

No. of 2020

VIRGIN ISLANDS

DRUGS (PREVENTION OF MISUSE) (AMENDMENT) ACT, 2020

ARRANGEMENT OF SECTIONS

Section

1. Short title and commencement.
2. Insertion of new sections into the principal Act.

No. of 2020

**Drugs (Prevention of Misuse)
(Amendment) Act, 2020**

**Virgin
Islands**

I Assent

Governor

, 2020

VIRGIN ISLANDS

No. of 2020

An Act to amend the Drugs (Prevention of Misuse) Act (Cap. 178) (Revised edition at 30 June 2013).

[Gazetted , 2020]

ENACTED by the Legislature of the Virgin Islands as follows:

Short title and commencement.

1. (1) This Act may be cited as the Drugs (Prevention of Misuse) (Amendment) Act, 2020.

(2) This Act shall come into force on such date as the Minister may, by Notice published in the *Gazette*, determine.

Insertion of new sections into the principal Act. Cap. 178 Revised edition at 30 June 2013

2. The Drugs (Prevention of Misuse) Act is amended by inserting after section 28, the following sections:

“Possession of limited amounts of cannabis or cannabis resin.

28A Subject to section 28B and notwithstanding the provisions of this Act,

- (a) any offence on the criminal record of a person prior to the commencement of this Act, for the possession of not more than fifty grammes of cannabis or not more than ten grammes of cannabis resin shall be expunged by the Commissioner of Police;
- (b) a person who was charged for the possession of not more than fifty grammes of cannabis or not more than ten grammes of cannabis resin before the commencement of this Act,

may apply to the Magistrate Court for a discharge of that offence, if granted, all official records of his or her arrest, plea, trial, conviction, incarceration, supervision shall be expunged by the Commissioner of Police;

- (c) a person who has been convicted for the possession of not more than fifty grammes of cannabis or not more than ten grammes of cannabis resin may apply through his or her attorney-at-law to the Commissioner of Police to have that offence expunged from his or her criminal record;
- (d) a person who has been convicted of more than one offence for the possession of not more than fifty grammes of cannabis or not more than ten grammes of cannabis resin, may apply to the Magistrate Court for an order to vacate and expunge such criminal records.

Conditions for expungement.

28B Eligibility for expungement under section 28A shall be subject to the following conditions:

- (a) at least one calendar year has passed since the date of the arrest;
- (b) no subsequent criminal charges were filed related to the arrest;
- (c) the offence was not associated with an arrest, conviction or other disposition for an indictable offence under Criminal Code, 1997, and
- (d) the offence was not associated with the supply of cannabis to a person under the age of 18 years or with the intent to traffic.

No. 1 of 1997
Revised edition
at 30 June 2013

Factors to be considered by Court.

28C (1) A court shall consider in making a decision regarding discharge under section 28A (4) such factors as the petitioner's age, their age at the time of the offence, the time since the conviction and the adverse consequences the petitioner would suffer if their application was denied.

(2) In making its decision, the court shall consider appropriate non-penal measures as a condition of discharge aimed at education and rehabilitation, including counselling and community service.

Expungement of criminal record to include official record of arrest etc.

28D Expungement of a criminal record shall include all official records of arrest, plea, trial conviction, supervision or expungement.

No liability or action against Government.

28E (1) No liability or action shall lie against the Government, her agents or employees for any loss or damage whatsoever, arising as the result of the amendments made herein.

(2) For greater certainty, no conviction vacated pursuant to this Act shall serve as the basis for damages for time unjustly served.”.

Passed by the House of Assembly this day of , 2020.

Speaker.

Clerk of the House of Assembly.

OBJECTS AND REASONS

This Bill seeks to amend the Drugs (Prevention of Misuse) Act (Cap. 178) (Revised edition at 30 June 2013) referred to hereinafter as “the principal Act”.

Clause 1 sets out the short title and commencement.

Clause 2 provides for the insertion of clauses 28A to 28E as follows:

- Clause 28A would provide for the possession of limited amounts of cannabis or cannabis resin allowing for the possession of cannabis of not more than fifty grammes or cannabis resin not more than ten grammes to be expunged from a person’s criminal record by the Commisisoner of Police amongst other matters;
- Clause 28B would provide for the eligibility for expungement;
- Clause 28C would provide the factors to be considered by the Court such as petitioner's age, their age at the time of the offence, the time since the conviction and the adverse consequences the petitioner would suffer if their application was denied;
- Clause 28D would provide for expungement of a criminal record of all official records of arrest, plea, trial conviction, supervision or expungement;
- Clause 28E would provide for no liability or action shall lie against the Government.

Premier.