



LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative texts.

MALAYSIA

Communicated by the Government of Malaysia

NOTE BY THE SECRETARIAT

- (a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [] have been added or changed by the Secretariat.
- (b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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* Note by the Secretariat: The following document is a direct reproduction of the texts communicated to the Secretariat.

Act 283

**DRUG DEPENDANTS (TREATMENT AND
REHABILITATION) ACT 1983**

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An Act to provide for the treatment and rehabilitation of drug dependants and for matters connected therewith.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Drug Dependants (Treatment and Rehabilitation) Act 1983 and shall come into force on such date as may be appointed by the Minister by notification in the *Gazette*.

Short title
and com-
mencement

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

Interpreta-
tion.

“After-care Centre” means an institution established under paragraph (c) of section 10;

“Board of Visitors” means the Board of Visitors appointed by the Minister under section 11;

“Centre” means and includes a Rehabilitation Centre, an After-care Centre and a Day Centre;

“dangerous drug” means any drug or substance which is for the time being comprised in the First Schedule of the Dangerous Drugs Act 1952;

Act 234.

“Day Centre” means a centre established under paragraph (b) of section 10;

“Director General” means the Director General appointed under subsection (2);

“drug dependant” means a person who through the use of any dangerous drug undergoes a psychic and sometimes physical state which is characterised by behavioural and other responses including the compulsion to take the drug on a continuous or periodic basis in order to experience its psychic effect and to avoid the discomfort of its absence;

“Minister” means the Minister charged with the responsibility for internal security;

“officer” means any Rehabilitation Officer and includes any Social Welfare Officer or any police officer not below the rank of Sergeant or any officer in charge of a police station;

“registered medical practitioner” means a medical practitioner registered under the Medical Act 1971;

“Rehabilitation Centre” means an institution established under paragraph (a) of section 10;

“Rehabilitation Committee” means the committee appointed by the Minister under section 15;

“Rehabilitation Officer” means an officer appointed under subsection (2);

“rules” means rules made by the Minister under this Act;

“tests” means all such acts or procedures as may be carried out for the purpose of determining whether a person is a drug dependant.

(2) The Minister shall appoint a public officer to be Director General who shall have, subject to the direction and control of the Minister, superintendence over all matters relating to the apprehension, treatment and rehabilitation of drug dependants under this Act and there shall be appointed such number of Rehabilitation Officers as may from time to time be required for the purposes of this Act.

PART 2

TREATMENT AND REHABILITATION OF DRUG DEPENDANTS UNDER COURT ORDER

3. (1) An officer may take into custody any person whom he reasonably suspects to be a drug dependant.

(2) A person taken into custody under subsection (1) may be detained for a period not exceeding twenty-four hours at any appropriate place for the purpose of undergoing tests.

4. (1) If the tests cannot be held or completed or the results of such tests cannot be obtained within twenty-four hours from the time a person is taken into custody under subsection (1) of section 3—

(a) the person may be released on bail, with or without surety, by an officer to attend at the time and place mentioned in the bond; or

(b) the person may be produced by an officer before a Magistrate, and the Magistrate may, if it appears to the Magistrate that it is necessary to detain him for the purpose of undergoing tests, order him to be so detained for such period not exceeding fourteen days to undergo tests or the Magistrate may release him on bail, with or without surety, to attend at such time and place as may be mentioned in the bond for the purpose of undergoing such tests, or where such person has already undergone tests but the result of such tests has not yet been obtained, the Magistrate may release him on bail, with or without surety, to appear at such place and time as may be mentioned in the bond to receive the result of the tests.

(2) The provisions of sections 390, 391, 392, 393 and 404 of the Criminal Procedure Code shall apply *mutatis mutandis* to a bail bond executed under this section in so far as they are not inconsistent with the provisions of this section, and references in the said sections to a police officer shall be construed as references to an officer under this Act.

Detention
of suspected
drug
dependant
for tests.

Production
before
Magistrate
where
tests
cannot be
completed
within
twenty-
four
hours.

F.M.S.
Cap. 6.

Obligation
of suspected
drug
dependant
to undergo
tests
procedures.

Magistrate's
order
which may
be made
on a drug
dependant.

5. (1) For the purpose of tests under section 3 or 4, the person shall submit himself to all such acts or procedures as he may be required or directed to undergo by an officer, or by a government medical officer, or by a registered medical practitioner, or by any person working under the supervision of such officer, government medical officer or registered medical practitioner, as the case may be.

(2) Where any person fails to comply with any requirement or direction under subsection (1), he shall be guilty of an offence and shall, on conviction, be liable to be punished with imprisonment for a period not exceeding three months or with fine, or with both.

