

MISUSE OF DRUGS (CHAPTER 27)

LAWS OF BRUNEI

CHAPTER 27

MISUSE OF DRUGS

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MISUSE OF DRUGS ACT

An Act to provide for the control of dangerous or otherwise harmful drugs and for purposes connected therewith

Commencement: 1st July 1978

PART I

PRELIMINARY

Citation.

1. This Act may be cited as the Misuse of Drugs Act.

Interpretation.

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

“Advisory Committee” means an Advisory Committee for an approved institution appointed in accordance with regulations made under section 34 (kb) ;

“approved institution” means any institution or place approved by His Majesty the Sultan and Yang Di-Pertuan in Council* for the treatment and rehabilitation of drug addicts;

“article liable to seizure” means any money or thing by means of or in respect of which an offence under this Act has been committed or which contains evidence of an offence under this Act;

“Bureau” means the Narcotics Control Bureau;

[S 20/89]

“cannabis” means any part of any plant of the genus cannabis from which the resin has not been extracted, by whatever name it may be designated;

* Transferred to the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan — [S 27/87]

“cannabis resin” means the separated resin, whether crude or purified, obtained from any plant of the genus cannabis;

“Class A drug” means any of the substances and products for the time being specified respectively in Part I, Part II, Part III and Part IIIA of the First Schedule;

[S 28/94]

“Class B drug” means any of the substances and products for the time being specified respectively in Part I, Part II, Part III and Part IIIA of the First Schedule;

[S 28/94]

“Class C drug” means any of the substances and products for the time being specified respectively in Part I, Part II, Part III and Part IIIA of the First Schedule;

[S 28/94]

“Class D drug” means any of the substances and products for the time being specified respectively in Part I, Part II, Part III and Part IIIA of the First Schedule;

“controlled drug” means any substance or product which is for the time being specified in Part I, II or III of the First Schedule to this Act or anything that contains any such substance or product;

“corresponding law” means a law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Brunei Darussalam to be a law providing for the control and regulation in that country of the production, supply, use, export and import of drugs and other substances in accordance with the provisions of the Single Convention on Narcotic Drugs signed at New York on 30th March 1961, or a law providing for the control and regulation in that country of the production, supply, use, export and import of dangerous or otherwise harmful drugs in pursuance of any treaty, convention or other agreement or arrangement to which the government of that country and the Government of Brunei Darussalam are for the time being parties;

“dentist” means a dentist registered under the provisions of the Medical Practitioners and Dentists Registration Act (Chapter 112) and includes a Government dentist;

“Director” means the Director of the Narcotics Control Bureau;

[S 20/89]

“drug addict” means a person who through the use of any controlled drug —
(a) has developed a desire or need to continue to take such controlled drug; or
(b) has developed a psychological or physical dependence upon the effect of such controlled drug;

“immigration officer” has the same meaning as in the Immigration Act (Chapter 17);

“manufacture”, in relation to a controlled drug, includes any process of producing such drug and the refining or transformation of one drug into another;

“medical practitioner” means a medical practitioner registered under the provisions of the Medical Practitioners and Dentists Registration Act (Chapter 112) and includes a Government medical officer;

“officer of the Bureau” means the Director, Deputy Director and any officer

of the Narcotics Control Bureau;

[S 20/89]

“officer of customs” have respectively the same meanings as in the Customs Act (Chapter 36);

“pharmacist” means any person who holds any degree, diploma or licence approved by the Medical Board constituted under subsection (1) of section 13 of the Medical Practitioners and Dentists Registration Act (Chapter 112);

[S 20/92]

“police officer” has the same meaning as in the Royal Brunei Police Force Act (Chapter 50);

“senior officer of customs” have respectively the same meanings as in the Customs Act (Chapter 36);

“traffic” means —

(a) to sell, give, administer, transport, send, deliver or distribute; or

(b) to offer to do anything mentioned in paragraph

(a) above,

otherwise than under the authority of this Act or the regulations made thereunder; and “trafficking” has a corresponding meaning;

“veterinary surgeon” means a person who holds the diploma of membership of the Royal College of Veterinary Surgeons of England, or the diploma of a British or foreign veterinary institution or examining body approved by the Medical Board constituted under subsection (1) of section 13 of the Medical Practitioners and Dentists Registration Act (Chapter 112).

[S 20/92]

Appointment of Director and other officers of the Bureau. [S20/89]

2A. (1) His Majesty the Sultan and Yang Di-Pertuan may appoint a Director and a Deputy Director of the Narcotics Control Bureau and such number of other officers as His Majesty may think fit.

(2) All officers of the Bureau appointed before the commencement of

this section shall be deemed to have been appointed under subsection (1).

