

## **CPDDW - Safer Supply Legal Notes**

On Thursday, April 14, 2016, BC's provincial health officer declared a public health emergency in response to the rise in drug overdoses and deaths.

[-http://www.bccdc.ca/about/news-stories/stories/public-health-emergency-in-bc](http://www.bccdc.ca/about/news-stories/stories/public-health-emergency-in-bc)

Overdoses numbers have remained relatively constant despite the government's "best efforts".

There is an increased risk of overdose if you are opiate naïve. **We need quickly scaled up safe supply for all.**

Medical models of safer supply will be ineffective because individuals will turn to street drugs if said medical models do not allow them to get high.

Decriminalizing possession won't fix the problem.

Biggest legal barriers to scalable safe supply:

- 1) Controlled drugs and substances act.
  - The scheme of the CDSA reveals that it has two purposes: the protection of public health and the maintenance of public safety.
- 2) Food and drug act
  - Unclear on how this fits into the picture.

### **3 Options of Legal Follow-up**

*I – An institution petitions all levels of government, under their inherent jurisdiction over all law, to allow for a pilot low barrier poly-substance dispensation centre (using a non-prescription over the counter pharmacy model) which includes colocated services (i.e. peer referrals to treatment or detox). If successful, this model would allow for further expansion to other pharmacies on a national level due to evidence gathered about the project's efficacy.*

*II – Submit an application for a Section 56 exemption to distribute controlled legal narcotics from a storefront, if the exemption is not granted, challenge to the CDSA under Section 7 of the Charter of Rights and Freedoms. This process would be **VERY** expensive – multimillion dollar.*

*III – There are also potential options for civil action and litigation, which may be very difficult to actualize. These civil actions could give money back to communities adversely affected by overdose and potentially push the government to grant an institution the opportunity to run a low barrier project as stated in I. Examples of civil action include:*

- 1) Civil suit against the government and other operators under Section 99 of B.C.'s Public Health Act.
- 2) Class action suit against the government for criminal negligence under the Canadian Criminal Code on behalf of overdose responders.

## 2 Options of Non-Legal Follow-Up

**Note: THESE OPTIONS WILL NECESSARILY CARRY THE POTENTIAL FOR CRIMINAL CHARGES.**

*I – Run illegal narcotic dispensary or illicit drug market without Section 56 exemption. Drugs will be tested and sold so that people know what is within them. This option is less viable due to the increased probability of arrest and charges being laid, especially in relation to conspiracy to sell drugs (example: R v. Kane – Sentence: 2 Years Less a Day).*

**-NOTE: If police agree to a policy of non-arrest of drug dealers in a specific geographic region, this option may be more viable.**

*Set up clandestine operations that prevent extremely toxic substances circulating in the illicit drug market. Examples include: a community buyers club that buys and tests a safer supply and distributes said supply; a community institution that buys batches of “hot” drugs from dealers who may have obligations to sell said drugs and re-cuts, tests, and redistributes said drugs back into the supply chain.*

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### **I – Insitutional Low Barrier Pharmacy Model**

The best and most optimistic option for a safer supply is to have an institution (i.e. BCCDC, BCCSU, etc.) petition all levels of government to use their inherent jurisdiction over all law to provide space and a legal exemption for a pilot low barrier poly-substance non-prescription pharmacy where-in drugs can be bought over the counter at cost. For the sake of selling this model to the government, the pharmacy should target populations that have high rates of overdose first, in order to demonstrate a drastic reduction in numbers of overdoses within those communities (i.e. folks living in social housing). If this model works – it could be expanded to existing pharmacy infrastructure across the province.

This may be the simplest way to guarantee a safe supply as quickly as possible, as any administrative regulations can be struck down by the government at any time and do not require the lengthy process of a charter challenge or of a section 55/56 exemption.

Both the BCCDC and BCCSU also finds itself in the optimal position of accreditation to petition governments for social change.

Without bundling services together (i.e. peer treatment navigators, an OPS, and the pharmacy), it may be very difficult to convince the government to allow for such a low barrier model.

Pharmacies exist in all communities – pharmacy model reduce rate of overdoses – scale out to every pharmacy in the province – evidence of rate of crime and use; alcohol prohibition.

