despite any provision of any other written law; and
- (b) if there is any inconsistency between this Act and any other written law, this Act prevails.

Regulations

252.—(1) The Minister may make regulations prescribing matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for carrying out or giving effect to this Act and generally for achieving the purposes of this Act.

- (2) Without limiting subsection (1), the Minister may make regulations to prescribe—
- (a) the form for and manner of an application which may be made under this Act;
 - (b) the form of a warrant issued under this Act;
 - (c) an urgent search offence under Part 10, Division 4, Subdivision 3;
 - (d) the penalty threshold for an offence to be a crime scene threshold offence under Part 10, Division 8;
 - (e) a covert operation offence under Part 10, Division 6;
 - (f) a stop departure offence under Part 10, Division 7;
 - (g) the maximum post-search application period for a post-search approval order as provided under section 118(1);
 - (h) the general rules for carrying out forensic procedures including the manner in which a forensic sample may be taken and handled;
 - (i) the prohibition on the use, or dissemination of information in respect of any personal detail or forensic sample or photographs obtained under this Act;

- (j) the period for which identifying particulars or forensic samples obtained under this Act may be kept;
- (k) the procedures and period for which records, in any form, of forensic procedures, identifying particulars or forensic samples obtained under this Act may be kept;
- (l) the authority and guidelines for and method of disposal of identifying particulars or forensic samples obtained under this Act;
- (m) on the recommendation of the Director General, the code of conduct for Bureau staff;
- (n) the range and types of penalties to be imposed and measures to be taken in relation to an offence against discipline as provided under section 62(3);
- (o) the period in which a person may, under section 63(1), appeal a decision of the ad hoc internal tribunal to the Director General;
- (p) the authority, functions or responsibilities of the Tribunal in addition to those prescribed under section 64(6);
- (q) the purpose for which the Director General may make an authorisation under Part 10, Division 6, Subdivision 2;
- (r) the qualifying criteria, qualifications and operating standards for each tiered category of drug rehabilitation centres under section 220;
- (s) the rules and procedures for referral assessments under section 227(3)(c);
- (t) the rules for assessing convicted persons under section 230, 231 and 232; and
- (u) requirements for the keeping of records.

(3) The regulations made under this Act must not provide for matters which are to be prescribed under section 253.

Standing Orders

253.—(1) The Director General may make Standing Orders he or she considers appropriate for the governance and administration of Bureau staff and to prevent negligence and promote efficiency and discipline of Bureau staff in the discharge of their duties and functions.

(2) Without limiting subsection (1), the Director General may make Standing Orders to prescribe—

- (a) the ranks and hierarchies within those ranks for Bureau officers;
- (b) the rank of a senior officer for the purposes listed in section 4(2) and (3);
- (c) the course, method, form and regularity of instruction for training of prospective or actual Bureau staff under section 45;

- (d) the salaries, benefits and allowances of Bureau staff;
- (e) performance-based increments for Bureau staff;
- (f) the clothing or uniform, equipment and property of Bureau staff;
- (g) the distribution, deployment and inspection of Bureau staff;
- (h) the description and issue of arms, ammunition, equipment, clothing and other appointments to be supplied to Bureau officers;
- (i) the use of arms and the training and certification requirements for their use;
- (j) the rules for the proper handling of arms and ammunition;
- (k) reporting procedures for the use of arms and ammunition;
- (l) the prescribed profession for a Bureau associate as provided under section 39;
- (m) the rules of procedure for the trial of offences against discipline;
- (n) a different compulsory retirement age for a member of Bureau staff as provided under section 68;
- (o) the health standard for Bureau officers as required under section 70(1)(a);
- (p) the control, administration and application of the Counter Narcotics Bureau Welfare Fund.

(3) Standing Orders made under this section in relation to the use of arms must be consistent with the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Repeal

254.—(1) The Illicit Drugs Control Act 2004 and Dangerous Drugs Act (Cap. 114) are repealed.

Savings and transitional

255.—(1) Nothing in this Act affects the validity of any court proceedings for an offence under the repealed Acts which has been commenced or conducted prior to the commencement of this Act.

(2) When imposing sentences for any offence under the repealed Acts which was committed prior to the commencement of this Act, the court—

- (a) may apply the penalties prescribed for that offence by the applicable repealed Act; or
- (b) where the offence is substantially similar to an offence under this Act, section 14(2)(n) of the Constitution applies.

(3) Except as provided in subsection (2)(b), the repealed Acts continue to apply —

- (a) to any offence committed against the repealed Acts prior to the commencement of this Act; and

(b) to the extent that each of the repealed Acts respectively apply, and for the purposes of the proceedings relating to such offences, the repealed Acts are deemed to be still in force.

(4) At the commencement of this Act and for a period of 6 months (the transitional period)—

- (a) the permanent secretary responsible for policing serves in the role of the Director General for the purposes of operationalising the Bureau and is deemed as the Director General for that purpose;
- (b) a permanent secretary may second a civil servant to the Bureau to serve as a member of Bureau staff and the civil servant is deemed to be either a Bureau officer or Bureau employee, as specified in the secondment;
- (c) a head of an authorised agency may second a person from the agency to the Bureau to serve as an officer of an authorised agency in accordance with section 27.

(5) The Minister may extend the transitional period under subsection (4).

(6) After the transitional period, a Director General must be appointed for the purposes of this Act.

Consequential amendments

256.—(1) The laws listed in Schedule 8 are amended as set out in that schedule.

(2) All written laws and all state documents of any nature whatsoever are amended by deleting “Illicit Drugs Control Act 2004” and “Dangerous Drugs Act (Cap. 114)” wherever it appears and substituting “Counter Narcotics Act 2026” unless the context otherwise requires.