(3) If the office of the Director is vacant or the Director is absent from duty, the Deputy Director shall, save where His Majesty otherwise directs, act as Director.

(4) If both the Director and the Deputy Director are absent from duty, His Majesty may appoint another person to act as Director during that absence.

Public Servants. [S 20/89]

2B. (1) All officers of the Bureau shall be deemed to be public servants within the meaning of the Penal Code (Chapter 22).

(2) A certificate of appointment signed by the Director shall be issued to every officer of the Bureau and shall be evidence of his appointment.

Powers of investigation of the Bureau. [S 20/89]

2C. In any case relating to the commission of an offence under this Act an officer of the Bureau shall have all the powers of a police officer under the Criminal Procedure Code (Chapter 7) in relation to an investigation into a seizeable offence.

Use of weapons. [S 20/89]

2D. (1) Every officer of the Bureau is hereby authorised to carry and use weapons, as ordered by the Director, for the effectual discharge of his duties.

(2) In this Act, "weapons" includes firearms and ammunition.

PART II

OFFENCES INVOLVING CONTROLLED DRUGS

Trafficking in controlled drug.

3. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not such other person is in Brunei Darussalam to—

(a) traffic in a controlled drug;

(b) offer to traffic in a controlled drug; or

(c) do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug.

Possession for purpose of trafficking. [S 8/87; S 20/92]

3A. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not such other person is in Brunei Darussalam, to have a controlled drug in his possession for the purpose of trafficking.

Manufacture of controlled drug.

4. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person to manufacture a controlled drug.

Importation and exportation of controlled drug.

5. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person to import into Brunei Darussalam or export from Brunei Darussalam a controlled drug.

Possession and consumption of controlled drug.

6. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person to —

(a) have in his possession a controlled drug; or

(b) smoke, administer to himself or otherwise consume a controlled drug.

Possession of pipes, utensils etc.

7. Except as authorised by this Act or the regulations made thereunder, it shall be an offence for a person to have in his possession any pipe, syringe, utensil, apparatus or other article intended for the smoking, administration or consumption of a controlled drug.

Cultivation of cannabis, opium and coca plants.

8. It shall be an offence for a person to cultivate any plant of the genus cannabis, or any plant of the species papaver somniferum or any plant of the genus erythroxylon from which cocaine can be extracted.

[S 20/92]

Responsibilities of owners and tenants etc.

9. It shall be an offence for a person being the owner, tenant, occupier or person in charge of any place or premises, to permit or suffer such place or premises or any part thereof to be opened, kept or used for the purpose of smoking, administration or consumption of any controlled drug or for unlawful trafficking in or the unlawful manufacturing of a controlled drug.

Abetments and attempts punishable as offences.

10. Any person who abets the commission of or who attempts to commit or does any act preparatory to or in furtherance of the commission of any offence under this Act shall be guilty of such offence and shall be liable on conviction to the punishment provided for such offence.

Abetting or procuring the commission of offences outside Brunei Darussalam.

11. It shall be an offence for a person to —

(a) aid, abet, counsel or procure the commission in any place outside Brunei Darussalam of an offence punishable under a corresponding law in force in that place; or

(b) do an act preparatory to, or in furtherance of, an act outside Brunei Darussalam which if committed in Brunei Darussalam would constitute an offence under this Act.

Offences by corporations.

12. Where any offence under this Act committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate, or any person purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against accordingly.

PART III

EVIDENCE, ENFORCEMENT AND PUNISHMENT

Certificate of corresponding law.

13. A document purporting to be issued by or on behalf of the government of a country and purporting to state the terms of a corresponding law in force in

that country shall be admitted in evidence, in any proceedings for an offence under this Act, on its production by the prosecution without further proof, and such document shall be conclusive evidence —

- (a) that it is issued by or on behalf of the government of that country;
- (b) that the terms of such law are as stated in the document; and
- (c) that any facts stated in the document as constituting an offence under such law do constitute such offence.

Analyst' s certificate.

14. (1) Notwithstanding any provision of any written law to the contrary, a certificate purporting to be signed by an analyst and purporting to relate to a controlled drug shall be admitted in evidence, in any proceedings for an offence under this Act, on its production by the prosecution without proof of signature and, until the contrary is proved such certificate shall be *prima facie* evidence of all matters contained therein.

(2) In this section “analyst” means —

- (a) any Government chemist or any person employed for the time being wholly or partly on analytical work in any department of the Government;

[S 20/89]

- (b) any chemist employed by the Government of Singapore or Malaysia:

Provided that no such chemist shall, without his consent, be called as a witness in connection with any report signed by him; and

- (c) any other person whom His Majesty in Council* may by notification in the *Gazette* declare by name or office to be an analyst for the purposes of this Act.

