

**ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC
SUBSTANCES (AMENDMENT) ACT, 2025**

No. 26



of 2025

ARRANGEMENT OF SECTIONS

SECTION

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**An Act to amend the Illicit Traffic in Narcotic Drugs and
Psychotropic Substances Act.**

Date of Assent: 27.11.2025

Date of Commencement: ON NOTICE

ENACTED by the Parliament of Botswana.

1. This Act may be cited as the Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Amendment) Act, 2025, and shall come into operation on such date as the Minister may, by Order published in the *Gazette*, appoint.

Short title and
commencement

2. The Illicit Traffic in Narcotic Drugs and Psychotropic Substances Act (in this Act referred to as “the Act”) is amended by —

General
amendment of
Cap. 08:12

- (a) substituting for the words “designated law enforcement officer” wherever they appear in the Act, the words “law enforcement officer”; and
- (b) inserting the words “drug enforcement officer or” immediately before the words “law enforcement officer” wherever they appear in the Act.

3. Section 2 of the Act is amended by —

Amendment
of section 2 of
the Act

- (a) substituting for the definition of “possess”, the following new definition —

- “possess”, includes keep, store or have in custody or under control or supervision, or knowledge of;” and
- (b) inserting in their alphabetical order, the following new definitions —
- “Appeals Board” means the Drug Enforcement Agency Appeals Board established in section 42;
- “Board” means the Drugs Control Board established in section 32;
- “Director General” means the Director General of the Agency appointed as such in section 30;
- “drug enforcement officer” means an officer of the Agency, but does not include the support staff;
- Cap. 24:01 “firearm” has the same meaning assigned to it in the Arms and Ammunition Act;
- Cap. 08:07 “investigatory authority” has the same meaning assigned to it under the Financial Intelligence Act;
- “investigating officer” means a person authorised as such in terms of this Act;
- “law enforcement officer” includes a drug enforcement officer and any other officer authorised or recognised as such by any written law, but does not include bye-law enforcement officers;
- “preparation” means the mixture of any substance containing illicit narcotic drugs and psychotropic substances;
- “reduction of harm” includes practices aimed at reducing harm caused by drug use;
- Cap. 72:03 “service provider” has the same meaning assigned to it under the Botswana Communications Regulatory Authority Act;
- “support staff” means members of the community who are not officers of the Agency, but who are under the direction of the Director General, performing such duties under this Act; and
- “telecommunication” means a transmission, emission or reception of a sign, signal, writing, image, sound or intelligence of any nature, by wire, radio, optical or any other electromagnetic system, whether or not such sign, signal, writing, image, sound or intelligence has been subjected to rearrangement, computation or any other process by any means, in the course of transmission, emission or reception;”.
- Amendment of section 4 of the Act
- 4.** Section 4 of the Act is amended —
- (a) by inserting immediately after subsection (1), the following new subsection —
- “(1A) A person who is in possession of any preparation containing cannabis other than a medicinal product or other than for research purpose commits an offence and is liable to a fine not exceeding P20 000 or to a term of imprisonment not exceeding three years, or to both.”;
- (b) by inserting immediately after subsection (2), the following new subsections —

“(2A) A person who contravenes subsection (1) (b) in relation to the possession of 60 grams or less of cannabis commits an offence and is liable to a fine not exceeding P10 000 or may be subjected to any alternative to imprisonment as may be prescribed.

(2B) The possession referred to in subsection (2A) shall be deemed to be a low-level possession and a person who is found in such possession shall not be imprisoned.

(2C) Notwithstanding anything provided for in this Act or any other written law, a drug enforcement officer shall serve on a person reasonably suspected to have committed an offence in terms of subsection (2A), a notice in a form as may be prescribed, charging the person to pay the fine in relation to the offence within 21 days after receipt of the notice.

(2D) A person referred to in subsection (2C) shall be subjected to a mandatory rehabilitation programme as maybe prescribed.