SCHEDULE 1 — CLASS A ILLICIT DRUGS
(Section 6(2)(a))

1. The following substances—

Acetorphine (03-acetyl-7,8-dihydro-7 α -[1 (*R*)-hydroxy-1-methylbutyl]-06-methyl-6,14-endoethenomorphine)

Acetylfentanyl

Acryloylfentanyl

5F-ADB Methyl (2*S*)-2-([1-(5-fluoropentyl)-1*H*-indazole-3-carbonyl]amino)-3,3-dimethylbutanoate

AMB-FUBINACA Methyl (2*S*)-2-({1-[(4-fluorophenyl)methyl]-1*H*-indazole-3-carbonyl}amino)-3-methylbutanoate

Amides and carbamates of methamphetamine

Bufotenine (3-(2-dimethylaminoethyl)-5-hydroxyindole)

Butyrfentanyl

Cantharidin (hexahydro-3a,7a-dimethyl-4,7-epoxyisobenzofuran-1,3-dione)

Carfentanil

Cocaine (methyl ester of benzoylecgonine), except when contained in a Class C illicit drug

Cyclopropylfentanyl

Desomorphine (dihydrodeoxymorphine)

DET (*N,N*-diethyltryptamine)

DMA (2-amino-1-(2,5-dimethoxyphenyl)propane)

DMHP (3-(1,2-dimethylheptyl)-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo [*b,d*] pyran)

DMT (*N,N*-dimethyltryptamine)

DOB (2-amino-1-(4-bromo-2,5-dimethoxyphenyl)propane) (also known as bromo-DMA)

Etorphine (7,8-dihydro-7 α -[1 (*R*)-hydroxy-1-methylbutyl]-06-methyl-6,14-endoethenomorphine)

***p*-fluoro-butyrfentanyl**

4-Fluoroisobutyrfentanyl (4-FIBF)

Furanylfentanyl

Heroin (diacetylmorphine)

Ketobemidone (4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine)

Lysergic acid (essential precursor for manufacture of LSD)

Lysergide (*N,N*-diethyllysergamide or lysergic acid diethylamide)

MDA (2-amino-1-(3,4-methylenedioxyphenyl)propane)

Mescaline (3,4,5-trimethoxyphenethylamine)

Methamphetamine (2-methylamino-1-phenylpropane)

Methoxyacetylfentanyl

***p*-methoxy-butyrfentanyl**

5-methoxydimethyltryptamine (5-methoxy-*N,N*-dimethyltryptamine)

2-methoxy-4,5-methylenedioxyamphetamine (2-amino-1-(2-methoxy-4,5-methylenedioxyphenyl) propane) (also known as MDMA or MDMA-2)

3-methoxy-4,5-methylenedioxyamphetamine (2-amino-1-(3-methoxy-4,5-methylenedioxyphenyl) propane) (also known as MDMA)

MPTP (1-methyl-4-phenyl-1,2,5,6-tetrahydropyridine)

Ocfentanil

Orthofluorofentanyl

Paraheyl (3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo[*b,d*]pyran)

PCE (N-ethyl-1-phenylcyclohexylamine)

PCPY (1-(1-phenylcyclohexyl)pyrrolidine)

PEPTP (1-(2-phenylethyl)-4-phenyl-1,2,5,6-tetrahydropyridine)

Phencyclidine (1-(1-phenylcyclohexyl) piperidine)

PHP (1-(1-phenylcyclohexyl)pyrrolidine)

Piperidyl benzilates (*N*-methylpiperidyl benzilates and *N*-ethylpiperidyl benzilates but excluding the methobromide salts)

PMA (2-amino-1-(4-methoxyphenyl)propane)

Psilocine (3-(2-dimethylaminoethyl)-4-hydroxyindole)

Psilotsin (3-(2-dimethylaminoethyl)-4-hydroxyindole)

Psilocybine (3-(2-dimethylaminoethyl) indol-4-yl dihydrogen phosphate)

α -Pyrrolidinovalerophenone (α -PVP)

STP,DOM (2-amino-1-(2,5-dimethoxy-4-methyl) phenylpropane)

TCP (1-[1-(2-thienyl)cyclohexyl]piperidine)

Tetrahydrofuranylfentanyl (THF-F)

TMA (2-amino-1-(3,4,5-trimethoxyphenyl)propane)

U-47700

U-48800

U-49900.

2. The isomers of the substances mentioned in this schedule whenever the existence of such isomers is possible within the specific chemical designation.
3. The esters and ethers of the substances mentioned in this schedule and the esters and ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this schedule and the salts of the isomers, esters, and ethers mentioned in paragraph 2 or paragraph 3.
5. Substances containing any proportion of a substance mentioned in paragraph 1, paragraph 2, paragraph 3, or paragraph 4.

SCHEDULE 2 — CLASS B ILLICIT DRUGS
(Section 6(2)(b))

Part 1

1. The following substances —

AB-CHMINACA

AB-FUBINACA

AB-PINACA

ADB-CHMINACA

ADB-FUBINACA

5F-AKB-48

AM-2201

Amphetamine (2-amino-1-phenylpropane)

Cannabis preparations: that is, any preparation containing any tetrahydrocannabinols, including cannabis resin (commonly known as hashish) and cannabis oil (commonly known as hash oil), produced by subjecting cannabis plant material to any kind of processing (but does not include a CBD product)

4-chloromethcathinone

CUMYL-4CN-BINACA

Dimethylpentylone

N-ethyl pentylone

Ethylone

Eutylone

Fentanyl

JWH-018

MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl) propane)

MDMB-CHMICA

5F-MDMB-PICA

Methcathinone

Morphine

MT-45

25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)

25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)

25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl) ethanamine)

NM-2201

Opium

Para-methoxymethylamphetamine (PMMA)

5F-PB-22

Tetrahydrocannabinols

UR-144

XLR-11

2. The isomers of the substances mentioned in paragraph 1 whenever the existence of such isomers is possible within the specific chemical designation, except for isomers of tetrahydrocannabinols if the isomers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.
3. The esters and ethers of the substances mentioned in paragraph 1 and the esters and ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible, except for esters and ethers of tetrahydrocannabinols or of isomers of tetrahydrocannabinols if the esters and ethers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.
4. The salts of the substances mentioned in paragraph 1 and the salts of the isomers, esters, and ethers mentioned in paragraph 2 or paragraph 3, except for the salts of tetrahydrocannabinols or the salts of the substances excluded from paragraphs 2 and 3 if the salts naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.
5. Substances containing any proportion of a substance mentioned in paragraph 1, paragraph 2, paragraph 3, or paragraph 4.
6. The substance gamma-hydroxybutyrate (**GHB**) (commonly known as fantasy) and—
 - (a) the esters, ethers, and amides of GHB; and
 - (b) all substances from which GHB can be derived, including (without limitation)—
 - (i) 1,4-butanediol;
 - (ii) gamma-aminobutyric acid;
 - (iii) gamma-butyrolactone; and
 - (iv) gamma-hydroxybutyraldehyde;
 - (c) the salts of GHB (including sodium oxybate) and the salts of any substance referred to in subparagraphs (a) or (b); and
 - (d) any substance, preparation, or mixture containing any proportion of GHB or any substance referred to in any of subparagraphs (a) to (c).