6. (1) Where a person who has undergone the tests referred to in section 3 or 4, and, in consequence of such tests, is certified by a government medical officer or a registered medical practitioner to be a drug dependant, the officer shall produce him, or cause him to appear, before a Magistrate and if the Magistrate, after giving such person an opportunity to make representations—

(a) is satisfied that such person requires to undergo treatment and rehabilitation at a Rehabilitation Centre, order such person to reside at such Centre for a period of two years to undergo treatment and rehabilitation and thereafter to undergo after-care in accordance with the provisions of this Act relating thereto; or

(b) is satisfied that such person's treatment and rehabilitation may be carried out otherwise than at a Rehabilitation Centre, he may order such person to be placed under the supervision of a Rehabilitation Officer for a period of not less than two and not more than three years, and to execute a bond with or without sureties, as the Magistrate may determine, to remain under such supervision for such period:

Provided that where such person fails to execute such bond an order under paragraph (a) shall be made against him by the Magistrate.

(2) An order of supervision under paragraph (b) of subsection (1) shall contain the condition requiring such person to abstain from dangerous drugs and may contain conditions as to residence, employment, associations, abstention from intoxicating liquor, or attendance at a Day Centre.

(3) The Magistrate shall, before making an order either under paragraph (a) or (b) of subsection (1), consider a report by a Rehabilitation Officer on such person, a copy of which shall be supplied to such person, and which shall be read out and explained to him.

(4) In making an order under subsection (1), the Magistrate shall have regard to the circumstances of the case, and the character, antecedents, age, health, education, employment, family and other circumstances of the person against whom the order is proposed to be made.

(5) A certificate under subsection (1) purporting to be signed by a government medical officer or a registered medical practitioner shall be receivable by a Magistrate without proof of the signature thereon, and the Magistrate shall accept it as proof of its contents, unless the contrary is proved.

7. Where an officer has reason to believe that any of the terms of the bond under paragraph (b) of subsection (1) of section 6 has been breached, the officer may take such person into custody and produce him before a Magistrate within twenty-four hours from the time he is taken into custody who may, if he is satisfied that there has been a breach of any of the terms of the bond, order such person to reside at a Rehabilitation Centre for a period of two years to undergo treatment and rehabilitation and thereafter to undergo after-care in accordance with the provisions of this Act relating thereto:

Provided that nothing in this subsection shall be construed as in any manner derogating from the liability of such person and the sureties to the bond to pay the penalty under the bond in accordance with

F.M.S.
Cap. 6.

Procedure
for
treatment
and
rehabilita-
tion of drug
dependant
who
volunteers
for same.

Breach of
terms of
bond
executed
under
section
6 (1) (b).

the procedure under Chapter XL of the Criminal Procedure Code or from the criminal liability of such person for any offence that he may have committed in making a breach of any of the terms of the bond.

PART 3

TREATMENT AND REHABILITATION OF DRUG DEPENDANTS WHO VOLUNTEER FOR SAME

8. (1) Any person who is a drug dependant may apply to a Rehabilitation Officer to be provided with treatment and rehabilitation in respect of his drug dependency.

(2) Where a person makes an application under subsection (1), the Rehabilitation Officer shall as soon as possible make arrangements for the applicant to undergo tests.

(3) Where in consequence of the tests under subsection (2), such person is certified by a government medical officer or a registered medical practitioner to be a drug dependant, the Rehabilitation Officer shall decide whether such person should—

(a) undergo treatment and rehabilitation at a Rehabilitation Centre for a period of two years and thereafter undergo after-care in accordance with the provisions of section 13; or

(b) be placed under the supervision of a Rehabilitation Officer for a period of not less than two years and not more than three years, such supervision to be subject to the condition that he shall abstain from dangerous drugs and, may also be subject to such other conditions as the Rehabilitation Officer may consider necessary or expedient to specify for the purpose of securing such supervision, and such conditions may include conditions as to residence, employment, associations, abstention from intoxicating liquor or attendance at a Day Centre,

and shall inform the applicant of his decision.

(4) Where, upon being informed of such decision, the applicant agrees to undergo treatment and rehabilitation at the Rehabilitation Centre or supervision under a Rehabilitation Officer, as the case may be, he may before the decision is put into effect be required to execute a bond in the prescribed form for such amount

as may be specified in the bond and with such surety or sureties as may be determined by the Rehabilitation Officer and containing such terms and conditions as the Rehabilitation Officer may impose including a condition requiring the applicant to pay such amount as may be specified towards his maintenance, treatment and rehabilitation.