(2E) Where a person referred to in subsection (2C) fails to pay a fine, such person shall be subjected to any other alternative to imprisonment as may be prescribed.”;

(c) by substituting for the words “60 grams” appearing in subsections (3) and (4), the words “1 kilogram”; and

(d) in subsection (5) by substituting for paragraph (c), the following new paragraph —

“(c) any preparation containing any illicit substances.”.

5. Section 6 of the Act is amended by inserting immediately after the word “cultivated” appearing in the second line in subsection (2), the word “unlawfully”.

Amendment
of section 6 of
the Act

6. The Act is amended in section 18 by —

(a) substituting for subsection (1), the following new subsection —

Amendment
of section 18
of the Act

“(1) A drug enforcement officer or law enforcement officer who has reasonable grounds to suspect that an offence under this Act has been or is about to be committed by any means in respect of any illicit substance, narcotic drug or psychotropic substance may at any time without a search warrant —

(a) break and enter, or board and search any premises, vehicle, boat or aircraft on or in which any such narcotic drug or psychotropic substance is suspected to be found;

(b) search any container or other thing in which any such narcotic drug or psychotropic substance is suspected to be found;

(c) search and cause to be searched any such person or anything in his or her possession or custody or under his or her control;

(d) intercept or cause to be intercepted either during transit or otherwise any such article, and open and examine the article in the presence of any suitable person

- (e) question any person who is in his or her opinion may be capable of furnishing any information relating to the offence or alleged offence under this Act; or
 - (f) seize any property which in his or her opinion is connected with, or may provide proof of, a contravention of a provision of this Act.”; and
- (b) inserting immediately after subsection (2), the following new subsections —
- “(2A) A drug enforcement officer or law enforcement officer shall have the power to search any person, premises, vehicle, boat or aircraft at any time in the absence of an independent witness under the following circumstances —
- (a) during night time where there is no possible witness;
 - (b) where a person suspected to have committed an offence under this Act evades arrest or flees to an inaccessible area; or
 - (c) where danger is eminent.
- (2B) A drug enforcement officer or law enforcement officer may arrest a person suspected to have committed an offence under this Act with or without a warrant.
- (2C) A drug enforcement officer or law enforcement officer may use a firearm in order to effect an arrest of a person suspected to have committed an offence under this Act.”.

Amendment
of section 23
of the Act

7. The Act is amended by substituting for section 23, the following new section —

“Power to intercept communication
23. (1) An investigating officer who considers that any communication or postal article is likely to contain any information or substance which is likely to be relevant for the purpose of any investigation into an offence under this Act, or any corresponding foreign law, after the issuance of a warrant, may —

- (a) intercept, detain and open any postal article in the course of transmission by post; or
- (b) intercept any message transmitted or received by any telecommunication.

(2) Where there is a delay in obtaining a warrant, a head of an investigatory authority who believes on reasonable grounds that the delay in obtaining the warrant would defeat the object of an investigation may, in writing, authorise an investigating officer to intercept any communication in order to detect, investigate or uncover the commission of an offence under this Act.

(3) An authorisation made in terms of subsection (2) shall be for a period not exceeding 14 days.

(4) An investigating officer shall make an ex parte application to the court for a warrant to intercept any communication for purposes of gathering evidence during an investigation.

(5) An application referred to in subsection (4) shall contain —

- (a) any information relating to the person whose communication is to be intercepted;
- (b) any information relating to the basis for believing that communication relating to the reason for which the application is being made will be obtained through the interception of that communication;
- (c) any information relating to the service provider to whom the instruction to intercept the communication shall be addressed, where applicable;
- (d) any information relating to the nature and location of the place from which the communication is to be intercepted;
- (e) all particulars of all facts and circumstances alleged by the applicant in support of the application;
- (f) information on whether any other investigative procedure involves undue risk to the safety of the members of the public or to those wishing to obtain the required evidence; and
- (g) the period for which the authorisation is required to be issued.