Moreover, it is important to file a Section 56 exemption even while trying to advocate for such a model to come into existence; the federal government may not choose to exercise their inherent jurisdiction over all laws.

This issue may be addressed by the Attorney General.

Target population should be folks living in V6A or with no fixed address.

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## **II – Section 56 Exemption/Charter Challenge**

**Option 1:** Apply for a Section 56 exemption of the CDSA to provide clean legal drugs from a storefront (poly-substance: diacetylmorphine, hydromorphone, and other types of drugs including stimulants [i.e. Adderall]). If the exemption is not given, challenge the CDSA under Section 7 of the Charter of Rights and Freedoms. Try to strike down drug scheduling, possession, trafficking, possession with intent, etc.

**Option 2:** ~~If the aforementioned option of the exemption is not viable, there is still the possibility of opening a drug dispensary that sells existing street drugs or drugs ordered from the internet, and then seeking an injunction (to prevent arrest and charges) under Section 7 of the Charter of Rights and Freedoms when police try to shut it down. Use drug checking to ensure that supply is safer.~~ (This is not a viable solution because of jail time faced by those breaking the law – see below).

### **CONTROLLED DRUGS AND SUBSTANCES ACT**

#### **Exemption by Minister**

##### **Section 56**

(1) The Minister may, on any terms and conditions that the Minister considers necessary, exempt from the application of all or any of the provisions of this Act or the regulations any person or class of persons or any controlled substance or precursor or any class of either of them if, in the opinion of the Minister, the exemption is necessary for a medical or scientific purpose or is otherwise in the public interest.

(2) The Minister is not authorized under subsection (1) to grant an exemption for a medical purpose that would allow activities in relation to a controlled substance or precursor that is obtained in a manner not authorized under this Act to take place at a supervised consumption site.

**Note:** Section 56 Exemptions cost upwards of \$10,000 and, due to a precedent set by the Dr. Peter's Centre, the applications are typically 3 binders of exposition long.

**Note:** Charter litigation is way more thorough

### **CANADIAN CHARTER OF RIGHTS AND FREEDOMS**

#### **LEGAL RIGHTS**

##### **Life, liberty and security of person**

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice.

#### **Basic Legal Argument**

By not allowing an exemption for the safe controlled sale of ALL drugs, the government is infringing on People Who Use Drug's right to their own lives and security of person.

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### **From Insite Supreme Court Case:**

Indeed, if one were to set out to draft a law that combats drug abuse while respecting Charter rights, one might well adopt just this type of scheme — a prohibition combined with the power to grant exemptions. If there is a Charter problem, it lies not in the statute but in the Minister's exercise of the power the statute gives him to grant appropriate exemptions.

A direct Charter challenge against the sale or scheduling of drugs may not do anything. It might only get them to expand section 56. CDSA there for public good – charter challenge may be a way of granting exemptions.

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See: Parker, R v Smith, Providence – long line of cases

Effectively you are asking for a read-in exemption here

Can use the administrative law – then argue Dore Charter values

PIVOT has done some research on this – Aliston Latimer opinion

PIVOT also presently collaborating with CDPC on legal regulation model research

Other actions – if no doctor agrees to come forward – then sue for exemption process not allowing peer run dispensary – requiring doctors for it.

**Court Challenges funding – would the BCCDC/BCCSU qualify? Would the CPDDW?**

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### **III – Civil Action/Litigation**

Important Note: The government has a presumption of good will and good faith – meaning that if they have done anything at all (even circulating anti-drug “just say no” propaganda), it may be difficult to prove negligence or causation. Moreover, federal law – the CDSA – will generally trump provincial law – the Public Health Act – meaning that it may be difficult to sue the government for not providing a safe supply when regulations exist governing and preventing the provision of said supply in the interest of public safety.

Suing the government over the opioid crisis for criminal negligence COULD be possible if it was a class action suit on behalf of support workers, and anyone responding to overdoses, against the government for emotional damages due to the opioid crisis.

A group in Quebec recently sued the federal government over climate change. Could be a parallel lawsuit with larger population of individuals. Class action suit – science says need distribute x among of drugs and do the most government

<https://www.theglobeandmail.com/canada/article-quebec-group-sues-federal-government-over-climate-change/>

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### **1 – Lawsuit under the Public Health Act**

**Option 1:** Sue the government for failure to prevent a health hazard under the Public Health Act.

Although one might think that federal laws trump provincial laws, Canadian legal doctrine indicates that federalism is slightly more nuanced and that provincial health laws can trump criminal law.