Presumption concerning trafficking. [S 20/92]

15. Any person who is proved or presumed to have had in his possession more than —

[S 60/99]

- (a) 100 grammes of opium;

(b) 3 grammes of morphine;

* Transferred to the Minister — [S 27/87]

(c) 2 grammes of diamorphine;

(d) 15 grammes of cannabis;

(e) 10 grammes of cannabis resin;

[S 42/98]

(f) 3 grammes of cocaine;

[S 42/98]

(g) 20 grammes of methylamphetamine; or

[S 42/98]

(h) 2 grammes of any or any combination of the following —

(i) N, -dimethyl-3, 4-(methylenedioxy) phenethy-amine (MDMA);

(ii) -methyl-3, 4-(methylenedioxy) phenethy-amine (MDA);

(iii) N-ethyl-a -methyl-3, 4-(methylenedioxy) phenethy- amine (N-ethyl MDA or MDEA); or

(iv) N-methyl- a -ethyl-3, 4-(methylenedioxy) phenethy- amine (MBDB),

[S 42/98] whether or not contained in any substance, extract, preparation or mixture shall, until the contrary is proved, be presumed to traffic in that controlled drug or have that controlled drug in his possession for the purpose of trafficking therein, as the case may be.

[S 60/99]

Presumption of possession and knowledge of controlled drug.

16. (1) Any person who is proved to have had in his possession or custody or under his control —

(a) anything containing a controlled drug;

- (b) the keys of anything containing a controlled drug;
- (c) the keys of any place or premises or any part thereof in which a controlled drug is found; or
- (d) a document of title relating to a controlled drug or any other document intended for the delivery of a controlled drug,

shall, until the contrary is proved, be presumed to have had such drug in his possession.

(2) Any person who is proved or presumed to have had a controlled drug in his possession shall, until the contrary is proved, be presumed to have known the nature of such drug.

(3) The presumption provided for in this section shall not be rebutted by proof that the accused never had physical possession of the controlled drug.

(4) Where one of two or more persons with the knowledge and consent of the rest has any controlled drug in his possession it shall be deemed to be in the possession of each and all of them.

Presumption concerning premises.

17. (1) Whenever a pipe, syringe, utensil, apparatus or other article intended for the smoking, administration or consumption of a controlled drug is found in any place or premises, it shall be presumed, until the contrary is proved, that such place or premises is used for the purpose of smoking or administering a controlled drug.

(2) Any person found in or escaping from any place or premises which is proved or presumed to be used for the purpose of smoking or administering a controlled drug shall, until the contrary is proved, be presumed to have been smoking or administering a controlled drug in such place or premises.

Presumption relating to ship or aircraft.

18. If any controlled drug is found in any ship or aircraft it shall be presumed, until the contrary is proved, that such drug has been imported in such ship or aircraft with the knowledge of the master or the captain thereof.

Presumption relating to vehicle.

19. If any controlled drug is found in any vehicle it shall, until the contrary is proved, be presumed to be in the possession of the owner of the vehicle and of the person in charge of the vehicle for the time being.

Protection of informers.

20. (1) Except as provided in subsection (3) of this section—

(a) no information for an offence under this Act shall be admitted in evidence in any civil or criminal proceedings; and

(b) no witness in any civil or criminal proceedings shall be obliged—

(i) to disclose the name and address of any informer who has given information with respect to an offence under this Act; or

(ii) to answer any question if the answer thereto would lead, or would tend to lead, to the discovery of the name or address of such informer.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceedings contain an entry in which any informer is named or described or which might lead to his discovery, the court shall cause all such entries to be concealed from view or to be obliterated so far as may be necessary to protect the informer from discovery.

(3) If in any proceedings before a court for an offence under this Act the court, after full inquiry into the case, is satisfied that an informer wilfully made a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceedings the court is of the opinion that justice cannot be fully done between the parties thereto without the disclosure of the name of an informer the court may permit inquiry and require full disclosure concerning the informer.

Evidence of agent provocateur admissible. [S 42/98]

20A. (1) Notwithstanding any rule of law, the provisions of this Act or any other written law to the contrary, no agent provocateur shall be presumed to be unworthy of credit by reason only of his having abetted or attempted to abet the commission of an offence by any person under this Act if the abetment or attempt to abet was for the sole purpose of securing evidence against such person.

(2) Notwithstanding any rule of law, the provisions of this Act or any other written law to the contrary, and that the agent provocateur is an officer of

the Bureau, a police officer (whatever his rank) or any officer of customs, any statement, whether oral or in writing made to an agent provocateur by any person who is subsequently charged with an offence under this Act shall be admissible as evidence at his trial.