(6) An investigating officer shall intercept communication in the course of its transmission —

- (a) by means of a telecommunication system or radio communication system, unless the person —
 - (i) is a party to the communication,
 - (ii) has the consent of the parties to the communication, or
 - (iii) is authorised by warrant to carry out such interception; and
- (b) through a post unless the investigating officer —
 - (i) has the consent of the person to whom, or the person by whom, the communication is sent, or
 - (ii) is authorised by warrant to carry out such interception.

(7) Subsection (6) shall not apply to a bona fide interception of any communication for the purpose of, or in connection with, the provision, installation, maintenance or repair of a postal telecommunication service or radio communication service.

Insertion of sections 24, 25 and 26 in the Act

(8) Subject to subsection (6) (a), an investigating officer who intentionally intercepts or attempts to intercept, or authorises or procures another person to intercept or attempt to intercept, at any place, any communication in the course of its occurrence or transmission commits an offence and is liable to a fine not exceeding P50 000 or to imprisonment for a term not exceeding 12 years, or to both.”.

8. The Act is amended by inserting immediately after section 23, the following new sections —

“Protected information 24. (1) Where an investigating officer has reasonable grounds —

- (a) that a key to protected information is in the possession of another person;
- (b) that the imposition of a disclosure requirement in respect of protected information is necessary —
 - (i) in the interest of national security,
 - (ii) for preventing or detecting a serious crime related activity, or
 - (iii) in the public interest;
- (c) that the imposition of disclosure requirement referred to in paragraph (b) is proportionate to what the imposition seeks to achieve; and
- (d) that it is unreasonably practicable for the investigating officer to obtain possession of protected information in an intelligible form without notice, such investigating officer may, by notice to the person who he or she believes to have possession of the key referred to under paragraph (a), impose a disclosure requirement in respect of the protected information.

(2) A notice under this section imposing a disclosure requirement in respect of any protected information shall—

- (a) be in writing;
- (b) describe the protected information to which the notice relates;
- (c) specify the reason for the protected information is required;
- (d) specify the duration of the notice; and
- (e) set out the disclosure that is required by the notice and the form and manner in which it is to be made.

(3) A notice under this section shall not require disclosure to any person other than —

- (a) a person giving the notice; or
- (b) such other person as may be specified in the notice.

(4) A person to whom a notice has been given in terms of this section and who is in possession of both the protected information and the key to such protected information shall —

- (a) use the key in his or her possession to provide access to the information; and
 - (b) in providing access to the information, disclose the information.
- (5) Where a person to whom a notice has been given under this section is in possession of different keys, or a combination of keys, to protected information —
- (a) it shall not be necessary for purposes of complying with the notice, for the person to disclose all keys in addition to a disclosure which is sufficient to enable an applicant to obtain access to the protected information and set it in an intelligible form; and
 - (b) the person may select which of the keys or combination of keys may be used for complying with the notice.
- (6) Where a person to whom a notice has been given under this section —
- (a) no longer possesses a key to protected information; and
 - (b) has information that will facilitate the obtaining or discovery of the key to protected information, such person shall, as soon as it is practicably possible, disclose such information to the applicant.
- (7) An investigating officer to whom a key has been disclosed under this section shall —
- (a) use the key in respect of the protected information, in the manner and for the purpose specified in the notice; and
 - (b) on or before the expiry of the period or extended period for which the notice has been given, destroy any record of the key if in the opinion of the investigating officer —
 - (i) criminal proceedings or civil proceedings are not being instituted in connection with such record, or
 - (ii) such record will not be required for criminal proceedings or civil proceedings.
- (8) A person who fails to disclose information in terms of a notice given under this section commits an offence and is liable to a fine not exceeding P10 000 or to imprisonment for a term not exceeding six years, or to both.

Disclosure of
communication
prohibited

25. (1) A person shall not disclose any communication or information which he or she obtained in the exercise of his or her powers, or the performance of his or her duties in terms of this Act, unless such person is required to do so in accordance with any written law or an order of the court.