See: Morgentaler – Nova Scotia case

Double aspect between BC in terms of regulation and federal government in terms of criminal law. Comes down to paramountcy – impossibility of dual compliance – frustrates federal purpose.

## **B.C. PUBLIC HEALTH ACT**

[http://www.bclaws.ca/civix/document/id/complete/statreg/08028\\_01#section1](http://www.bclaws.ca/civix/document/id/complete/statreg/08028_01#section1)

### **Part 1 — Definitions and Interpretation**

#### **Definitions**

"Health hazard" means

(a) a condition, a thing or an activity that

(i) endangers, or is likely to endanger, public health,

[...]

"Operator" means a person who performs a regulated activity, and includes any person who assists, directs, supervises or employs that person for the purpose of doing the regulated activity.

#### **Interpretation**

##### Section 2

(1) Unless a contrary intention is expressed, a reference in this Act or a regulation made under it to:

(a) a building or structure, includes part of the building or structure, or

(b) a place, includes part of the place, any natural or artificial feature on or in the place, and any building or structure located on the place.

(2) If the context requires it, a reference to a person includes a person having authority under the common law or an enactment to make personal and health care decisions in respect of the person.

(3) For the purposes of this Act and the regulations made under it, a condition, situation or thing is caused by a person or another thing if the person or other thing

(a) contributes beyond a minimal extent to the happening or existence of the condition, situation or thing, or

(b) directly or indirectly causes the condition, situation or thing.

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*-Digression: Does the government have to publish a health plan?*

-Is this "BC'S OVERDOSE ACTION PLAN"?

-Why has no public health plan been released?

-Can an institution put pressure on the government to release a safe supply health plan?

## **Minister *may* require public health plans**

### Section 3

(1) To promote and protect health and well-being, the minister may by order require a public body to make, in respect of a specific issue or geographic area, a public health plan.

(2) The minister may specify one or more of the following as the purposes of the public health plan:

- (a) to identify and address the health needs of particular groups within the population, including aboriginal peoples;
  - (b) to monitor and assess the status of the health of the population, including through public health surveillance and monitoring indicators of, or factors influencing, the health of the population;
  - (c) to prevent and mitigate the adverse effects of diseases and disabilities, syndromes, psychosocial disorders, injuries and health hazards;
  - (d) to identify, prevent and mitigate the adverse effects of health impediments;
  - (e) to facilitate or plan for the delivery of core public health functions;
  - (f) to achieve a prescribed purpose.
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## ***Must not cause health hazard***

### Section 15

A person must not willingly cause a health hazard, or act in a manner that the person knows, or ought to know, will cause a health hazard.

## ***Offences***

### Section 99

(1) A person who contravenes any of the following provisions commits an offence:

- (a) Section 3 [failure to make a health plan];
- (b) Section 4 (1) [failure to submit, revise or publish a public health plan];
- (c) Section 8 (1) or (2) [failure to submit, revise or publish a public health plan];
- (d) Sections 10 to 13 [failure to make reports, make records, take samples or do other required things; failure to perform diagnostic examinations];
- (e) Section 14 (3) [failure to provide information];
- (f) Section 16 [failure to take or provide preventive measures, or being in a place or doing a thing without having taken preventive measures];
- (g) section 17 (2) [failure to take steps to avoid transmission, seek advice or comply with instructions];
- (h) section 24 (3) [failure to comply with orders respecting inspections];
- (i) section 40 (4) [failure to comply with instructions];
- (j) section 41 (2) [removing, defacing or altering a posted order];
- (k) section 42 [failure to comply with an order of a health officer], except in respect of an order made under section 29 (2) (e) to (g) [orders respecting examinations, diagnostic examinations or preventive measures];
- (l) section 56 (2) or (3) [failure to take emergency preventive measures or comply with instructions], except in respect of an order to do a thing described in section 29 (2) (e) to (g);
- (m) section 57 [failure to make a report in an emergency];
- (n) section 94 [taking an adverse action against a person].