Part 2

1. The following substances —

Benzphetamine (2-benzylmethylamino-1-phenylpropane)

Cathinone (2-amino-1-phenylpropan-1-one)

DOET (2-amino-1-(2,5-dimethoxy-4-ethylphenyl) propane)

Ephedrine

N-ethyl MDA (2-ethylamino-1-(3,4-methylenedioxyphenyl) propane)

N-ethylamphetamine (2-ethylamino-1-phenylpropane)

Fencamfamine (N-ethyl-3-phenylbicyclo[2.2.1]heptan-2-amine)

Fenethyllyne (3,7-dihydro-1,3-dimethyl-7-[2-[(1-methyl-2-phenylethyl)-amino]ethyl]-1H-purine-2,6-dione)

Fenproporex (2-(2-cyanoethylamino)-1-phenylpropane)

N-hydroxy MDA (2-hydroxyamino-1-(3,4-methylenedioxyphenyl) propane)

Lisdexamfetamine

Mefenorex (2-(3-chloropropylamino)-1-phenylpropane)

Mephedrone

Methaqualone (2-methyl-3-(2-methylphenyl)-4(3H)-quinazolinone)

4-methylaminorex (*cis*-2-amino-4-methyl-5-phenyl-2-oxazoline)

Methylone

Methylphenidate (α -phenyl-2-piperidineacetic acid methyl ester)

4-methylthioamphetamine

Norpseudoephedrine (*threo*-2-amino-1-hydroxy-1-phenylpropane), including cathine

Propylhexedrine (1-cyclohexyl-2-methylaminopropane)

Pyrovalerone (1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone).

2. The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation, except pseudoephedrine.
3. The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in paragraphs 2 or 3.
5. Substances containing any proportion of a substance mentioned in paragraph 1, paragraph 2, paragraph 3, or paragraph 4.

Part 3

The following substances—

Acetyl- α -methylfentanyl (*N*-[1-(α -methylphenethyl)-4-piperidyl] acetanilide)

Acetylmethadol (3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Alfentanil (*N*-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1*H*-(tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidiny]-*N*-phenylpropanamide)

Allylprodine (3-allyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Alphacetylmethadol (α -3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Alphameprodine (α -3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Alphamethadol (α -6-dimethylamino-4,4-diphenyl-3-heptanol)

Alphaprodine (α -1,3-dimethyl-4-phenyl-4-propionoxypiperidine)

Anileridine (1-*para*-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Benzethidine (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Benzylmorphine (3-benzylmorphine)

Betacetylmethadol (β -3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Betameprodine (β -3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Betamethadol (β -6-dimethylamino-4,4-diphenyl-3-heptanol)

Betaprodine (β -1,3-dimethyl-4-phenyl-4-propionoxypiperidine)

Bezitramide (1-(3-cyano-3,3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazoliny)piperidine)

Clonitazene (2-*para*-chlorbenzyl-1-diethylaminoethyl-5-nitrobenzimidazole)

Codoxime (dihydrocodeinone-6-carboxymethyloxime)

Concentrate of poppy straw—that is, the material arising when parts of any plant of the species *Papaver somniferum* have entered a process for the concentration of the alkaloids

Dextromoramide ((+)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl)butyl]morpholine)

Diampromide (*N*-[2-(methylphenethylamino) propyl] propionanilide)

Diethylthiambutene (3-diethylamino-1,1-di-(2--thienyl)-1-butene)

Difenoxin (1-(3-cyano-3,3-diphenylpropyl)-4-phenylisonipectic acid)

Dihydromorphine

Dimenoxadol (2-dimethylaminoethyl 1-ethoxy-1,1-diphenylacetate)

Dimepheptanol (6-dimethylamino-4,4-diphenyl-3-heptanol)

Dimethylthiambutene (3-dimethylamino-1,1-di-(2--thienyl)-1-butene)

Dioxaphetyl butyrate (ethyl 4-morpholino-2,2-diphenylbutyrate)

Diphenoxylate (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Dipipanone (4,4-diphenyl-6-piperidine-3-heptanone)

Drotebanol (3,4-dimethoxy-17-methylmorphinan-6 β ,14-diol)

Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine, except when contained in a Class C illicit drug

Ethylmethylthiambutene (3-ethylmethylamino-1,1-di-(2--thienyl)-1-butene)

Etonitazene (1-diethylaminoethyl-2-*para*-ethoxybenzyl-5-nitrobenzimidazole)

Etixeridine (1-[2-(2-hydroxyethoxy)ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)

***p*-fluorofentanyl** (4--fluoro-*N*-1-(phenethyl-4-piperidyl) propionanilide)

Furethidine (1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Hydrocodone (dihydrocodeinone)

Hydromorphinol (14-hydroxydihydromorphine)

Hydromorphone (dihydromorphinone)

β -hydroxyfentanyl (*N*-[1-(β -hydroxyphenethyl)-4-piperidyl] propionanilide)

β -hydroxy-3-methylfentanyl (*N*-[1-(β -hydroxyphenethyl)-3-methyl-4-piperidyl] propionanilide)

Hydroxypethidine (4-*meta*-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)

Isomethadone (6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)

Levomethorphan ((-)-3-methoxy-*N*-methylmorphinan) but not including dextromethorphan ((+)-3-methoxy-*N*-methylmorphinan) and dextrorphan ((+)-3-hydroxy-*N*-methylmorphinan)

Levomoramide ((-)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)

Levophenacymorphan ((-)-3-hydroxy-*N*-phenacymorphinan)

Levorphanol ((-)-3-hydroxy-*N*-methylmorphinan)

Mecloqualone (3-(2-chlorophenyl)-2-methyl-4-(3H)-quinazolinone)

Metazocine (2--hydroxy-2,5,9-trimethyl-6,7-benzomorphan)

Methadone (6-dimethylamino-4,4-diphenyl-3-heptanone)

Methadone-intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)

1-methyl-4-phenyl-4-piperidinol

Methyldesorphine (6-methyl- Δ^6 -deoxymorphine)

Methyldihydromorphine (6-methyldihydromorphine)

α -methylfentanyl (*N*-[1-(α -methylphenethyl)-4-piperidyl]propionanilide)

3-methylfentanyl (*N*-[3-methyl-1-phenethyl-4-piperidyl] propionanilide)

α -methylthiofentanyl (*N*-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)

3-methylthiofentanyl (*N*-[3-methyl-1-[2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)

Metopon (5-methyldihydromorphinone)

Moramide-intermediate (2-methyl-3-morpholino-1,1-diphenylpropane carboxylic acid)

Morpheridine (1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Morphine methobromide and other pentavalent nitrogen morphine derivatives

Morphine-n-oxide

MPPP (1-methyl-4-phenyl-4-piperidinol propionate (ester))

Myrophine (myristylbenzylmorphine)