(5) Where a person who is undergoing treatment and rehabilitation at a Rehabilitation Centre or is under the supervision of a Rehabilitation Officer commits a breach of any of the terms of the bond executed by him under subsection (4), he and any surety to the bond shall be liable to forfeit to the Government of Malaysia the amount due under the bond or such portion thereof as the Director General may deem just and proper and the same may be recovered from them by a Magistrate in the same manner as a fine imposed by a Magistrates' Court.

9. (1) Any parent or guardian of a minor whom the parent or guardian suspects or has reason to believe to be a drug dependant may apply to a Rehabilitation Officer for the minor to be treated and rehabilitated and produce such minor before such officer.

(2) Where a minor is produced before a Rehabilitation Officer under subsection (1), the provisions of section 8 shall apply to him in the same manner as they apply to a person who applies for treatment and rehabilitation under that section, save that the bond required to be executed under subsection (4) of section 8 shall be executed by the parent or guardian of the minor who made the application under subsection (1) and shall be in such form as may be prescribed.

PART 4

CENTRES FOR TREATMENT AND REHABILITATION

10. The Minister may, by notification in the *Gazette*, establish for the purposes of this Act—

- (a) Rehabilitation Centres for the residence, treatment and rehabilitation of drug dependants ordered or admitted to reside therein under this Act;

Procedure for treatment and rehabilitation of drug dependant who is a minor and for whom assistance is sought.

Shortening of period of rehabilitation and treatment at Rehabilitation Centre by Board of Visitors.

Centres for treatment and rehabilitation.

After-care.

- (b) Day Centres for the attendance of drug dependants for receiving treatment and rehabilitation where such attendance is required under subsection (2) of section 6 or subsection (3) of section 8; or

- (c) After-care Centres for the provision of after-care in cases where residence at such Centre is required under subsection (2) or (3) of section 13,

in such places as may be specified in the notification.

11. There shall be appointed by the Minister in respect of each Rehabilitation Centre a Board of Visitors, and such Board of Visitors—

- (a) shall exercise all powers, discharge all such duties and perform all such functions as may be provided in this Act or as may be prescribed in any rules;
- (b) shall advise and make recommendations to the Director General on all matters which the Director General may refer to it and on other matters pertaining to their duties and functions on which it may deem necessary or expedient to advise and make recommendations.

12. The Board of Visitors of a Rehabilitation Centre may shorten the period of residence at such Centre in respect of any person for reasons which appear to it to be sufficient if such person has already completed a period of twelve months residence in such Centre:

Provided that the Board of Visitors may, with the consent of the Minister in writing, discharge from the Centre a person who has not yet completed twelve months of residence at the Centre if the Board is satisfied it is just and proper to do so for special reasons pertaining to the welfare of such person.

13. (1) A drug dependant who has been discharged from a Rehabilitation Centre shall, immediately upon such discharge, undergo after-care by a Rehabilitation Officer or such other person as the Director General may designate for a period of two years.

(2) A person undergoing after-care under subsection (1) may be required by a Board of Visitors to comply with such conditions as the Board of Visitors may specify in an after-care order to be made by such Board, and such conditions may include a condition that such person shall reside in an After-care Centre for a period not exceeding six months for such hours daily or otherwise as may be specified in such after-care order.

(3) The Board of Visitors may, at any time after considering such report on a person subject to an after-care order as may be submitted to it by a Rehabilitation Officer or other person under whose after-care such person is placed, make such variation to the terms and conditions as it may deem fit.

14. (1) Where a person who is undergoing after-care under section 13 in pursuance of an order made under paragraph (a) of subsection (1) of section 6 is at any time reasonably suspected by an officer to be a drug dependant, such officer may produce him before a Magistrate who may, after giving such person an opportunity to make his representations in the matter, and after considering a report on him by a Rehabilitation Officer (a copy of which shall be supplied to such person), order him to reside at a Rehabilitation Centre for a period not exceeding six months if he is satisfied that such residence will assist to relieve such person of his drug dependency.

Procedure where person undergoing after-care relapses into drug dependency.

(2) Where a person is taken into custody under subsection (1), the provisions of sections 3, 4, 5 and 6 shall apply *mutatis mutandis* in so far as they are not inconsistent with subsection (1).

(3) A person who has completed a period of residence at a Rehabilitation Centre under subsection (1) shall immediately thereafter undergo after-care in accordance with section 13 for the portion of the period of after-care under subsection (1) of section 13 which had remained unexpired at the time of his being taken into custody under subsection (1), provided that such period of after-care under this section shall not, in any case, be less than six months.

Rehabilitation Committees.

15. (1) The Minister may appoint a Rehabilitation Committee in respect of such district, town, area or locality as he may specify, to carry out, subject to any rules made under subsection (2), functions in relation to the rehabilitation and welfare of persons who are or have been undergoing treatment and rehabilitation and for the purpose of assisting Rehabilitation Officers or other persons responsible for the rehabilitation, after-care or supervision of such persons, as such Committee may deem necessary or expedient or as the Minister may direct such Committee to perform.