(2) A person who contravenes any of the following commits an offence:

- (a) section 18 [failure to prevent or respond to health hazards, train or equip employees, or comply with a requirement or duty];

- (b) section 22 [failure to comply with the regulations or train or equip employees];
- (c) section 91 [unauthorized disclosure of personal information].
- (3) A person who contravenes either of the following commits an offence:**
  - (a) section 15 [causes a health hazard];**
  - (b) section 26 [failure to provide a designated quarantine facility].
- (4) A person who does either of the following commits an offence:**
  - (a)** knowingly provides false or misleading information to a person who is exercising a power or performing a duty under this Act, or a person acting under the order or direction of that person;
  - (b)** wilfully interferes with, or obstructs, a person who is exercising a power or performing a duty under this Act, or a person acting under the order or direction of that person.
- (5) A person who commits an offence under this Act may be liable for the offence whether or not an order is made under this Act in respect of the matter.**
- (6) A proceeding for an offence under this Act may not be commenced in any court more than 2 years after the facts on which the proceeding is based first come to the knowledge of the minister.**

**We need to have a good example of this? Where an institution created the hazard with bad health policy – but Court's likely to be deferential here.**

Is it the government? The Royal College of Physicians and Surgeons, or the College Canon of ethics?

### ***Purposes of sentencing***

#### ***Section 106***

- (1) In imposing a sentence, a sentencing judge may impose one or more penalties that, in order, achieve the following:
  - (a) first,
    - (i) if harm was caused, remedy the harm or compensate a person who remedied or suffered the harm, including the government

### ***Fines and incarceration***

#### ***Section 108***

- (1) In addition to a penalty imposed under section 107 *[alternative penalties]*, a person who commits an offence listed in
  - (a) section 99 (1) *[offences]* is liable on conviction to a fine not exceeding \$25 000 or to imprisonment for a term not exceeding 6 months, or to both,
  - (b) section 99 (2) or (4) is liable on conviction to a fine not exceeding \$200 000 or to imprisonment for a term not exceeding 6 months, or to both, or
  - (c) section 99 (3) is liable on conviction to a fine not exceeding \$3 000 000 or to imprisonment for a term not exceeding 36 months, or to both.**

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## **2 – Negligence Lawsuit**

**Option 2:** Sue the government for potential criminal/tort negligence due to wanton disregard of the mental health of overdose responders and their failure to show regard, based on existing evidence and clinical trials, for the lives and safety of drug users.

Note: Private prosecutions are rare.

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## Canadian Criminal Code

### Criminal Negligence

#### Section 219

(1) Every one is criminally negligent who  
(a) in doing anything, or  
(b) in omitting to do anything that it is his duty to do,  
shows wanton or reckless disregard for the lives or safety of other persons.

#### Definition of duty

(2) For the purposes of this section, duty means a duty imposed by law.

Note: "Willful and wanton disregard" suggests that the danger of an action is understood by an individual, and that they know it is likely to cause a substantial harm, yet they do it anyway.

Note: It is **VERY** difficult to prove, if not impossible to prove, that inaction implies criminal negligence.

## Canadian Criminal Code

### Information, Summons and Warrant

#### Section 504

Any one who, on reasonable grounds, believes that a person has committed an indictable offence may lay an information in writing and under oath before a justice, and the justice shall receive the information, where it is alleged

- (a) that the person has committed, anywhere, an indictable offence that may be tried in the province in which the justice resides, and that the person
  - (i) is or is believed to be, or
  - (ii) resides or is believed to reside, within the territorial jurisdiction of the justice;
- (b) that the person, wherever he may be, has committed an indictable offence within the territorial jurisdiction of the justice;
- (c) that the person has, anywhere, unlawfully received property that was unlawfully obtained within the territorial jurisdiction of the justice; or
- (d) that the person has in his possession stolen property within the territorial jurisdiction of the justice.

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### Ryan vs. Victoria

<https://www.canlii.org/en/ca/scc/doc/1999/1999canlii706/1999canlii706.html>

"Conduct is negligent if it creates an objectively unreasonable risk of harm. To avoid liability, a person must exercise the standard of care that would be expected of an ordinary, reasonable and prudent person in the same circumstances. The measure of what is reasonable depends on the facts of each case, including the likelihood of a known or foreseeable harm, the gravity of that harm, and the burden or cost which would be incurred to prevent the injury."