Powers of search and seizure.

21. (1) An officer of the Bureau not below the rank of Chief Narcotics Officer or any officer of the Bureau authorised by him, a police officer not below the rank of Assistant Superintendent of Police or any police officer authorised by him or any senior officer of customs may at any time—

[S 20/89]

(a) without a warrant enter and search any place or premises in which he reasonably suspect that there is to be found a controlled drug or article liable to seizure;

(b) search any person found in such place or premises; and

(c) seize and detain any controlled drug found in such place or premises, or any article liable to seizure.

(2) For the purpose of exercising his power under this section an officer may, with such assistance as he deems necessary, break open any door, window, lock, fastener, floor, wall, ceiling, compartment, box, container or any other thing.

Power of arrest.

22. (1) An officer of the Bureau, a police officer or an officer of customs may arrest without a warrant any person who has committed or whom hereafter reasonably suspects to have committed an offence under this Act.

[S 20/89]

(2) Any person so arrested shall, together with any article which is liable to seizure, be taken to the Narcotics Control Bureau a police station or a customs station and may be searched.

[S 20/89]

(3) No female shall be searched under this Act except by a female officer.

(4) An officer making an arrest under this section may seize and detain

any article liable to seizure.

(5) A Senior Narcotics Officer has the same powers as are possessed under section 347 of the Criminal Procedure Code (Chapter 7) by a police officer not below the rank of Inspector to admit to bail any person arrested under subsection (1).

[S 24/91] Procedure where investigation cannot be completed within 24 hours by a police officer. [S 8/87]

22A. (1) Whenever any person is arrested and detained in custody by an officer of the Bureau or a police officer for an offence against this Act and it appears that the investigation cannot be completed within a period of twenty-four hours from the time that the person is arrested, an officer of the Bureau or a police officer may produce such person before a Magistrate and the Magistrate may, whether he has or has no jurisdiction to try the case, from time to time, authorise the detention of such person in such custody as such Magistrate thinks fit for a term not exceeding fifteen days in the whole.

[S 20/89]

(2) If a Magistrate acting under subsection (1) does not have jurisdiction to try the case and considers further detention unnecessary, he may if the case is triable exclusively by the High Court, order such person to be produced before himself or any Magistrate with a view to transmitting the case for trial by the High Court.

Power to search ship, aircraft or vehicle and person arriving in or departing from Brunei Darussalam.

23. (1) An officer of the Bureau, a police officer or an officer of customs may

[S 20/89]

(a) stop, board and search any ship, hovercraft, aircraft or vehicle if he has reason to suspect that there is therein any controlled drug in contravention of this Act or any article liable to seizure;

(b) search any person in such ship, hovercraft, aircraft or vehicle; and

(c) search any person arriving in Brunei Darussalam or about to depart from Brunei Darussalam.

(2) An officer may seize and detain any controlled drug or article liable to

seizure as a result of any search under this section, and may seize and detain any ship, hovercraft, aircraft or vehicle which has been used in the commission of or in connection with an offence under this Act.

Forfeiture of controlled drug and articles seized.

24. (1) Whenever anything is seized under this Act, the seizing officer shall forthwith give notice in writing of such seizure to the owner of such thing, if known, either by delivering such notice to him personally or by post at his place of abode if known:

Provided that such notice shall not be required to be given where such seizure is made in the presence of the offender or the owner or his agent, or in the case of a ship or aircraft, in the presence of the master or captain thereof.

(2) An order for the forfeiture of any controlled drug or article shall be made if it is proved to the satisfaction of a court that an offence under this Act has been committed and that such controlled drug or article was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of such offence.

(3) If there is no prosecution with regard to any controlled drug or article seized under this Act such drug or article shall be deemed to be forfeited at the expiration of one month from the date of the seizure thereof unless a claim thereto has been made before that date in such manner as may be prescribed.

Forfeiture of ship, aircraft or vehicle.

25. Where a person has been convicted of an offence under this Act the court may order to be forfeited to the Government any ship, hovercraft, aircraft or vehicle which has been proved to have been used in any manner in connection with such offence except that —

(a) this section shall not apply to any ship or hovercraft of more than 200 tons net or to any aircraft belonging to any person carrying on a regular passenger service to and from Brunei Darussalam by means of such aircraft; and

(b) no ship, hovercraft, aircraft or vehicle shall be forfeited under this section, if it is established by the owner thereof that such ship, hovercraft, aircraft or vehicle was unlawfully in the possession of another person without the owner's consent.

Disposal of things forfeited.

26. (1) All things which are forfeited to the Government under this Act shall be disposed of in such manner as the Minister thinks fit.