(2) The Minister may by rules provide for the duties, functions and responsibilities of Rehabilitation Committees.

16. (1) The Minister may on the application of any individual person or of any organisation, body or group of persons, grant approval for the establishment and operation of a private centre for the treatment and rehabilitation of drug dependants or for the after-care of persons who have been drug dependants, upon such terms and conditions as the Minister may specify.

(2) The terms and conditions of any approval granted under subsection (1) may at any time be varied by the Minister and he may, without giving any notice or assigning any reason, revoke any approval granted under subsection (1), and any revocation so made may contain all such directions of an incidental or a consequential nature which the Minister may deem necessary, expedient or desirable.

(3) Notification of every approval of a centre under this section and every revocation of such approval, shall be published in the *Gazette*.

(4) Any person who establishes or operates, or assists in the operation of any place for the treatment, rehabilitation, or after-care and supervision of persons who are or have been drug dependants shall be guilty of an offence and be liable on conviction to a fine or to imprisonment not exceeding five years or to both.

(5) Nothing contained in the foregoing provisions of this section shall be construed as in any manner affecting, prejudicing or derogating from the rights of a person lawfully providing medical treatment to any

person in relation to any physical or mental condition arising from, or involving or relating to the drug dependency of such person.

17. Any person who is resident at a Rehabilitation Centre may at any time be directed by the Director General to be transferred to reside at a different Rehabilitation Centre and where it is so directed the person shall be accordingly removed to such other Rehabilitation Centre.

Transfer
between
Centres.

Offences by
residents of
Rehabilita-
tion Centres
and
After-care
Centres,
and by
supervisees.

PART 5 GENERAL

18. (1) It shall be the duty of a registered medical practitioner, including a government medical officer, to notify the Director General of any person who is treated by him for drug dependency in accordance with rules made under this Act.

Compul-
sory
notification
of drug
dependants

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding five hundred ringgit.

19. (1) A person shall be in lawful custody—

Lawful
custody.

- (a) where he is taken into custody by an officer under this Act;
- (b) while he is resident at a Rehabilitation Centre or an After-care Centre under this Act;
- (c) while he is being taken from or to any place, or while he is engaged in any activity under this Act outside a Rehabilitation Centre or an After-care Centre, during the period that he is under an order made under this Act to reside at a Rehabilitation Centre or an After-care Centre.

(2) Subsection (1) shall not apply to a person who is admitted to a Rehabilitation Centre under section 8 or 9.

(3) Any person who escapes from lawful custody as referred to in subsection (1) shall be guilty of an offence and shall, on conviction, be liable to a fine or to imprisonment for a term not exceeding three years, or to both.

20. (1) Where any person—

- (a) contravenes any term or condition lawfully imposed under this Act in relation to residence, treatment or rehabilitation at a Rehabilitation Centre or at an After-care Centre, or in relation to attendance, treatment and rehabilitation at a Day Centre, or in relation to any supervision to which such person is subject under this Act; or
- (b) commits a breach of any rules relating to a Centre, where no specific punishment is provided in such rules for such breach;
- (c) incites any resident of a Rehabilitation Centre or an After-care Centre, or any person attending a Day Centre, to commit a breach of any rules relating to such Centre;
- (d) uses any indecent, threatening, abusive or insulting words or gestures, or otherwise behaves in a threatening or insulting manner, against any person exercising any powers, discharging any duties or performing any functions in relation to the custody, treatment, rehabilitation, residence or supervision of any person under this Act, or against any person resident at a Rehabilitation Centre or an After-care Centre, or attending a Day Centre or against any employee or servant employed or engaged at any Centre, or against any person lawfully visiting a Centre or otherwise lawfully present at a Centre, or assaults any person, employee or servant, as aforesaid,

shall be guilty of an offence and shall on conviction be liable to a fine or to imprisonment for a term not exceeding three years or to both.

(2) Paragraphs (a) and (b) of subsection (1) shall not apply to a person who is admitted to a Rehabilitation Centre under section 8 or 9.

21. (1) Where a person who is undergoing residence at a Rehabilitation Centre, or after-care under section 13 or supervision under paragraph (b) of subsection (1) of section 6, or has been ordered to do so but has not yet commenced to undergo the same, is sentenced by any court to any term of imprisonment, or by a Juvenile Court to a term of detention, or is detained under any law relating to preventive detention, such imprisonment or detention shall take precedence over the residence, after-care or supervision as aforesaid, and the period of imprisonment or detention served shall be deemed to be residence at a Rehabilitation Centre, or after-care or supervision, as the case may be, and if upon completion of such period of imprisonment or detention there still remains unexpired any portion of the period for which he had been ordered to reside at a Rehabilitation Centre, or undergo after-care, or supervision, as the case may be, he shall be required to reside at a Rehabilitation Centre or undergo after-care, or supervision, as the case may be, for such unexpired portion thereof.