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## Canadian Tort Law

There are some particular incident examples where civil negligence (tort) might be effective  
-See also: Fiduciary duty; parens patriae; duty of care

Tort negligence occurs when the following concepts are not met:

- Duty of care
  - Reasonably foreseeable that another individual will suffer harm
- Standard of care
  - What would a reasonable person have done in a similar circumstance
- Causation
  - That the defendant actually caused that injury
- Remoteness
  - The resulting injury or damage could be reasonably foreseen at the time of the

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## Other Potentially Useful Legal Information

### Controlled Drugs and Substances Act

#### Regulations and Exemptions

##### Section 55

**(1)** The Governor in Council may make regulations for carrying out the purposes and provisions of this Act, including the regulation of the medical, scientific and industrial applications and distribution of controlled substances and precursors and the enforcement of this Act, as well as the regulation of designated devices and, without restricting the generality of the foregoing, may make regulations

**(a)** governing, controlling, limiting, authorizing the importation into Canada, exportation from Canada, production, packaging, sending, transportation, delivery, sale, provision, administration, possession or obtaining of or other dealing in any controlled substances or precursor or any class thereof;

**(b)** respecting the circumstances in which, the conditions subject to which and the persons or classes of persons by whom any controlled substances or precursor or any class thereof may be imported into Canada, exported from Canada, produced, packaged, sent, transported, delivered, sold, provided, administered, possessed, obtained or otherwise dealt in, as well as the means by which and the persons or classes of persons by whom such activities may be authorized;

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## Canadian Health Care Policy

### **Primary objective of Canadian health care policy**

#### Section 3

It is hereby declared that the primary objective of Canadian health care policy is to protect, promote and restore the physical and mental well-being of residents of Canada and to facilitate reasonable access to health services without financial or other barriers.

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## Drug Checking

*There is manipulation of statistics supporting intervention.*

Current agreed upon rates of fentanyl contamination are about 90% of opioids and 5% of stimulants.

The presence of fentanyl in stimulants is grossly overstated; many of the fentanyl testing strips have been giving false positives due to one of two theoretical reasons:

1. Placing a strip in a super-concentrated stimulant solution can overwhelm the antibodies on the strip and interfere with test performance (Mark Lysyshyn).
2. Second line of strip is hard to read with stimulant samples (Sam at Insite).

FITR can tell approximate percent content of drugs and can be used to compare samples. However, this uses a computer's best guess relative to a sample library to estimate drug content.

Further lab testing can confirm 100% what may be in a sample of drugs, but cannot estimate percent content of said substances.

Hot spots in drugs can generally be removed if substances are mixed well enough

BTNX on false fentanyl test strip positives from methamphetamines: *"we have heard that the fentanyl strips may show false positive results when tested with high concentrations of methamphetamine. This seems to only happen with very high concentrations, to our knowledge the rate of false positive results can be reduced significantly by diluting the samples appropriately and testing only small quantities of substance. The strips are highly sensitive for fentanyl, therefore only a very small amount of substance is required for testing. Unfortunately, we do not have access to the pure substance at BTNX Inc, and therefore cannot perform testing with high concentrations of illicit drugs to confirm these observations. This information is based on what harm reduction sites have reported."*

<https://www.bccsu.ca/wp-content/uploads/2017/12/Drug-Checking-Evidence-Review-Report.pdf>

[drugchecking@bccsu.ubc.ca](mailto:drugchecking@bccsu.ubc.ca)

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## Insite Supreme Court Judgments

<https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/7960/index.do>

[136] The Minister made a decision not to extend the exemption from the application of the federal drug laws to Insite. The effect of that decision, but for the trial judge's interim order, would have been to prevent injection drug users from accessing the health services offered by Insite, threatening the health and indeed the lives of the potential clients. The Minister's

decision thus engages the claimants' s. 7 interests and constitutes a limit on their s. 7 rights. Based on the information available to the Minister, this limit is not in accordance with the principles of fundamental justice. It is arbitrary, undermining the very purposes of the CDSA, which include public health and safety. It is also grossly disproportionate: the potential denial of health services and the correlative increase in the risk of death and disease to injection drug users outweigh any benefit that might be derived from maintaining an absolute prohibition on possession of illegal drugs on Insite's premises.