(2) The Minister may, in his discretion and after any proceedings under this Act are concluded, entertain and give effect to any claim to or in respect of anything which has been forfeited to the Government.

Obstruction of inspection or search.

27. It shall be an offence for a person to —

(a) obstruct any officer of the Bureau, any police officer or officer of customs or other public officer in the exercise of any power under this Act;

[S 20/89]

(b) fail to comply with any lawful requirements of any officer of the Bureau, any police officer or officer of customs or other public officer in the execution of his duty under this Act;

[S 20/89]

(c) fail, without reasonable excuse, to furnish such information in his possession as may be required by an officer of the Bureau, a police officer or officer of customs or other public officer; or

[S 20/89]

(d) furnish to any officer of the Bureau, any police officer or officer of customs or other public officer any information which he knows or has reason to believe to be false.

[S 20/89]

Urine test.

28. (1) Any officer of the Bureau, any police officer not below the rank of sergeant or an immigration officer may, if he reasonably suspects that any person has any controlled drug in his body, require that person to provide a specimen of his urine for a urine test.

[S 20/89]

(2) A person who, without reasonable excuse, fails to provide a specimen of his urine within such time as may be required by any officer referred to in

theforegoing subsection shall be guilty of an offence.

(3) Any person (other than a citizen of Brunei Darussalam or a permanentresident of Brunei Darussalam) arriving in Brunei Darussalam by land, sea or airwho —

(a) fails to comply with the requirement of an officer of the Bureau or an immigration officer under this section; or

[S 20/89]

(b) is found as a result of a urine test to have consumed a controlleddrug, may be prohibited from entering or remaining in Brunei Darussalam.

(4) If any controlled drug is found in the urine of a person as a result of a urine test, he shall be presumed, until the contrary is proved, to haveconsumed that controlled drug in contravention of paragraph (b) ofsection 6 of this Act.

Punishment of offences.

29. (1) The Second Schedule to this Act shall have effect inaccordance with subsection (2) of this section, with respect to the way in whichoffences under this Act are punishable on conviction.

(2) In relation to an offence under a provision of this Act specified inthe first column of the Second Schedule (the general nature of the offence beingdescribed in the second column) —

(a) the third, fourth and fifth columns show respectively thepunishments to be imposed on a person convicted of the offence according towhether the controlled drug in relation to which the offence was committed was aClass A drug, a Class B drug or a Class C drug, except as otherwise provided in paragraph (b) of this subsection; and

(b) the sixth column shows the punishments to be imposed on a personconvicted of the offence where the offence was committed —

(i) in the case of unauthorised manufacture, in relation to such specifiedcontrolled drug as is mentioned in the second column; and

(ii) in the case of unauthorised traffic or import or export, in relationto a specified quantity of such controlled drug (except opium) containing such

quantity of morphine or diamorphine as is mentioned in the second column; and

(c) the seventh column shows the punishments to be imposed on a person convicted of the offence whether or not the offence was committed in relation to a controlled drug and, if it was so committed, irrespective of whether the drug was a Class A drug, a Class B drug or a Class C drug,

and in the third, fourth, fifth, sixth and seventh columns a reference to a period gives the maximum or minimum term of imprisonment as is specified, a reference to a sum of money gives the maximum or minimum fine as is specified, and a reference to a number of strokes gives the number of strokes of whipping with which the offender shall, subject to sections 257, 258, 259 and 260 of the Criminal Procedure Code (Chapter 7), be punished.

(3) Any person convicted of any offence under Part II of this Act (except section 6) shall, if the offence is a second or subsequent offence, be liable to twice the punishments provided for that offence:

[S 20/92]

Provided that no person shall be punished with a sentence of whipping exceeding the number of strokes appropriate to his case under the provisions of subsection (1) or (5) of section 257 of the Criminal Procedure Code (Chapter 7).

(3A) If any person convicted of an offence under section 6 is again convicted of a similar offence, he shall be liable —

(a) in the case of an offence under paragraph (a), to imprisonment for a term of not less than 2 years;

(b) in the case of an offence under paragraph (b), to imprisonment for a term of not less than 3 years.

[S 20/92]

(4) Where any person is convicted of any offence under Part II of this Act, the Court shall consider a report of a Government Medical Officer and if the Court is satisfied that it is necessary for such person to undergo treatment or rehabilitation or both at an approved institution, the Court shall in addition to any punishment it may lawfully impose make an order requiring that person to be admitted as an inmate to an approved institution for the purpose of such treatment or rehabilitation or both.

[S 36/87]

PART IV

GENERAL

Jurisdiction of Courts and prosecution.