Period of any imprisonment or detention to be deemed to be period of residence, after-care or supervision.

(2) The foregoing provisions of this section shall not apply to a person who is admitted to a Rehabilitation Centre under section 8 or 9.

22. (1) Where a Magistrate makes an order requiring any person to reside at a Rehabilitation Centre, he may, at the time of making such order, or at any time thereafter during the currency of such order make an order, requiring such person, or where such person is a minor, requiring his parent or guardian, to pay such amount as may be specified in the order to the Director General as contribution towards the cost of the maintenance, treatment and rehabilitation of such person at the Rehabilitation Centre.

Contribution for cost of maintenance, treatment and rehabilitation.

(2) Before making an order under subsection (1), the Magistrate shall consider the report of a Rehabilitation Officer relating to the circumstances of the person against whom the order is proposed to be made (a copy of which report shall be supplied to such person) and give an opportunity to such person to make representations in the matter to the Magistrate.

Activity which will assist treatment and rehabilitation.

(3) A Magistrate may, on the application of any person against whom an order under subsection (1) has been made, rescind, make anew or vary the order as the Magistrate deems just.

(4) If any person wilfully fails to comply with an order under subsection (1), a Magistrate may, for every breach of such order, by warrant direct the amount due to be levied in the manner as provided by law for levying fines imposed by a Magistrate's Court or may sentence such person to imprisonment for a term not exceeding one week or to a fine or to both.

Delegation by Director General.

23. The Director General may delegate in writing to any Rehabilitation Officer by name or office any power conferred on him under this Act.

Jurisdiction. Act 92. F.M.S. Cap. 6.

24. (1) Notwithstanding any provision in the Subordinate Courts Act 1948 or the Criminal Procedure Code or any other written law to the contrary, any power or jurisdiction conferred on a Magistrate under sections 4, 6, 7, 14 and 22 of this Act over the matters specified therein, may be exercised by any Magistrate at any place whether such matters arose within or outside the local jurisdiction of the Magistrate or within or outside the local limits of his court.

(2) A Magistrate exercising power under sections 4, 6, 7, 14 or 22 may do so at any place, other than an open and public court, considered convenient for the purpose by the Magistrate, whether such place is within or outside the precincts of the court building.

Protection of persons acting under authority of this Act.

25. Any person who does any act in pursuance of any of the provisions of this Act or of any subsidiary legislation 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 on any other ground unless he has acted in bad faith or without reasonable care.

26. Any person undergoing treatment and rehabilitation in a Centre may be required to engage in any activity which, in the opinion of the person in charge of the Centre, will assist in his treatment and rehabilitation, and such activity may involve employment in or outside the Centre.

27. Where a minor is held in custody, or is required to reside at a Rehabilitation Centre or an After-care Centre, or to attend at a Day Centre, under any provision of this Act, or is being conveyed to or from any place while in such custody, or such residence or attendance, as the case may be, arrangements shall be made so that he is held in such custody, or so resides or attends, or is so conveyed, in a manner which will ensure that he does not associate with and is segregated from an adult or adults who are being so held in custody, or are so residing or attending, or are being so conveyed.

Separation
of minors.

28. (1) The Minister may make rules for the further, better and more convenient carrying out of the provisions or purposes of this Act and in particular, but without derogating from the generality of the foregoing, with respect to any or all of the following matters:

Rules.

- (a) to prescribe anything which is required to be prescribed under this Act;
- (b) to provide forms for use in connection with any matter under this Act;
- (c) to regulate the establishment, management and control of Centres, and private rehabilitation centres, including provision for the powers, duties and functions of persons in charge of such centres or employed at such Centres or private rehabilitation centres;
- (d) to provide for the discipline, education, vocational training and employment of persons undergoing treatment and rehabilitation at such Centres or private rehabilitation centres;
- (e) to provide for procedures relating to the tests to be carried out under this Act;
- (f) to provide for procedure relating to the treatment, rehabilitation and supervision of persons under this Act;
- (g) to provide for the composition, duties, functions and procedures of the Board of Visitors and Rehabilitation Committees;
- (h) to provide for the form, and the provisions to be included in any bail bond executed under this Act;

(i) to provide for the form, provisions, and the terms and conditions of any other bond required to be executed under this Act.

(2) The Minister may in such rules or by separate rules made under this Act provide that any contravention of the provisions of any rule shall be an offence and may provide for such offence to be punished with a fine not exceeding five hundred ringgit or imprisonment for a term not exceeding six months or both.