[156] The CDSA is constitutionally valid and applies to the activities at Insite. However, the Minister of Health's actions in refusing to exempt Insite from the operation of the CDSA are in violation of the respondents' s. 7 Charter rights. The Minister is ordered to grant an exemption for Insite under s. 56 of the CDSA.

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### **Codeine in South Africa**

Codeine is available over the counter in South Africa. Certain pharmacies require people to write down their name and address to ensure they are not buying too much over a short period although many do not require this at all. According to Dr Lochan Naidoo, the former president of the National Narcotics Control Board, making the drugs more difficult to obtain could lead to even worse problems where people in withdrawal would turn to illicit drugs to get their fix. Although codeine is freely available, South Africa has a fairly low annual prevalence rate of opiate use at 0.3% compared to the United States at 0.57% where all opiates are strictly regulated.

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Important questions yet to be answered:

1. How the rules for the prescribing of naloxone change and what caused naloxone to be more freely available?
2. How do existing prescription heroin cases (i.e. Salome) impact our chances of securing an exemption for an extreme low barrier project?
  - a. Talk to Kurt or Marty, Eugenia?
3. How does the Food and Drug Act, and Narcotics Regulation Act fit into this picture?

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### **Regarding Safe Supply Navigation**

A racket, according to the current common and most general definition, is an organized criminal act or activity in which the criminal act or activity is some form of substantial business, or a way to earn illegal money either regularly, or briefly but repeatedly. A racket is therefore generally a repeated or continuous organized criminal operation or enterprise. Conducting a racket is racketeering.

### **Canadian Criminal Code**

### **Instructing commission of offence for criminal organization**

**467.13** (1) Every person who is one of the persons who constitute a criminal organization and who knowingly instructs, directly or indirectly, any person to commit an offence under this or any other Act of Parliament for the benefit of, at the direction of, or in association with, the criminal organization **is guilty of an indictable offence and liable to imprisonment for life.**

**467.1** (1) The following definitions apply in this Act.

***criminal organization*** means a group, however organized, that

- (a) is composed of three or more persons in or outside Canada; and
- (b) has as one of its main purposes or main activities the facilitation or commission of one or more serious offences that, if committed, would likely result in the direct or indirect receipt of a material benefit, including a financial benefit, by the group or by any of the persons who constitute the group.

It does not include a group of persons that forms randomly for the immediate commission of a single offence.

***serious offence*** means an indictable offence under this or any other Act of Parliament for which the maximum punishment is imprisonment for **five years or more**, or another offence that is prescribed by regulation.

### **CDSA**

#### **Trafficking in substance**

5 (1) No person shall traffic in a substance included in Schedule I, II, III, IV or V or in any substance represented or held out by that person to be such a substance.

(2) No person shall, for the purpose of trafficking, possess a substance included in Schedule I, II, III, IV or V.

(3) Every person who contravenes subsection (1) or (2)

(a) if the subject matter of the offence is a substance included in **Schedule I or II**, is guilty of an **indictable offence and liable to imprisonment for life**, and

(i) to a minimum punishment of imprisonment for a term of one year if

(A) the person committed the offence for the benefit of, at the direction of or in association with a criminal organization, as defined in subsection 467.1(1) of the Criminal Code,

(B) the person used or threatened to use violence in committing the offence,

(C) the person carried, used or threatened to use a weapon in committing the offence,

or

(D) the person was convicted of a designated substance offence, or had served a term of imprisonment for a designated substance offence, within the previous 10 years, or

(ii) to a minimum punishment of imprisonment for a term of two years if

(A) the person committed the offence in or near a school, on or near school grounds or in or near any other public place usually frequented by persons under the age of 18 years,

(B) the person committed the offence in a prison, as defined in section 2 of the Criminal Code, or on its grounds, or

(C) the person used the services of a person under the age of 18 years, or involved such a person, in committing the offence;

(b) if the subject matter of the offence is a substance included in Schedule III or V,

(i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding ten years, or

(ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding eighteen months; and

(c) where the subject-matter of the offence is a substance included in Schedule IV,

(i) is guilty of an indictable offence and liable to imprisonment for a term not exceeding three years, or

(ii) is guilty of an offence punishable on summary conviction and liable to imprisonment for a term not exceeding one year.