Nabilone (*trans*-3-(1-1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6,6-dimethyl-9H-dibenzo[b,d] pyran-9-one)

Nicomorphine (3,6-dinicotinylmorphine)
Noracymethadol (α -3-acetoxy-6-methylamino-4,4-diphenylheptane)
Norlevorphanol ((-)-3-hydroxymorphinan)
Normethadone (6-dimethylamino-4,4-diphenyl-3-hexanone)
Normorphine (demethylmorphine)
Norpipanone (4,4-diphenyl-6-piperidino-3-hexanone)
Oxycodone (14-hydroxydihydrocodeinone)
Oxymorphone (14-hydroxydihydromorphinone)
PEPAP (1-phenethyl-4-phenyl-4-piperidinol acetate (ester))
Pethidine (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)
Pethidine-intermediate-A (4-cyano-1-methyl-4-phenylpiperidine)
Pethidine-intermediate-B (4-phenylpiperidine-4-carboxylic acid ethyl ester)
Pethidine-intermediate-C (1-methyl-4-phenylpiperidine-4-carboxylic acid)
Phenadoxone (6-morpholino-4,4-diphenyl-3-heptanone)
Phenampromide (*N*-(1-methyl-2-piperidinoethyl) propionanilide)
Phenazocine (2--hydroxy-5,9-dimethyl-2-phenethyl-6,7-benzomorphan)
Phendimetrazine (3,4-dimethyl-2-phenylmorpholine)
1-phenethyl-4-phenyl-4-piperidinol
Phenmetrazine (3-methyl-2-phenylmorpholine)
Phenomorphan (3-hydroxy-*N*-phenethylmorphinan)
Phenoperidine (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)
Piminodine (4-phenyl-1-(3-phenylaminopropyl)piperidine-4-carboxylic acid ethyl ester)
Piritramide (1-(3-cyano-3,3-diphenylpropyl)-4-(1-piperidino) piperidine-4-carboxylic acid amide)
Proheptazine (1,3-dimethyl-4-phenyl-4-propionoxyazacycloheptane)
Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)
Racemethorphan (($\pm$)-3-methoxy-*N*-methylmorphinan)
Racemoramide (($\pm$) -4- [2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidiny)] butyl] morpholine)
Racemorphan (($\pm$)-3-hydroxy-*N*-methylmorphinan)
Remifentanil (1-(2-methoxycarbonyl-ethyl)-4-(phenylpropionyl-amino)-piperidine-4-carboxylic acid methyl ester)
Sufentanil (*N*-[4-(methoxymethyl)-1-[2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)
Tapentadol (3-[(1*R*,2*R*)-3-(dimethylamino)-1-ethyl-2-methylpropyl]phenol hydrochloride)
Thebacon (acetyldihydrocodeinone)
Thebaine
Thiofentanyl (*N*-[1-[2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)
Tilidine (($\pm$)-ethyl *trans*-2-(dimethylamino)-1-phenyl-3-cyclohexene-1-carboxylate)
Trimeperidine (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine).

2. The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.
3. The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in paragraph (2) whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in paragraphs 2 or 3.
5. Substances containing any proportion of a substance mentioned in paragraphs 1, 2, 3, or 4.

SCHEDULE 3 — CLASS C ILLICIT DRUGS
(Section 6(2)(c))

Part 1

1. **Cannabis fruit**

Cannabis plant (whether fresh, dried, or otherwise)—that is, any part of any plant of the genus *Cannabis* except a part from which all the resin has been extracted

Cannabis seed

Catha edulis plant

Coca leaf—that is, the leaf of any plant of any species of the genus *Erythroxylon*, except a leaf from which all ecgonine, cocaine, and any other ecgonine alkaloids have been removed.

2. The following substances—

BZP (1-benzylpiperazine or A2 benzylpiperazine or N-benzylpiperazine (1-benzyl-1,4-diazacyclohexane))

TFMPP (1-(3-trifluoromethylphenyl)piperazine or N-(3-trifluoromethylphenyl)piperazine)

pFPP (1-(4-fluorophenyl)piperazine)

MeOPP (1-(4-methoxyphenyl)piperazine)

mCNP (1-(meta-chlorophenyl)piperazine) or 1-(3-chlorophenyl)piperazine)

MBZP (1-methyl-4-benzylpiperazine)

Flubromazolam.

ADB-5Br-INACA

MDMB-5Br-INACA

MDMB-INACA

3. The isomers of the substances mentioned in paragraph 2 whenever the existence of such isomers is possible within the specific chemical designation.
4. The esters and ethers of the substances mentioned in paragraph 2 and the esters and the ethers of the isomers mentioned in paragraph 3 whenever the existence of such esters or ethers is possible.
5. The salts of the substances mentioned in clause 2 and the salts of the isomers, esters, and ethers mentioned in paragraph 3 or 4.
6. Substances containing any proportion of a substance mentioned in paragraph 2, 3, 4, or 5.

Part 2

Codeine (3-methylmorphine); its isomers, esters, and ethers, if any; its salts, and the salts of its isomers, esters, or ethers, if any; and any substance, preparation or mixture containing any proportion of the said substance or of any such isomer, ester, ether, or salt, other than a preparation or mixture named or described in Part 6

Dihydrocodeine; its isomers, esters, and ethers, if any; its salts, and the salts of its isomers, esters, or ethers, if any; and any substance, preparation, or mixture containing any proportion of the said substance or of any such isomer, ester, ether, or salt, other than a preparation or mixture named or described in Part 6

Propoxyphene (α -4 (N,N-dimethylamino)-1,2-diphenyl-3-methyl-2-propionoxybutane); its isomers, esters, and ethers, if any; its salts and the salts of its isomers, esters, or ethers, if any; except in preparations of propoxyphene described in paragraph 6 of Part 5

Tramadol; its isomers, esters, and ethers, if any; its salts, and the salts of its isomers, esters, or ethers, if any; and any substance, preparation, or mixture containing any proportion of the said substance or of any such isomer, ester, ether, or salt

Part 3

1. The following substances—

Acetyldihydrocodeine

Ethylmorphine (3-ethylmorphine)

Nicocodeine (6-nicotinylcodeine)

Nicodicodine (6-nicotinyldihydrocodeine or nicotinic acid ester of dihydrocodeine)

Norcodeine (N-demethylcodeine)

Pholcodine (morpholinylethylmorphine)

Propiram (N-(1-methyl-2-piperidinoethyl)-N-2-pyridylpropionamide)

Pseudoephedrine.