Repeal.

29. The words "for matter relating to the treatment and rehabilitation of drug dependants," appearing in the long title, the definitions of "Board of Visitors", "detection centre", "Director General", "drug dependant", "rehabilitation centre" and "rehabilitation committee" in section 2, and Part VA, of the Dangerous Drugs Act 1952 are repealed.

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Transitional.

30. Notwithstanding anything contained in section 29, where before the commencement of this Act—

- (a) any person has been taken into custody; or
- (b) has been or is being dealt with in any manner by any court, Magistrate, Social Welfare Officer, Board of Visitors, or any other officer or authority,

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under Part VA of the Dangerous Drugs Act 1952, the provisions of that Act, including the said Part VA thereof, shall continue to apply in relation to such person, save that the references to officers and authorities under the said Part VA shall be construed as references to the corresponding officers and authorities established under this Act.

Amendment
of
Dangerous
Drugs
Act 1952.
Act 234.

31. The Dangerous Drugs Act 1952 is amended by inserting immediately after section 38 new sections 38A and 38B as follows:

38A. (1) Where any person below the age of eighteen years is found guilty of an offence against this Act other than in the case of an offence under section 6B or 39B or other than in a case where a person is found guilty of an offence against this Act for which the punishment shall be under section 39A, the Court

"Powers
of Court in
respect of
drug
dependants
below the
age of
eighteen.

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shall consider a report of a Rehabilitation Officer as defined in the Drug Dependents (Treatment and Rehabilitation) Act 1983 and if the Court is satisfied that such person is a drug dependant as certified by a government medical officer and that having regard to the circumstances of the case and the character, antecedents, health or mental condition of the person charged it is inexpedient to inflict the punishment provided, the Court may, with or without recording a conviction—

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(a) release the offender and order him to reside at a Rehabilitation Centre for a period of two years to undergo treatment and rehabilitation, and immediately thereafter to undergo after-care in accordance with the provisions of the Drug Dependents (Treatment and Rehabilitation) Act 1983; or

(b) order the offender to be placed under the supervision of a Rehabilitation Officer for a period of not less than two and not more than three years, and to execute a bond with or without sureties, as the Court may determine, to remain under such supervision for such period:

Provided that where such person fails to execute such bond, an order under paragraph (a) shall be made against him by the Court.

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(2) Where an order under paragraph (a) of subsection (1) is made against an offender, it shall be deemed to be an order made by a Magistrate under paragraph (a) of subsection (1) of section 6 of the Drug Dependents (Treatment and Rehabilitation) Act 1983, and where the order is made under paragraph (b) of subsection (1), it shall be deemed to be an order made by the Magistrate under paragraph (b) of subsection (1) of section 6 of that Act, and the provisions of that Act shall apply accordingly in relation to such order.

Powers of Court in respect of person found guilty under section 15.

Act 283.

38B. (1) Where a person is found guilty of an offence under section 15, he shall immediately after having undergone the punishment imposed upon him in respect thereof, undergo supervision by a Rehabilitation Officer as defined under subsection (2) of section 2 of the Drug Dependents (Treatment and Rehabilitation) Act 1983 for a period of not less than two and not more than three years as may be determined by the Rehabilitation Officer.

Act 283.

(2) A person who is required to undergo supervision by a Rehabilitation Officer under subsection (1), shall be deemed to have been placed under such supervision by virtue of an order made by a Magistrate under paragraph (b) of subsection (1) of section 6 of the Drug Dependents (Treatment and Rehabilitation) Act 1983, and the provisions of that Act shall apply accordingly in relation to such supervision."

E/NL.1983/40

Act A553

DANGEROUS DRUGS (AMENDMENT) ACT 1983

An Act to amend the Dangerous Drugs Act 1952. 1/

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. (1) This Act may be cited as the Dangerous Drugs (Amendment) Act 1983.

Short title
and com-
mencement.

(2) Sections 7 and 17 shall be deemed to have come into force on the 15th November 1977 and on the 30th May 1980 respectively.

1/ Note by the Secretariat: E/NL.1952/105

2. Section 2 of the Dangerous Drugs Act 1952, which in this Act is referred to as the "principal Act", is amended—

Amendment
of section 2.
Act 234.

- (a) by deleting the definition of "Bureau";
- (b) by substituting for the definition of "cannabis" the following:

"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; and

(c) by deleting the definition of "police officer".

3. Section 6A of the principal Act is repealed.

Repeal of
section 6A

4. Section 8 of the principal Act is amended by inserting the words "or opium" after the words "prepared opium".

Amendment
of section 8.

New
section 27A.