30. (1) A Court of Magistrate shall have jurisdiction to hear and determine all proceedings under this Act and, notwithstanding any provision of any written law to the contrary, such Court shall have power to impose any penalty or combination of penalties provided for an offence under this Act not exceeding respectively 10 years imprisonment, a fine of \$20,000 and 10 strokes of whipping.

[S 60/99]

(2) When any person is charged before a court with an offence under this Act or any regulation made thereunder, no further proceedings in respect thereof shall be taken against him without the consent in writing of the Public Prosecutor or a Deputy Public Prosecutor, except such as the court may think necessary by remand whether in custody or otherwise to secure the due appearances of the person charged.

Indemnity.

31. (1) The Government shall not be liable to make good any damage caused to any goods or property as a result of an entry, search or detention under the provision of this Act unless such damage is caused by the wilful neglect or default of an officer employed by the Government.

(2) In the event of any dispute as to the amount of any damage so caused the same shall be summarily ascertained and determined by a Court of a Magistrate.

Protection of persons acting under authority of Act.

32. Any person who does any act in pursuance or intended pursuance of any of the provisions of this Act or of any regulations made thereunder shall not be subject to any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, mistake of law or fact, or any other ground, unless he has acted in bad faith or without reasonable care.

Supervision, treatment and rehabilitation of drug addicts. [S20/92]

33. (1) The Director may require any person whom he reasonably suspects to be

a drug addict to be medically examined or observed by a Government medical officer or a medical practitioner.

[S 20/89]

(2) If as a result of such medical examination or observation under subsection (1) or of a urine test conducted under section 28, it appears to the Minister that it is necessary for any person examined or observed, or who supplied the urine specimen for the urine test —

(a) to be subject to supervision, the Minister may make a supervision order requiring that person to be subject to the supervision of an officer of the Bureau for a period not exceeding 2 years; or

(b) to undergo treatment or rehabilitation or both at an approved institution, the Minister may make an order in writing requiring that person to be admitted for that purpose to an approved institution.

[S 36/87; S 20/92]

(2A) Every person who has been admitted to an approved institution under this section or under subsection (4) of section 29 shall be detained in the approved institution for a period of 6 months unless he is earlier discharged by the Minister.

[S 36/87]

(2B) If the Minister after considering a report of an Advisory Committee is of the opinion that an inmate whose period of detention therein is about to expire requires further treatment or rehabilitation or both, the Minister may by order in writing direct that the inmate be detained in the approved institution for a further period or periods not exceeding 6 months at any one time:

Provided that no person in respect of whom an order has been made under subsection (2) of this section or subsection (4) of section 29 shall be detained in an approved institution for a period of more than 3 years after his admission to any approved institution pursuant to that order.

[S 36/87]

(3) A person who is a drug addict may volunteer to undergo treatment and rehabilitation at an approved institution and any statement made by such person for the purpose of undergoing such treatment shall not be admissible in evidence against him in respect of any subsequent prosecution for an offence under this Act.

(4) An approved institution may admit any drug addict for voluntary treatment and rehabilitation on such terms and conditions as may be prescribed.

Administration of approved institutions. [S 20/92]

33A. Subject to the directions of the Minister, approved institutions shall be under the general charge and administration of the Director of Prisons appointed under subsection (1) of section 10 of the Prisons Act (Chapter 51).

Regulations.

34. (1) His Majesty in Council* may make regulations —

(a) providing for the issue of licences for the importation, exportation, sale, manufacture, production or distribution of controlled drugs;

(b) prescribing the form, duration and terms and conditions of any licence and the fees payable therefor, and providing for the cancellation and suspension thereof;

(c) authorising the sale or possession or other dealing in controlled drugs and prescribing the circumstances and conditions under which the persons by whom controlled drugs may be sold, had in possession or otherwise dealt in;

* Transferred to the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan — [S 27/87]

(d) requiring medical practitioners, dentists, pharmacists, veterinary surgeons and other persons who deal in controlled drugs as may be authorised by regulations made under this Act to keep records and make returns;

(e) requiring any medical practitioner who attends a person who he considers or has reasonable grounds to suspect is addicted to any controlled drug to furnish to the prescribed authority such particulars with respect to that person as may be prescribed;

(f) prohibiting any medical practitioner from administering, supplying and authorising the administration and supply to person addicted to controlled drugs, and from prescribing for such persons, such drugs;

(g) as to the packaging and labelling of controlled drugs;

(h) regulating the transport of controlled drugs and the methods to be used for destroying or otherwise disposing of such drugs when no longer required;

(i) requiring precautions to be taken for the safe custody of controlled drugs;

(j) providing for the inspection of any precautions taken or records kept in pursuance of any regulations made under this section;

(k) providing for the treatment and rehabilitation of persons affected by the misuse of controlled drugs;

(ka) providing for the management, maintenance and inspection of approved institution;

[S 36/87]

(kb) appointment of Advisory Committee for approved institution, prescribing the functions and procedure of Advisory committee;

[S 36/87]

(kc) providing for the control, discipline (including the imposition of corporal punishment), occupation of inmates and for the granting of leave to inmates for the purpose of their employment outside an approved institution;

[S 36/87; S 20/92]

(kd) prescribing the appointment and duties of officers of approved institution;

[S 36/87]

(ke) providing for the supervision and aftercare of persons referred to in paragraph (a) of subsection (2) of section 33, or who have undergone treatment or rehabilitation at an approved institution or who have been convicted of an offence under section 6 (b) .