2. The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation, except ephedrine.
3. The esters and ethers of the substances mentioned in this Part and the esters and the ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in paragraph 2 or paragraph 3.
5. Substances containing any proportion of a substance mentioned in paragraph 1 to 4, other than a preparation or mixture named or described in Part 6.

Part 4

1. The following substances —

Allobarbital (5,5-diallylbarbituric acid)

Amobarbital (5-ethyl-5-(3-methylbutyl) barbituric acid)

Buprenorphine (17-cyclopropylmethyl-7,8-dihydro-7-(1-hydroxy-1,2,2-trimethylpropyl) -6-0-methyl-6, 14-ethano-17-normorphine)

Butalbital (5-allyl-5-isobutylbarbituric acid)

Butobarbitone (5-butyl-5-ethylbarbituric acid)

Cyclobarbital (5-(1-cyclohexen-1-yl)-5-ethylbarbituric acid)

Glutethimide (2-ethyl-2-phenylglutarimide)

Ketamine (2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone)

Nealbarbitone (5-allyl-5-neopentylbarbituric acid)

Pentobarbital (5-ethyl-5-(1-methylbutyl) barbituric acid)

Secbutabarbital (5-*sec*-butyl-5-ethylbarbituric acid)

Secobarbital (5-allyl-5-(1-methylbutyl) barbituric acid)

Vinylbital (5-(1-methylbutyl)-5-vinylbarbituric acid).

2. The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.
3. The esters and ethers of the substances mentioned in this Part and the esters and the ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in paragraph 2 or paragraph 3.
5. Substances containing any proportion of a substance mentioned in paragraph 1, paragraph 2, paragraph 3, or paragraph 4, except a mixture of a derivative of barbituric acid named or described in paragraph 1 compounded with 1 or more other pharmacologically active ingredients not named or described in paragraph 1.

Part 5

1. The following substances, namely —

Alprazolam

Amfepramone (2-(diethylamino) propiophenone)

Aminorex

Barbital (5,5-diethylbarbituric acid)

Bromazepam

Bromazolam

Brotizolam

Camazepam

Chlordiazepoxide

Clobazam

Clonazepam

Clorazepate

Clotiazepam
Cloxazolam
Delorazepam
Diazepam
Estazolam
Ethchlorvynol (ethyl-2-chlorovinylethynyl-carbinol)
Ethinamate (1-ethynylcyclohexanol carbamate)
Ethyl loflazepate
Etizolam
Flualprazolam
Fludiazepam
Flunitrazepam
Flurazepam
Halazepam
Haloxazolam
Ketazolam
Loprazolam
Lorazepam
Lormetazepam
Mazindol (5-(4-chlorophenyl)-2, 5-dihydro-3H-imidazo [2, 1-a]-isoindol-5-ol)
Medazepam
Meprobamate (2-methyl-2-propyl-1,3-propanediol dicarbamate)
Methylphenobarbital (5-ethyl-1-methyl-5-phenylbarbituric acid)
Methylprylon (3,3-diethyl-5-methylpiperidine-2,4-dione)
Midazolam
Nimetazepam
Nitrazepam
Nordazepam
Oxazepam
Oxazolam
Pemoline
Phenobarbital (5-ethyl-5-phenylbarbituric acid)
Phentermine (2-amino-2-methyl-1-phenylpropane)
Pinazepam
Pipradrol (1,1-diphenyl-1-(2-piperidyl)methanol)
Prazepam
SPA ((-)-1-dimethylamino-1,2-diphenylethane)
Temazepam
Tetrazepam
Triazolam
Zolpidem
Zopiclone

2. The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.
3. The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in paragraph 2 whenever the existence of such esters or ethers is possible.
4. The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in paragraph 2 or paragraph 3.
5. Mixtures of a derivative of barbituric acid named or described in Part 4 compounded with 1 or more other pharmacologically active ingredients not named or described in Part 4.
6. Preparations of propoxyphene, its isomers, esters, and ethers, if any, its salts, and the salts of its isomers, esters, or ethers, if any, for oral use containing not more than the equivalent of 135 milligrams of propoxyphene base per dosage unit or with a concentration of not more than 2.5% in undivided preparations, being preparations where none of the other ingredients is a substance named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule.
7. Substances containing any proportion of a substance mentioned in paragraph 1, paragraph 2, paragraph 3, paragraph 4, paragraph 5 or paragraph 6, other than a preparation or mixture named or described in Part 6.

Part 6

1. The following preparations and mixtures—
 - (a) preparations containing any proportion of the following substances or of any salt of any such substance, namely, acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, and pholcodine when—
 - (i) compounded with 1 or more other pharmacologically active ingredients in such a way that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and
 - (ii) containing not more than 100 milligrams of the substance in each dosage unit and with a concentration of not more than 2.5% in undivided preparations:
 - (b) preparations containing a derivative of barbituric acid named or described in Part 4 or Part 5, in solutions containing not more than 0.5% of that derivative of barbituric acid:
 - (c) preparations of cocaine containing not more than 0.1% of cocaine base, being preparations compounded with 1 or more other pharmacologically active ingredients (none of which are substances named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health:

- (d) preparations of difenoxin containing, per dosage unit, not more than 0.5 mg of difenoxin and a quantity of atropine sulphate equivalent to at least 5% of the dose of difenoxin:
- (e) preparations of opium or morphine containing not more than 0.2% of morphine, being preparations compounded with 1 or more other pharmacologically active ingredients (none of which are substances named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule) in such a way that the opium or the morphine, as the case may be, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health:
- (f) single dosage units of diphenoxylate containing in each unit not more than 2.5 milligrams of diphenoxylate calculated as base and not less than 25 micro-grams of atropine sulphate:
- (g) liquid preparations of diphenoxylate containing, in each millilitre, not more than 0.5 milligrams of diphenoxylate calculated as base and not less than 5 micrograms of atropine sulphate:
- (h) preparations of propiram containing not more than 100 mg of propiram per dosage unit and compounded with at least the same amount of methylcellulose:
- (i) ipecacuanha and opium powder containing 10% of opium in powder and 10% of ipecacuanha root in powder intimately mixed with finely powdered lactose:
- (j) mixtures containing not more than 1 of the preparations specified in subparagraphs (a) to (i), being mixtures where none of the other ingredients is a substance named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule

Part 7

Amphetamine analogues, in which the 1-amino-2-phenylethane nucleus carries any of the following radicals, either alone or in combination—

- (a) 1 or 2 alkyl radicals, each with up to 6 carbon atoms, attached to the nitrogen atom:
- (b) 1 or 2 methyl radicals, or an ethyl radical, attached to the carbon atom adjacent to the nitrogen atom:
- (c) a hydroxy radical, attached to the carbon atom adjacent to the benzene ring:
- (d) any combination of up to 5 alkyl radicals and/or alkoxy radicals and/or alkylamino radicals and/or alkylthio radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals and/or nitro radicals and/or amino radicals, attached to the benzene ring.