5. Subsection (2) of section 9 of the principal Act is amended by deleting the words "and where the subject matter is prepared opium of more than 250 grammes in weight, he shall also be punished with whipping of not less than three strokes"

Amendment
of section 9.

6. Subsection (3) of section 10 of the principal Act is amended by substituting for the words "or drink" the words "; drink, inhale, or introduce into the body in any manner or by any means whatsoever".

Amendment
of section
10.

7. Part VA of the principal Act is amended by adding immediately after section 250 the following new section 25P:

New
section
25P.

"Jurisdiction.
Act 92.
F.M.S.
Cap. 6.

25P. Notwithstanding any provision in the Subordinate Courts Act 1948 or the Criminal Procedure Code or any other written law to the contrary, any power or jurisdiction conferred on a Magistrate or a Magistrates' Court or any other Court under sections 25A, 25B, 25C, 25H and 25I of this Part over the matters specified therein may be exercised by any Magistrate or Magistrates' Court or any other Court whether such matter arose within or outside the local jurisdiction of the Magistrate or within or outside the local limits of the Magistrates' Court or other Court, as the case may be."

8. The principal Act is amended by inserting immediately after section 27 the following new section 27A:

"Power to
intercept
communication.

27A. (1) Notwithstanding the provisions of any other written law, the Public Prosecutor, if he considers that it is likely to contain any information relating to the commission of an offence against this Act or to an act preparatory to or for the purpose of committing an offence against this Act, may, on the application of a police officer not below the rank of Superintendent of Police or of an officer of customs not below the rank of Assistant Director of Customs and Excise, authorise any police officer or officer of customs, as the case may be,

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

(2) When any person is charged with an offence against this Act, any information obtained by a police officer or officer of customs in pursuance of subsection (1), whether before or after such person is charged, shall be admissible at his trial in evidence.

(3) An authorisation by the Public Prosecutor under subsection (1) may be given either orally or in writing, and either to any particular police officer or officer of customs, or generally to the Inspector-General of Police and all other police officers or the Director-General of Customs and Excise and all other officers of customs:

Provided that where an oral authorisation is given, the Public Prosecutor shall, as soon as practicable, reduce the authorisation into writing.

(4) A certificate by the Public Prosecutor that the action taken by a police officer or an officer of customs in pursuance of subsection (1) had been authorised by him under subsection (1) shall be conclusive evidence that it had been so authorised, and such certificate shall be admissible in evidence without proof of signature thereof.

(5) No person shall be under any duty, obligation or liability, or be in any manner compelled, to disclose in any proceedings the procedure, method, manner or means, or any

matter whatsoever related thereto, with regard to anything done under paragraph (a), (b) or (c) of subsection (1).

(6) For the purpose of this section—

Act 211. “postal article” shall have the same meaning as in the Post Office Act 1947; and

Act 20. “telecommunication” shall have the same meaning as in the Telecommunications Act 1950.”.

Amendment of section 31. 9. Section 31 of the principal Act is amended—

(a) by adding before the full stop in subsection (1) the following words “, and every offence against this Act shall be deemed to be a seizable offence for the purposes of the Criminal Procedure Code”;

(b) by substituting for the words “and may be searched” in subsection (2), the words “and every person so arrested may be searched at any convenient place”.

New sections 31A and 31B.

10. The principal Act is amended by inserting immediately after section 31 the following new sections 31A and 31B:

“Examination of arrested person by a medical officer.

31A. (1) When any person is arrested on a charge of committing an offence against this Act—

(a) which is of such a nature; or

(b) which is alleged to have been committed under such circumstances,

as give reasonable grounds for believing that an examination of his person will afford evidence as to the commission of an offence against this Act, it shall be lawful for a medical officer acting at the request of any police officer not below the rank of Sergeant, or any other officer in charge of a police station, or any officer of customs, and for any person acting in aid of a medical officer and under his direction, to make such an examination or examinations of the person arrested as may be reasonably necessary in order to ascertain the facts which may afford

such evidence, and to use or cause to be used such force as may be reasonably necessary for that purpose.

(2) For the purposes of this section "medical officer" includes any person employed by the Government or a statutory authority as a medical officer or as a chemist.

Procedure where investigation cannot be completed within twenty-four hours by an officer of customs.

31B. (1) Whenever any person is arrested and detained in custody by any officer of customs 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, any officer of customs may produce such person before a Magistrate and the Magistrate may, whether he has or has not 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.

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

F.M.S.
Cap. 6.

(3) Nothing in this section shall be construed as in any manner derogating from the provisions of section 117 of the Criminal Procedure Code in its application in any case of an offence against this Act where the investigation is made by a police officer."