(2) Notwithstanding subsection (1), a person may disclose communication or information he or she obtained in the exercise of his or her powers or the performance of his or her duties in terms of this Act to another person who requires such communication or information in order to perform his or her functions in terms of this Act.

(3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding P50 000 or to imprisonment for a term not exceeding 12 years, or to both.

Requirements
for service
providers

26. (1) A service provider shall —

- (a) have a postal or telecommunications system which is technically capable of supporting lawful interceptions at any time in accordance with section 23;
- (b) install a hardware device and facility and a software device and facility to enable the interception of any communication at any time or when required, as the case may be;
- (c) have a service which is capable of rendering real time and full-time monitoring facility for the interception of any communication;
- (d) provide all call-related information in real time or as soon as possible upon call termination;
- (e) provide one or more interception interfaces from which any intercepted communication shall be transmitted to an investigatory authority;
- (f) transmit any intercepted communications to an investigatory authority through a fixed or switched connection, as may be specified by the court;
- (g) provide access to any interception subject operating temporarily or permanently within the subject's communication system, and where the interception subject uses a feature to divert a call to any other service provider or a terminal equipment, provide access to such other service provider or terminal equipment; and
- (h) provide, where necessary, the capacity to implement a number of simultaneous interceptions in order to allow monitoring by more than one authorised person, and —
 - (i) safeguard the identity of an applicant and ensure the confidentiality of an investigation, and
 - (ii) implement an interception in such a manner that neither the interception target nor another applicant is aware of any changes made to fulfil a warrant issued in terms of this Act.

(2) A service provider who contravenes subsection (1) commits an offence.

(3) Where a service provider is convicted of an offence under this Act, every person who —

- (a) is a director, or otherwise concerned with the management, of the service provider; and
- (b) knowingly authorises or permits an act or omission constituting an offence, commits an offence.

(4) A service provider that commits an offence under this section is liable to a fine not exceeding P50 000 or, in the case of a person referred to under subsection (3), to a fine not exceeding P15 000 or to imprisonment for a term not exceeding five years, or to both.”.

9. The Act is amended by —

(a) re-numbering section 26 as section 27; and

(b) substituting for section 26, the following new section —

“Rehabilitation 27. The Minister may establish a rehabilitation centre for centres the purpose of the reduction of harm caused by drug use.”.

Amendment
of section 26
of the Act

10. The Act is amended by re-numbering section 27 as section 28.

Amendment
of section 27
of the Act

11. Section 28 of the Act is amended —

(a) by re-numbering section 28 as section 29; and

(b) in subsection (1) by inserting immediately after paragraph (e), the following new paragraphs —

- “(f) facilitate the provision of rehabilitation and reintegration service to any drug user and any victim of drug use; and
- (g) facilitate the administration of any alternative to imprisonment under this Act.”.

Amendment
of section 28
of the Act

12. The Act is amended by inserting immediately after section 29, the following new sections —

“Appointment of Director General 30. The Agency shall have a Director General who shall be appointed by the President on such terms and conditions as the President may determine.

Functions of Director General 31. (1) The Director General shall be responsible for the direction and administration of the Agency.

(2) Notwithstanding the generality of subsection (1), the Director General shall be responsible for —

- (a) the development of the scheme of service of the Agency by setting out the terms and conditions for the appointment of the officers and support staff, which scheme of service shall provide for —
 - (i) the recruitment, promotion, resignation and termination of any officer and support staff of the Agency,

Insertion of
sections in the
Act

- (ii) the salary scale and allowance of any officer and support staff of the Agency, and
- (iii) the designation and grading of any officer and support staff of the Agency;
- (b) the keeping and maintaining of a disciplinary code relating to —
 - (i) any disciplinary offence,
 - (ii) the investigation, hearing and determination of any disciplinary matter and the hearing of an appeal of such matter, and
 - (iii) the delegation, by the Director General, to an officer or support staff of the Agency, of any function relating to disciplinary matter as he or she may consider appropriate; and
- (c) the accounting for finance and any procurement activity by the Agency.