Pethidine analogues, in which a 4-phenylpiperidine nucleus carries any of the following radicals, either alone or in combination—

- (a) an alkyl radical, with up to 6 carbon atoms, attached to the nitrogen atom:

- (b) a phenalkyl radical, with up to 12 carbon atoms, attached to the nitrogen atom:
- (c) a phenalkyl radical, as in paragraph (b), with 1 or more alkyl radicals, each with up to 6 carbon atoms, attached to the benzene ring in the phenalkyl radical:
- (d) an alkylcarbonyloxy or alkoxy carbonyl or hydroxy radical, with up to 6 carbon atoms, attached to the 4 position in the piperidine ring:
- (e) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to the benzene ring.

Phencyclidine analogues, being chemical compounds with the 1-alkylamino-1-aryl-cyclohexane structure, with any combination of the following alkylamino and aryl radicals—

- (a) the alkylamino radical is 1-piperidinyl, 1-pyrrolidinyl, 4-morpholinyl, or any other radical with up to 6 carbon atoms in the alkyl portion:
- (b) the aryl radical is phenyl, thienyl, pyridinyl, or pyrrolidinyl:
- (c) the aryl radical, as described in paragraph (b), carries any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals.

Fentanyl analogues, in which the N-[1-(2-phenethyl)-4-piperidyl]aniline nucleus has additional radicals, either alone or in combination, attached as follows—

- (a) an acetyl, propionyl, butenoyl or butanoyl radical, attached to the aniline nitrogen atom:
- (b) 1 or more alkyl radicals, with up to 10 carbon atoms in total, attached to the ethyl moiety:
- (c) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to each of the benzene rings.

Methaqualone analogues, in which the 3-arylquinazolin-4-one nucleus has additional radicals, either alone or in combination, attached as follows—

- (a) an alkyl radical, with up to 6 carbon atoms, attached at the 2 position:
- (b) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to each of the aryl rings.

DMT (dimethyltryptamine) analogues, in which the 3-(2-aminoethyl)indole nucleus has additional radicals, either alone or in combination, attached as follows—

- (a) 1 or 2 alkyl radicals, each with up to 6 carbon atoms, including cyclic radicals, attached to the amino nitrogen atom:

- (b) 1 or 2 methyl groups, or an ethyl group, attached to the carbon atom adjacent to the amino nitrogen atom:
- (c) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to the benzene ring.

SCHEDULE 4 — SPECIFIED AMOUNT, LEVEL OR QUANTITY
(Sections 77(3) and 79(3))

1. The illicit drugs listed in the first column are presumed to be for supply at and over the amount, level, or quantity listed in the second column.

Illicit Drug	Specified amount, level or quantity
25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
25I-NBOMe(2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Amphetamine	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Morphine	5 grams, whether or not contained in a substance, preparation, or mixture
Cocaine	half a gram, whether or not contained in a substance, preparation, or mixture
Heroin	half a gram, whether or not contained in a substance, preparation, or mixture
Ketamine (2-(2-chlorophenyl)-2-(methylamino) cyclohexanone)	10 grams, whether or not contained in a substance, preparation, or mixture
Lysergide	two and a half milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
DOB (2-amino-1-(4-bromo-2,5-dimethoxyphenyl)propane) (also known as bromo-DMA)	100 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
N-ETHYLMDA (2-ethylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDA (2-amino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Tetrahydrocannabinol (as described in Schedule 2)	250 milligrams, whether or not contained in a substance, preparation, or mixture
Any cannabis preparation (as described in Schedule 2)	5 grams or 100 cigarettes containing the drug
Cannabis plant (as described in Schedule 3)	28 grams or 100 cigarettes containing the drug
BZP (1-benzylpiperazine or A2 benzylpiperazine or Nbenzylpiperazine (1-benzyl-1,4-diazacyclohexane))	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
TFMPP (1-(3-trifluoromethylphenyl)piperazine or N-(3-trifluoromethylphenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
pFPP (1-(4-fluorophenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MeOPP (1-(4-methoxyphenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug

mCPP (1-(metachlorophenyl)piperazine) or 1-(3-chlorophenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MBZP (1-methyl-4-benzylpiperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Methamphetamine	5 grams, whether or not contained in a substance, preparation, or mixture
Ephedrine	10 grams, whether or not contained in a substance, preparation, or mixture
Pseudoephedrine	10 grams, whether or not contained in a substance, preparation, or mixture
Ethylone and N-ethyl pentylon	5 grams or 100 doses, whether or not contained in a substance, preparation, or mixture, or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
Fentanyl analogues specified in Schedule 1	0.5 grams, whether or not contained in a substance, preparation, or mixture, or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
Para-methoxymethylamphetamine (PMMA)	5 grams, whether or not contained in a substance, preparation, or mixture
Synthetic cannabinoids specified in Part 1 of Schedule 2	250 milligrams, whether or not contained in a substance, preparation, or mixture, except when contained in plant material, and 28 grams for plant material containing any of the specified synthetic cannabinoids
Synthetic opioids specified in Schedule 1	0.5 grams whether or not contained in a substance, preparation, or mixture
ADB-5Br-INACA	250 milligrams or 100 cigarettes, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
MDMB-5Br-INACA	250 milligrams or 100 cigarettes, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
MDMB-INACA	250 milligrams or 100 cigarettes, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
ADB-CHMINACA	250 milligrams, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
ADB-FUBINACA	250 milligrams, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
CUMYL-4CN-BINACA	250 milligrams, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
5F-MDMB-PICA	250 milligrams, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
NM-2201	250 milligrams, whether or not contained in a substance, preparation, or mixture, or 28 grams for plant material
4-chloromethcathinone	10 grams, whether or not contained in a substance, preparation, or mixture
Dimethylpentylone	10 grams, whether or not contained in a substance, preparation, or mixture
Eutylone	10 grams, whether or not contained in a substance, preparation, or mixture

Orthofluorofentanyl	0.5 grams or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
<i>p</i> -fluoro-butyrfentanyl	0.5 grams or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
<i>p</i> -methoxy-butyrfentanyl	0.5 grams or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug

2. Any illicit drug not specified in paragraph 1 is presumed to be for supply at and over the level of 56 grams.

SCHEDULE 5 — CONTROLLED CHEMICALS
(Section 2)

This schedule includes—

- (a) the following substances designated by their international non-proprietary name used in the international conventions in force; and
- (b) the salt if these substances, whenever the existence of such salts is possible, except for sulphur acid and hydrochloric acid.

