

16/1/2012

MANDATORY MINIMUM PENALTIES

Amendments to the *Controlled Drugs and Substances Act [CDSA]* - (In Force, November 6, 2012)

MMPs only applies if the Crown can prove existence of a listed aggravating factor BARD

Note: emboldened titles before each paragraph of aggravating factor were added for quick ref. and are otherwise not part of the paragraphs.

Trafficking 5(1) & PPT 5(2)

APPLICATION

*All Schedule I drugs (e.g. cocaine, heroin, methamphetamine, ecstasy). *Schedule II marihuana offences of more than 3kgs; hashish of more than 3kgs.

1 Year Min.	2 Year Min.
<p>Criminal Organization: The person committed the offence for the benefit of, at the direction of, or in association with criminal organization;</p> <p>Violence: Used or threatened to use violence in committing the offence;</p> <p>Weapon: Carried, used or threatened to use a weapon in committing the offence; <u>or</u></p> <p>Record: Was convicted of a designated substance offence, or had served a term of imprisonment for a designated substance offence, within the previous 10 years.</p>	<p>Children in vicinity: 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;</p> <p>Prison is site of offence : committed the offence in a prison, or on its grounds; <u>or</u></p> <p>Children conscripted: Used the services of a person under the age of 18 years, or involved such a person, in committing the offence</p>

Production 7(1) – Schedule I drugs

APPLICATION

*Schedule I drugs – the most notable being methamphetamine and ecstasy

2 Year Min.	3 Year Min.
<p>Minimum applies to all offences, regardless of the absence of aggravating factors</p>	<p>Health and Safety factors: If health and safety factors present;</p> <p>Real property of 3rd party: used real property that belongs to 3rd party in committing the offence;</p> <p>Risk to children: The production constituted a potential security, health or safety hazard to persons under the age of 18 years who were in the location where the offence was committed or in the immediate area;</p> <p>Residential area hazard: The production constituted a potential public safety hazard in a residential area; <u>or</u></p> <p>Set trap: The person set or placed a trap, device or other thing that is likely to cause death or bodily harm to another person at the location where the offence was committed or in the immediate area, or permitted such a trap, device or other thing to remain or be placed in that location or area.</p>

Production – 7(1) – Schedule II drugs - Marihuana

Plants	6 mths	9 mths	12 mths	18 mths	24 mths	36 mths
6 to 200 & PPT	√					
6 to 200 & PPT & aggravating factor		√				
201 to 500			√			
201 to 500 & aggravating factor				√		
More than 500					√	
More than 500 & aggravating factor						√

MANDATORY MINIMUM PENALTIES

Amendments to the *Controlled Drugs and Substances Act [CDSA]* - (In Force, November 6, 2012)

Production – 7(1) – Schedule II drugs (NOT Marihuana)		
APPLICATION		
<ul style="list-style-type: none"> Schedule II drugs – Not marihuana 		
1 Year Min.	18 Months	
PPT indicia: The offence was committed for the purpose of trafficking	PPT Indicia & health/safety issues: The offence was committed for the purposes of trafficking and health and safety factors present; Real property of 3rd party: The person used real property that belongs to a third party in committing the offence; Risk to children: The production constituted a potential security, health or safety hazard to person under the age of 18 years who were in the location where the offence was committed or in the immediate area; Residential area hazard: The production constituted a potential public safety hazard in residential area; or Set trap: The person set or placed a trap, device or other thing that is likely to cause death or bodily harm to another person at the location where the offence was committed or in the immediate area, or permitted such a trap, device or other thing to remain or be placed in that location or area.	
Import / Export / PPT Export 6(1) & 6(2)		
APPLICATION		
<ul style="list-style-type: none"> Schedule I drugs (Cocaine, heroin, methamphetamine, ecstasy) and Schedule II (Cannabis) (as in above changes) Minimums require the presence of an aggravating factor 		
	1 Year Minimum	2 Year Minimum
Schedule 1 drug - 1kg or less	PPT indicia: The offence was committed for the purpose of trafficking	n.a.
Schedule II drug - any amount	Abuse of Position or Authority: The person, while committing the offence, abused a position of trust or authority, <u>Or</u> The person has access to an area restricted to authorized persons and used that access to commit the offence.	n.a.
Schedule I drug - more than 1kg	n.a.	Minimum applies to all offences, regardless of the absence of aggravating factors