Drug
Control
Board

32. (1) There is established a body to be known as the Drugs Control Board.

(2) The Board shall be responsible for —

- (a) the coordination of any inter-ministerial programme, policy and action plan;
- (b) the licensing of a service provider who provides for a treatment and rehabilitation service; and
- (c) the monitoring of compliance to any law relating to treatment and rehabilitation.

(3) The Board may, at the request of any person and on the grounds of quality, safety or efficacy, carry out or cause to be carried out —

- (a) an investigation in respect of any particular service; and
- (b) an inspection and a comparative study in respect of a service provided by a service provider.

Membership
of Board

33. (1) The Board shall consist of 14 members appointed by the Minister who shall be —

- (a) the Director General who shall be an *ex-officio* member;
- (b) the Permanent Secretary for the Ministry responsible for health;
- (c) the Permanent Secretary for the Ministry responsible for child welfare and basic education;
- (d) the Permanent Secretary for the Ministry responsible for higher education;
- (e) the Permanent Secretary for the Ministry responsible for agriculture;
- (f) the Permanent Secretary for the Ministry responsible for trade and entrepreneurship;

- (g) the Permanent Secretary for the Ministry responsible for youth and gender affairs;
- (h) the Permanent Secretary for the Ministry responsible for sports and arts;
- (i) the Permanent Secretary for the Ministry responsible for justice and correctional services;
- (j) the Commissioner of Police;
- (k) the Commissioner General for the Botswana Unified Revenue Service;
- (l) an attorney from the Attorney General's Chambers;
- (m) the Chief Executive Officer of the Botswana Medicines Regulatory Authority; and
- (n) the Chief Executive Officer of the National Cannabis Control Authority.

(2) The Minister shall appoint the Chairperson of the Board from amongst the members of the Board.

(3) The Vice Chairperson of the Board shall be elected by the members from amongst the members of the Board.

Tenure of office, disqualifications, proceedings, etc.

34. (1) The quorum at any meeting of the Board shall be a simple majority of the members of the Board.

(2) The Minister may make Regulations in order to provide for —

- (a) the tenure of office of the members of the Board;
- (b) the disqualification, suspension and removal from membership of the Board;
- (c) the vacation of office by the members of the Board;
- (d) the remuneration and allowances of the members of the Board;
- (e) the proceedings of the Board; and
- (f) any other related matter.

Disciplinary Board

35. (1) There is established a Disciplinary Board which shall consist of —

- (a) a Disciplinary Board of Enquiry I;
- (b) a Disciplinary Board of Enquiry II;
- (c) a Class I Disciplinary Board;
- (d) a Class II Disciplinary Board; and
- (e) a Class III Disciplinary Board.

(2) The Disciplinary Board shall be responsible for the hearing of matters relating to the disciplinary offences under this Act.

(3) The Disciplinary Board shall, when hearing a matter before it, constitute itself as follows —

- (a) a Disciplinary Board of Enquiry I which shall hear any matter before it against a drug enforcement officer of the rank of the Deputy Director General, and shall consist of a chairperson and two members appointed by the Permanent Secretary to the President on the recommendation of the Director General, the drug enforcement officer in question;
- (b) a Disciplinary Board of Enquiry II which shall hear any matter before it against a drug enforcement officer of the rank of Assistant Director to Director and shall consist of a chairperson and two members appointed by the Director General from persons in the public service of a status not inferior to the drug enforcement officer in question;
- (c) a Class I Disciplinary Board appointed by the Director General to hear any matter before it against a senior drug enforcement officer of up to and including the rank of principal and chief drug enforcement officers and shall consist of a chairperson being of a rank not less than that of the Assistant Director, and two members who shall be the drug enforcement officers senior in rank to the officer in question;
- (d) a Class II Disciplinary Board appointed by the Director General to hear any matter before it against a senior drug enforcement officer and a lower rank, and shall consist of senior officers not exceeding three as the Director General may direct:
Provided that —
 - (i) where more than one senior officer is so appointed, the chairperson shall be the most senior in rank; or
 - (ii) where it appears to a senior drug enforcement officer in relation to a matter against a senior drug enforcement officer that the offence is not serious in nature to require the Disciplinary Board of more than one senior drug enforcement officer, the hearing may proceed without the direction of the Director General; and
- (e) a Class III Disciplinary Board appointed by the Director General and conducted by a senior officer, to hear any matter before it against any junior drug enforcement officer:

Provided that where it appears to a Class III Disciplinary Board that by reason of the gravity of the disciplinary offence or any other reason, the matter would be dealt with more properly by a Class II Disciplinary Board, the Class III Disciplinary Board shall defer its hearing and report the facts to the Director General, who may return the report for further inquiry or order the matter of the officer being disciplined to be heard before the Class II Disciplinary Board.

36. A drug enforcement officer commits a disciplinary offence if he or she —

Disciplinary
offences

- (a) wilfully disobeys, or without good cause omits or neglects to carry out, a lawful or reasonable order given by an officer senior in rank to him or her;
- (b) is insubordinate or conducts himself or herself in an oppressive manner;
- (c) habitually or wilfully neglects the duty to carry out responsibilities lawfully assigned to him or her;
- (d) is persistently absent from work without permission;
- (e) engages in a discreditable conduct, as may be prescribed;
- (f) wilfully discloses confidential information where such disclosure is or is likely to be detrimental to the interests of the Agency, as may be prescribed;
- (g) engages in corrupt practice, as may be prescribed;
- (h) malingers to evade duty;
- (i) causes damage wilfully or by gross negligence to movable or immovable property of the Agency;
- (j) is unable to carry out a normal duty, due to the consumption of alcohol or any drug;
- (k) while on duty, enters premises where liquor is offered for sale for consumption on the premises or where liquor is being consumed, except where required to be at such premises in the execution of his or her duty;
- (l) with authority, engages in any employment or business other than the duty assigned to him or her by the Agency;
- (m) negligently, or without a lawful order or just cause, discharges an official firearm;
- (n) connives or knowingly becomes an accessory to an offence against discipline under the code of conduct;
- (o) steals or forges any radio, telecommunications or computerised message; or
- (p) carries out any other act to the prejudice of good order and discipline.

Disciplinary proceedings

37. (1) An offence committed by a drug enforcement officer for which a disciplinary hearing may be instituted in a court may be dealt with by a Disciplinary Board.

(2) A Disciplinary Board may, in any disciplinary hearing before the Disciplinary Board, substitute the offence before such Disciplinary Board with any other offence.

(3) Where a drug enforcement officer commits an act or omits to do an act outside Botswana that constitutes a criminal offence or disciplinary offence under this Act, it shall be deemed that such act or omission was committed in Botswana.

(4) For purposes of subsection (3), it shall be immaterial whether the drug enforcement officer was on duty or not.

(5) Any drug enforcement officer who appears before a Disciplinary Board for a disciplinary hearing shall be entitled to legal representation at his or her own expense.

Penalties by Disciplinary Board

38. (1) A Disciplinary Board of Enquiry shall have the power to —

- (a) reprimand;
- (b) in the case of Disciplinary Board of Enquiry I, impose a fine not exceeding P3 000;
- (c) in the case of Disciplinary Board of Enquiry II, impose a fine not exceeding P2 000; or
- (d) reduce the rank of a drug enforcement officer who is before a disciplinary hearing in terms of this Act, to any rank not less than that of a Director or Assistant Director.

(2) A Class I Disciplinary Board shall have the power to —

- (a) reprimand;
- (b) impose a fine not exceeding P1 500; or
- (c) reduce the rank of a drug enforcement officer who is before a disciplinary hearing in terms of this Act, to a rank not less than that of a senior drug enforcement officer.