Part 1:	
Ephedrine	N-acetylanthranilic acid
Ergometrine	Isosafrole
Ergotamine	3, 4 methylenedioxyphenyl-
Lysergic acid	2-propanone
1-pheny 1-2 propanone	Piperonal
Pseudoephedrine	Safrole
Norephedrine	N-phenethyl-4-piperidone (NPP) 4-anilino-N-phenethylpiperidine (ANPP)

Part 2:	
Acetic anhydride	Hydrochloric acid
Acetone	Methylethyl
Anthranilic acid	Ketone
Ethylether	Potassium permanganate
Phenylacetic acid	Sulphuric acid
Piperidine	Toluene
Indole	
Benzylpiperazine (BZP) precursors	

SCHEDULE 6 — CONTROLLED EQUIPMENT
(Section 2)

CONTROLLED EQUIPMENT

The following are controlled equipment—

- (a) Encapsulating machines
- (b) Machines used to prepare, make, manufacture or produce tablets
- (c) Rotary evaporators
- (d) Laboratory equipment with a capacity for large volume productions (e.g. round bottom flasks of 25 litres or above and related condensers, separating funnels and heating apparatus)
- (e) Industrial centrifuges
- (f) High-performance liquid chromatography (HPLC) systems
- (g) Vacuum pumps
- (h) Glass reactors (e.g., jacketed reactors)

SCHEDULE 7 — OATH OR AFFIRMATION
(Section 35)

OATH OR AFFIRMATION

“I, [name], swear that I will faithfully and diligently serve the Counter Narcotics Bureau, without favour or affection, malice or ill-will. While a member of Bureau staff, I will, to the best of my power, skill and knowledge, perform all the duties of the office according to law.”

SCHEDULE 8—CONSEQUENTIAL AMENDMENTS
(Section 256)

1. The Community-Based Corrections Act 2018 is amended by—

- (a) in section 9(2)(c), deleting “or drug”;
- (b) in section 13(1)(d) after “section 9”, inserting “or comply with an order under section 232 of the Counter Narcotics Act 2026”;
- (c) in section 14—
 - (i) in subsection (2)(b), deleting “or drug”; and
 - (ii) after subsection (2), inserting the following new subsection—

“(3) If the offender—

 - (a) committed an offence against Part 9 of the Counter Narcotics Act 2026; or
 - (b) has become or is becoming dependent on a drug and requires treatment, rehabilitation or support through a drug rehabilitation centre,

the court may make an order under section 232 of the Counter Narcotics Act 2026 and the order is deemed to be a part of an order under section 10(1) of this Act.”; and
- (d) in section 15—
 - (i) paragraph (b) after “;”, deleting “and”;
 - (ii) paragraph (c), deleting “.” and inserting “; and”; and
 - (iii) after paragraph (c), inserting the following new paragraph—

“(d) may be subject to an order under section 232 of the Counter Narcotics Act 2026 and the order is deemed to be a part of an order under section 10(1) of this Act.”.

2. The Crimes Act 2009 is amended by—

- (a) in section 4(1), inserting the following new definition—

““Bureau officer” has the meaning given to it by section 2(1) of the Counter Narcotics Act 2026;”; and
- (b) in section 277—
 - (i) in paragraph (b) after “police”, inserting “or Bureau”; and
 - (ii) for the penalty paragraph, in paragraph (b), after “police” wherever it appears, inserting “or Bureau”.

3. The Criminal Procedure Act 2009 is amended by—

(a) in section 2, inserting the following new definition—

““Bureau officer” has the meaning given to it by section 2(1) of the Counter Narcotics Act 2026;”; and

(b) in section 51—

(i) in the heading, deleting “police” and substituting “other”;

(ii) in subsection (2), deleting “No police prosecutor may appear in the Magistrates Court without such appointment.”; and

(iii) after subsection (2), inserting the following new subsections—

“(3) The Director of Public Prosecutions as he or she thinks fit may appoint Bureau officers to be police prosecutors for the purposes of conducting prosecutions in the Magistrates Courts.

(4) No police prosecutor or Bureau officer appointed as a police prosecutor may appear in the Magistrates Court without an appointment under this section.”;

(c) in section 53—

(i) in the heading after “Police”, inserting “or Bureau officer”;

(ii) renumbering section 53 as section 53(1); and

(iii) after subsection (1), inserting the following new subsection—

“(2) In any trial before a Magistrates Court, if the proceedings have been instituted by a Bureau officer, any Bureau officer having lawful authority to conduct the case may appear and conduct the prosecution notwithstanding the fact that he or she is not the officer who made the complaint or charge.”; and

(d) in section 54 after “police”, inserting “or Bureau”.

4. The Human Rights and Anti-Discrimination Commission Act 2009 is amended in section 44 after subsection (1) by inserting the following new subsection—

“(1A) The report must also contain a summary of the quarterly reports made under section 21(6) of the Counter Narcotics Act 2026.”

5. The Mutual Assistance in Criminal Matters Act 1997 is amended by—

(a) in section 3, inserting the following new definitions—

““Fiji enforcement officer” means—

(a) a counter narcotics bureau officer, in relation to offences under the Counter Narcotics Act 2026 or an equivalent offence under the law of a foreign country; or

(b) a police officer, in relation to any other offence;”;

““Fiji law enforcement agency” means—

(a) the Counter Narcotics Bureau, in relation to offences under the Counter Narcotics Act 2026 or an equivalent offence under the law of a foreign country; or

(b) a police officer, in relation to any other offence;”;

““head of the agency” means—

(a) the Director General of the Counter Narcotics Bureau, in relation to a counter narcotics bureau officer; or

(b) the Commissioner of Police, in relation to police officer;”;

(b) in section 13—

(i) subsection (1), deleting “police officer” and substituting “Fiji enforcement officer”;

(ii) deleting subsection (2) and substituting the following—

“(2) A Fiji enforcement officer authorised under subsection (1) may apply to a Magistrate for the issue of a warrant to search land or premises for the things to which the request relates in the same way as—

(a) a police officer may apply for the issue of a search warrant under Part 9 of the Criminal Procedure Act 2009; and

(b) a counter narcotics bureau officer may apply for the issue of a search warrant under Part 10, Division 4 of the Counter Narcotics Act 2026.”;

(iii) in subsection (4), deleting “police officer” wherever it appears and substituting “Fiji enforcement officer”;