[S 36/87; S 20/92]

(l) prescribing the punishment by fine not exceeding \$10,000 or imprisonment for a term not exceeding 4 years or both to be imposed on the conviction for a breach of any regulations;

(m) prescribing anything that may be prescribed; and

(n) generally for carrying out the purposes and provisions of this Act.

(2) Regulations made by His Majesty in Council* under this section may—

(a) make different provisions in relation to different controlled drugs, different classes of persons or different cases or circumstances;

(b) make the opinion, consent or approval of a prescribed authority or authorised person material for the purposes of any provision;

(c) provide for the constitution and procedure of a tribunal to advise His Majesty in Council* in any case of contravention of this Act or the regulations made thereunder by any medical practitioner, dentist, pharmacist, veterinary surgeon or other authorised person; and

(d) include such provisions as His Majesty in Council* thinks fit for the purpose of affecting the transition from any provision made by or by virtue of the repealed Dangerous Drugs Enactment, 1956 (Enactment No. 14 of 1956) to any provision made by or by virtue of this Act.

* Transferred to the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan — [S 27/87]

(3) An inspector appointed pursuant to any regulation made by His Majesty in Council* under this section shall be deemed to be a public servant for the purposes of the Penal Code (Chapter 22).

Power of His Majesty in Council * to amend First Schedule.

35. His Majesty in Council* may, by order published in the *Gazette*, amend the First Schedule to this Act.

FIRST SCHEDULE

CONTROLLED DRUGS

PART I

CLASS A DRUGS

(section 2)

[S 28/94; S 42/98]

1. The following substances and products, namely —

Acetorphine

Alfentanil

Allylprodine

Alphacetylmethadol

Alphameprodine

Alphamethadol

Alphaprodine

2-amino-1 (2, 5-dimethoxy-4-methyl) phenylpropane

Anileridine

Benzethidine

Benzylmorphine (3-benzylmorphine)

Betacetylmethadol

Betameprodine

Betamethadol

Betaprodine

Bezitramide

4-bromo-2, 5-dimethoxyphenethylamine

Bufotenine

Cannabinol, except where contained in cannabis or cannabis resin

* Transferred to the Minister with the approval of His Majesty the Sultan and Yang Di-Pertuan — [S 27/87]

Cannabinol derivatives

Cathinone

Clonitazene

Coca leaf

Cocaine

Codoxime

Desomorphine

Dextromoramide

Diamorphine

Diampromide

Diethylthiambutene

Dihydromorphine

Dimenoxadole

Dimepheptanol

3-(1, 2-dimethylheptyl)-1-hydroxy-7, 8, 9, 10 tetrahydro-6, 6,

9-trimethyl-6H-dibenzo [b, d] pyran

Dimethylthiambutene Dimethoxybromoamphetamine (or DOB)

2, 5-Dimethoxyamphetamine Dioxaphetyl butyrate Diphenoxylate

Dipipanone

Drotebanol

Ecgonine, and any derivative of ecgonine which is convertible to ecgonine or to cocaine

Ethylmethylthiambutene

Eticyclidine or PCE or its salts

Etonitazene

Etorphine

Etoperidone

Fentanyl

Furethidine

Hydrocodone

Hydromorphanol

Hydromorphone

Hydroxypethidine

Isomethadone

Ketobemidone

Levomethorphan

Levomoramide

Levophenacymorphan

Levorphanol

Lysergamide

Lysergide and other N-alkyl derivatives of lysergamide

Mescaline

Metazocine

Methadone

Methadone intermediate

Methadyl acetate

Methylamphetamine

Methyldesorphine

Methyldihydromorphine (6-methyldihydromorphine) Methylenedioxyamphetamine (MDA)

Metopon

Moramide intermediate

Morpheridine

Morphine

Morphine methobromide, morphine N-oxide and other pentavalent nitrogenmorphine derivatives

Myrophine

Nicomorphine (3,6-dinicotinoyl-morphine)