(3) A Class II Disciplinary Board shall have the power to —

- (a) reprimand;
- (b) impose a fine not exceeding P1 000; or
- (c) reduce the rank of a drug enforcement officer to any rank that is not less than that of drug enforcement officer I.

(4) A Class III Disciplinary Board shall have the power to —

- (a) reprimand;
- (b) impose a fine not exceeding P500;
- (c) reduce the rank of a drug enforcement officer to a lower rank; or
- (d) not approve one salary increment of the junior drug enforcement officer.

(5) Notwithstanding subsections (1) to (4), where a drug enforcement officer is found to have committed a disciplinary offence under section 36, a Disciplinary Board may order the drug enforcement officer to make good any loss or damage caused by such drug enforcement officer.

(6) An order referred to in subsection (5) shall, for the purpose of section 40 be deemed to be a fine, and for the purpose of section 41 be deemed to be a sentence.

Dismissal
after
disciplinary
hearing

39. A Disciplinary Board may, after a drug enforcement officer is found to have committed a disciplinary offence under section 36, recommend to the appointing authority that the drug enforcement officer be dismissed from the Agency, in addition to any penalty under section 38.

Confirmation,
consideration
and review of
penalties

40. (1) A Disciplinary Board shall keep and maintain a record of any disciplinary and hearing in such manner as the Director General may require and shall, as soon as it is practicable, submit the record together with any additional representation made by the drug enforcement officer —

- (a) in the case of a Disciplinary Board of Enquiry or Class I Disciplinary Board, to the Director General who shall submit such record to the Permanent Secretary to the President; and
- (b) in the case of any other Disciplinary Board, to a Director who has direct authority over the drug enforcement officer against whom a disciplinary hearing was held.

(2) Upon receipt of the record referred to in subsection (1), the Permanent Secretary to the President or the Director General, as the case may be, may —

- (a) vary, reverse or confirm the penalty given by the respective Disciplinary Board, or substitute any punishment given by the respective Disciplinary Board for a different punishment, which may be one or more punishments which the Disciplinary Board may give;
- (b) substitute for the disciplinary offence committed and the penalty given for a different disciplinary offence the commission of which the Permanent Secretary to the President or the Director General is satisfied that is has been proven, and a different penalty, whether the different disciplinary offence was charged or not, that the respective Disciplinary Board may give; and
- (c) direct a different Disciplinary Board to hold a new disciplinary hearing:
Provided that —

- (i) the Permanent Secretary to the President or the Director General, as the case may be, shall not, in relation to paragraph (b), substitute a disciplinary offence committed and a penalty in respect of a different disciplinary offence which was not charged without giving the drug enforcement officer in question the opportunity to address the Permanent Secretary to the President or the Director General, as the case may be;
- (ii) the Permanent Secretary to the President or the Director General, as the case may be, may, when substituting for any punishment given by the respective Disciplinary Board or in addition to the punishment given by the Permanent Secretary to the President or the Director General under paragraph (b), dismiss the drug enforcement officer, reduce his or her salary to the scale applicable him or her, direct the withholding of future salary increment for a period not exceeding two years, and
- (iii) where the Permanent Secretary to the President or the Director General, as the case may be, alters a penalty to reduce a rank or gives such penalty as a substituted penalty under paragraph (a) or (b), he or she may order the reduction of the drug enforcement officer to any rank.

(3) The powers conferred on the Director General under subsection (2) may, with the exception of the power to dismiss or reduce a rank, and subject to the direction of the Director General, be exercised by —

- (a) a Deputy Director General; or
- (b) a Director who has direct authority over the drug enforcement officer against whom the disciplinary proceeding is held:

Provided that if the Director is of the opinion that a new disciplinary hearing should be held, he or she shall recommend the disciplinary hearing to the Director General and give reasons for recommendation.