(iv) in subsection (5)—

A. deleting “police officer” wherever it appears and substituting “Fiji enforcement officer”; and

B. deleting “Commissioner of Police” and substituting “head of the agency”;

(v) in subsection (6), deleting “Commissioner of Police” where it twice appears and substituting “head of the agency”;

(c) in section 21, deleting “police officer” wherever it appears and substituting “Fiji enforcement officer”;

- (d) in section 23(1)(d), deleting “police” where it twice appears and substituting “Fiji enforcement officer”;
 - (e) in section 24(1)(d), deleting “police” where it twice appears and substituting “Fiji enforcement officer”;
 - (f) in section 27, deleting “police officer” wherever it appears and substituting “Fiji enforcement officer”;
 - (g) in section 32, deleting “authorise a police officer to apply to a Magistrate under section 98 of the Criminal Procedure Decree 2009 for a search warrant in relation to that tainted property” and substituting —
“authorise —
 - (a) in relation to an offence under the Counter Narcotics Act 2026 or an equivalent offence under the law of a foreign country, a Fiji enforcement officer to apply to a Magistrate under section 98 of the Criminal Procedure Act 2009 for a search warrant in relation to that tainted property; or
 - (b) in relation to any other offence, a police officer to apply to a Magistrate under section 98 of the Criminal Procedure Act 2009 for a search warrant in relation to that tainted property”; and
 - (h) in section 34(c)(ii), deleting “authorise a police officer to apply to a Judge or Magistrate for a search warrant under section 98 of the Criminal Procedure Act 2009 in relation to the property-tracking document” and substituting —
“authorise —
 - (a) in relation to an offence under the Counter Narcotics Act 2026 or an equivalent offence under the law of a foreign country, a Fiji enforcement officer to apply to a Judge or Magistrate under section 98 of the Criminal Procedure Act 2009 for a search warrant in relation to that tainted property; or
 - (b) in relation to any other offence, a police officer to apply to a Judge or Magistrate for a search warrant under section 98 of the Criminal Procedure Act 2009 in relation to the property-tracking document”.
6. The Proceeds of Crime Act 1997 is amended by —
- (a) in section 3, inserting the following new definitions —
 - ““Bureau” means the Counter Narcotics Bureau established by section 11 of the Counter Narcotics Act 2026;”;
 - ““Bureau officer” has the meaning given to it by section 2(1) of the Counter Narcotics Act 2026;”;

““connected offence” has the meaning given to it by section 2(1) of the Counter Narcotics Act 2026;”; and

““law enforcement officer” means—

- (a) a Bureau officer, in relation to offences under the Counter Narcotics Act 2026 or a connected offence; or
 - (b) a police officer, in relation to any other offence;”;
- (b) in section 11(2)(c), deleting “police” and inserting “law enforcement”;
- (c) in the heading of Part 3 after “POLICE”, inserting “AND BUREAU”;
- (d) in section 28(1)—
 - (i) deleting “police” where it twice appears and inserting “law enforcement”; and
 - (ii) after “2009” inserting “or a Bureau officer may apply for the issue of a search warrant under Part 10 of the Counter Narcotics Act 2026”;
- (e) in section 30—
 - (i) in the heading after “Police”, inserting “and Bureau”; and
 - (ii) deleting “police” wherever it appears and inserting “law enforcement”;
- (f) in section 33, deleting “police” wherever it appears and inserting “law enforcement”;
- (g) in section 50, deleting “police” wherever it appears and inserting “law enforcement”;
- (h) in section 51—
 - (i) in the heading after “police”, inserting “and Bureau”; and
 - (ii) deleting “police” wherever it appears and inserting “law enforcement”;
- (i) in section 53, deleting “police” wherever it appears and inserting “law enforcement”;
- (j) in section 54, deleting “police” wherever it appears and inserting “law enforcement”;
- (k) in section 55—
 - (i) deleting “police” wherever it appears and inserting “law enforcement”; and
 - (ii) in subsection (4) after “2009” where it twice appears, inserting “or Part 10 of the Counter Narcotics Act 2026”;
- (l) in section 56, deleting “police” wherever it appears and inserting “law enforcement”;

- (m) in section 57, deleting “police” wherever it appears and inserting “law enforcement”;
 - (n) in section 58—
 - (i) in subsection (1) after paragraph (a), inserting the following new paragraph—
 - “(aa) the Director General or a Bureau officer authorised in writing by the Director General to receive the information;”; and
 - (ii) in subsection (2)—
 - A. after “subsection (1)(a),” wherever it appears, inserting “(aa),”;
 - B. after paragraph (a)(i), inserting the following new subparagraph—
 - “(ia) if the disclosure is made by the Director General or a Bureau officer, the performance of that person’s duties;”;
 - (iii) in subsection (3) after “subsection (1)(a)”, inserting “and (aa)”;
 - (iv) in subsection (4) after “subsection (1)(a)”, inserting “and (aa)”;
 - (o) in section 64(2), deleting “police” and inserting “law enforcement”;
 - (p) in section 71E(2)—
 - (i) in paragraph (a) after “Act,”, inserting “the Counter Narcotics Act 2026,”; and
 - (ii) in paragraph (b), deleting “measures relevant to” and substituting “and other measures relevant to and mandated by”;
 - (q) in section 71L(2) after paragraph (a), inserting the following new paragraph—
 - “(aa) a Bureau officer;”;
 - (r) in section 75(1)—
 - (i) in paragraph (a), deleting “police” and inserting “law enforcement”;
 - (ii) in paragraph (c), deleting “Dangerous Drugs Act 1937” and inserting “Counter Narcotics Act 2026”; and
 - (s) in section 76(c), deleting “police” and inserting “law enforcement”.
7. The Sentencing and Penalties Act 2009 is amended in section 15 by—
- (a) in subsection (1), deleting paragraph (c) and substituting the following—
 - “(c) subject to subsection (1A), record a conviction and make a drug treatment order, which may require—
 - (i) the person to receive treatment, rehabilitation or support through a drug rehabilitation centre established, classified or licensed under Part 12, Division 2 of the Counter Narcotics Act 2026;

- (ii) the person to submit to treatment including drug tests to monitor the person’s compliance with any undertaking under this Act or the Counter Narcotics Act 2026; and
 - (iii) compliance with any other conditions prescribed by regulations made under this Act or the Counter Narcotics Act 2026;”;
- (b) after subsection (1), inserting the following new subsection—
- “(1A) A drug treatment order may only be made for the purposes of supporting recovery and rehabilitation and must not be used as a punitive compliance measure.”.

Passed by the Parliament of the Republic of Fiji this 1st day of October 2026.