11. Section 37 of the principal Act is amended—

(a) by substituting for paragraph (da) the following new paragraph (da):

"(da) any person who is found in possession of—

(i) 15 grammes or more in weight of heroin;

Amendment of section 37.

(ii) 15 grammes or more in weight of morphine;

(iii) a total of 15 grammes or more in weight of heroin and morphine;

(iv) 1,000 grammes or more in weight of prepared opium;

(v) 1,000 grammes or more in weight of raw opium; or

(vi) 200 grammes or more in weight of cannabis or cannabis resin,

otherwise than in accordance with the authority of this Act or any other written law, shall be presumed, until the contrary is proved, to be trafficking in the said drug;" and

(b) by substituting for paragraph (i) the following new paragraph (i):

"(i) evidence by a police officer not below the rank of Sergeant or by a senior officer of customs that any pipe or other article is for use in the consumption of prepared opium, cannabis, cannabis resin or substances of which such resin forms the base, or in the preparation of any of the aforesaid substances for consumption shall, until the contrary is proved, be deemed to be sufficient evidence of the fact, and for the purposes of this paragraph "consumption" means eating, chewing, smoking, swallowing, drinking, inhaling or introducing any of the aforesaid substances into the body in any manner or by any means whatsoever;"

Amendment of section 37A.

12. Section 37A of the principal Act is amended by adding immediately after subsection (2) the following new subsection (3):

F.M.S.
Cap. 6.

"(3) Where a statement is purported to be made by a person charged with an offence against this Act under and in accordance with section 113 of the Criminal Procedure Code, the statement so made shall be deemed to have been made under and in accordance with this section."

13. Section 39A of the principal Act is amended by substituting for it the following new section 39A: Amendment
of section
39A.

"Increased
penalty
where
subject
matter is
heroin,
morphine,
prepared
opium or
raw opium.

39A. Every person found guilty of an offence against this Act where the offence is not punishable with death and where the subject matter of the offence is—

- (a) heroin or morphine, as the case may be, of 5 grammes or more in weight; or
- (b) prepared opium or raw opium, as the case may be, of 250 grammes or more in weight,

shall, instead of being liable to the punishment provided for that offence under the section under which the person has been so found guilty, be punished with imprisonment for life or for a term which shall not be less than five years, and he shall also be punished with whipping of not less than six strokes."

Amendment
of section
48.

14. Subsection (2) of section 39B of the principal Act is amended by deleting the words "or imprisonment for life and shall, if he is not sentenced to death, also be liable to whipping". Amendment
of section
39B.

15. Subsection (1) of section 41 of the principal Act is amended by substituting for it the following subsection (1): Amendment
of section
41.

"(1) A Sessions Court or a Magistrates' Court presided over by a Magistrate of the First Class shall have jurisdiction to try any offence under this Act, except an offence under section 39B, and power to impose for any offence so tried the full punishment or penalty provided for that offence by this Act or by any regulations made thereunder, other than, in the case of a Magistrates' Court, imprisonment exceeding five years."

16. Subsection (1) of section 41A of the principal Act is amended by inserting the words "is triable exclusively by the High Court or" immediately after the words "under this Act". Amendment
of section
41A.

17. Section 48 of the principal Act is amended by substituting for the word "Inspectors" the words "Drug Enforcement Officers"

Act A555

POISONS (AMENDMENT) ACT 1983

An Act to amend the Poisons Ordinance 1952.

BE IT ENACTED by the Duli Yang Maha Mulia Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

1. This Act may be cited as the Poisons (Amendment) Act 1983. Short title.

2. Section 2 (1) of the Poisons Ordinance 1952, which in this Act is referred to as "the Ordinance", is amended by inserting immediately before the definition of "animal treatment" the following new definition: Amendment of section 2. 29/52.

' "Acetylating substance" includes acetic anhydride, acetyl chloride and acetyl bromide; '.

3. The Ordinance is amended by inserting after section 10 the following new section 10A: New section 10A.

"Control of acetylating substances. 10A. (1) Any person who has in his possession an acetylating substance shall be guilty of an offence against this Ordinance unless he proves—

- (a) that he is licensed under this Ordinance;
- (b) that he is authorised under this Ordinance; or
- (c) that the acetylating substance is in his possession for a lawful purpose.

(2) In any prosecution for an offence under this section, any person who is found to have in his custody or under his control any acetylating substance shall be deemed to have been in possession of the substance and to have known the nature of the substance, until he proves to the contrary.

(3) Any person convicted of an offence against this section shall be liable to imprisonment for a term not exceeding fourteen years and not less than three years, and he shall also be punished with whipping of not less than six strokes.

(4) Notwithstanding any other provision in any other written law to the contrary, a person charged under this section shall not be granted bail."