(4) Where a drug enforcement officer is found by any Disciplinary Board to have not committed a disciplinary offence, the record of the disciplinary hearing shall —

- (a) in the case of a Disciplinary Board of Enquiry or a Class I Disciplinary Board, be submitted to the Director General; and

	<p>(b) in the case of a Class II Disciplinary Board or Class III Disciplinary Board, be submitted to a Director who has direct authority over the drug enforcement off</p> <p>(5) The Director may, upon receipt of the record in terms of subsection (4) (b), and if he or she is of the opinion that the fact of the matter was sufficient to prove that a drug enforcement officer committed the disciplinary offence, recommend to the Director General that a new disciplinary hearing should be held before a different Disciplinary Board.</p> <p>(6) There shall be no further disciplinary hearing, where the Disciplinary Board referred to in subsection (5) arrives at the same decision as the initial Disciplinary Board.</p> <p>(7) A drug enforcement officer who is aggrieved by the decision made by the Deputy Director General or Director in terms of subsection (3) may appeal to the Director General who may dismiss the appeal or allow such appeal wholly or in part.</p>
Recovery of fines	41. A fine imposed on a drug enforcement officer in terms of this Act may be recovered through the surcharge of the salary of the drug enforcement officer.
Drug Enforcement Appeals Board	<p>42. (1) There is established a Drug Enforcement Appeals Board which shall consist of at least five members and not more than seven members.</p> <p>(2) The President shall appoint the Chairperson and a Vice Chairperson from amongst the members of the Appeals Board.</p> <p>(3) The members of the Appeals Board shall be appointed for a period not exceeding five years and shall be eligible for reappointment for a further term not exceeding five years.</p> <p>(4) The quorum at any meeting of the Appeals Board shall be three members of the Appeals Board.</p>
Duties of Appeals Board	<p>43. The functions of the Appeals Board shall be to —</p> <p>(a) carry out such duties as the President may direct, without derogating from the authority and the responsibilities that it may be given by the Director General under this Act; and</p> <p>(b) carry out such other duties as may be conferred upon it by this Act.</p>
Complaints against Agency	<p>44. (1) Subject to this Act, the Appeals Board shall consider any complaint against the Agency or an officer of the Agency, which the Director General is unable to resolve.</p> <p>(2) The Director General may submit to the Appeals Board, a report on any complaint against the Agency or an officer of the Agency, which the Director General is unable to resolve.</p>

(3) A drug enforcement officer who is found to have committed a disciplinary offence under section 36 (1) and the Board has decided on the matter, or who is dismissed or removed from office in terms of this Act, may appeal against such decision to the Appeals Board.

(4) The Appeals Board may dismiss an appeal under subsection (3) or allow it in whole or in part.

(5) Notwithstanding subsection (4), the Appeals Board shall have no power to substitute for a decision and a punishment given by the Board in respect of a disciplinary offence, a decision and a punishment in respect of another disciplinary offence, whether that other disciplinary offence was before the Board or not.

(6) An aggrieved drug enforcement officer shall submit a notice of intention to appeal to the Appeals Board within seven days after being notified of the decision of the Board.

(7) An aggrieved drug enforcement officer shall state his or her grounds of appeal in writing to the Appeals Board and to the Director General within 14 days of being notified of the decision of the Board.

(8) The Appeals Board shall communicate its decision in writing to the aggrieved drug enforcement officer.

Appeals
procedure

45. (1) Subject to this Act, the Appeals Board may regulate its own procedure.

(2) Notwithstanding the generality of subsection (1), the Appeals Board may, when considering an appeal, require the appearance of any witness or additional witnesses, and may require the production of such evidence as it may deem necessary.

(3) The Director General may, when exercising the powers of an appellate authority in relation to a decision by a Director to whom the authority to review the disciplinary proceedings has been delegated, exercise any duty of the Appeals Board under this Act.”

Amendment
of section 29
of the Act

13. The Act is amended by substituting for section 29, the following new section —

“Regulations 46. The Minister may make regulations for the better carrying out of the objects of this Act.”.

PASSED by the National Assembly this 14th day of August, 2025.

DR. GABRIEL G. G. MALEBANG,
Clerk of the National Assembly.