Noracymethadol

Norlevorphanol

Normethadone

Normorphine

Norpipanone

Opium, whether raw, prepared or medicinal

Oxycodone

Oxymorphone

Parahexyl (3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl

6H-dibenzo [b,d] pyran Paramethoxyamphetamine (MDA) Pethidine

Pethidine intermediate A

Pethidine intermediate B

Pethidine intermediate C

Phenadoxone

Phenampride

Phenazocine

Phenomorphin

Phenoperidine

Piminodine

Piritramide

Poppy-straw and concentrate of poppy-straw

Proheptazine

Propерidine (1-methyl-4-phenyl-piperidine-4-carboxylic acid isopropylester)

Psilocin

Racemethorphan

Racemoramide

Recemorphan

Rolicyclidine or PHP or PCPY Thebacon

Thebaine

Tenocyclidine or TCP or its salts

Trimeperidine

4-Cyano-2-dimethylamino-4,4-diphenylbutane

4-Cyano-1-methyl-4-phenyl-piperidine

N, N-Diethyltryptamine

N, N-Dimethyltryptamine

N, -dimethyl-3, 4-(methylenedioxy) phenethylamine (MDMA)

N-ethyl- a -methyl-3, 4-(methylenedioxy) phenethylamine (N-ethyl MDA or MDEA)

N-methyl- a -ethyl-3, 4-(methylenedioxy) phenethylamine (MBDB)

2-5 Dimethoxy-a, 4-dimethyl-phenethylamine

1-Methyl-3-morpholino-1, 1-diphenylpropane-carboxylic acid

4-Phenylpiperidine-4-carboxylic acid ethyl ester.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part not being dextromethorphan or dextrorphan.
3. Any ester or ether of a substance for the time being specified in paragraph 1 or 2 of this Part not being a substance for the time being specified in Part II of this Schedule.
4. Any salt of a substance for the time being specified in any paragraphs 1 to 3 of this Part.
5. Any preparation or other products containing a substance or product for the time being specified in any paragraphs 1 to 4 of this Part.
6. Any preparation designed for administration by injection which includes a substance or product for the time being specified in any of paragraphs 1 to 3 of Part II of this Schedule.

PART II

CLASS B DRUGS

[S 28/94; S 42/98]

1. The following substances and products namely —

Acetyldihydrocodeine

Amphetamine

Cannabis and cannabis resin

Codeine

Dexamphetamine

Dextropropoxyhene

Dihydrocodeine

Ethylmorphine (3-ethylmorphine)

Methylphenidate

Nicocodine

Nicodicodine

Norcodeine

Phenmetrazine

Pholcodine

Propiram.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part.

4. Any preparation or other product containing a substance or product for the time being specified in any of paragraphs 1 to 3 of this Part, not being a preparation falling within paragraph 6 of Part I of this Schedule.

PART III

CLASS C DRUGS

1. The following substances, namely —

Benzphetamine

Chlorphentermine

Mephentermine

Methaqualone

Phendimetrazine

Pipradrol.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part.

3. Any salt of a substance for the time being specified in paragraph 1 or 2 of this Part.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 of this Part.

PART IIIA

CLASS D DRUGS

1. The following substances, namely —

Bromazepam

Diazepam

Flunitrazepam

[S 28/94]

Flurazepam

Nitrazepam

Perphenazine.

2. Any stereoisomeric form of a substance for the time being specified in paragraph 1 of this Part.

3. Any salt of a substance for the time being specified in paragraphs 1 and 2 of this Part.

4. Any preparation or other product containing a substance for the time being specified in any of paragraphs 1 to 3 to this Part.

PART IV

MEANING OF CERTAIN EXPRESSIONS USED IN THIS SCHEDULE

For the purposes of this Schedule —

“cannabinol derivatives” means the following substance, except where contained in cannabis or cannabis resin, namely tetrahydroderivatives of cannabinol and 3-akyl homologues of cannabinol or of its tetrahydro derivatives;

“coca leaf” means the leaf of any plant of the genus *Erythroxyton* from whose leaves cocaine can be extracted either directly or by chemical transformation;

“concentrate of poppy-straw” means the material produced when poppy-straw has entered into a process for the concentration of its alkaloids;

“medicinal opium” means raw opium which has undergone the process necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether it is in the form of powder or is granulated or is in any other form, and whether it is or is not mixed with neutral substance;

“opium poppy” means the plant of the species *Papaver somniferum* L;

“preparation” means a mixture, solid or liquid, containing a controlled drug;

“poppy straw” means all part, except the seeds, of the opium poppy, after mowing;

“raw opium” includes powdered or granulated opium but does not include medicinal opium.

SECOND SCHEDULE

PUNISHMENT

(section 29)

[S 20/84, S 8/87; S 20/92; S 28/94; S 42/98]



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