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LAWS AND REGULATIONS

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

ISRAEL

Communicated by the Government of Israel

NOTE BY THE SECRETARY-GENERAL - In accordance with the relevant Articles of the International Treaties on Narcotic Drugs, the Secretary-General has the honour to communicate the following legislative texts.

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DANGEROUS DRUGS ORDINANCE (AMENDMENT NO.3) LAW 5731 - 1971 a/

Amendment of section 2. 1. In section 2 of the Dangerous Drugs Ordinance, 1936^{b/1/}
(hereinafter referred to as "the Ordinance"):

(1) in the definition of "dangerous drugs", the closing passage, beginning with the words "and such other substances", shall be deleted.

(2) the definitions of "corresponding law" and "magistrate" shall be deleted.

a/ Passed by the Knesset on the 28th Adar, 5731 (25 March, 1971) and published in Sefer Ha-Chukkim No.620 of the 9th Nisan, 5731 (4 April, 1971), p.90; the Bill and an Explanatory Note were published in Hatza 'ot Chok No.897 of 5730, p.260.

b/ P.G. of 1936, Suppl.I p.132 (English Edition); Sefer Ha-Chukkim of 5712, p.280 - LSI vol. vi., p.91; Sefer Ha-Chukkim of 5728, p.50 - LSI vol.xxll, p.59.

1/ Note by the Secretariat: The text of this ordinance is available in the files of the Division of Narcotic Drugs.

(3) the definition of "Convention" shall be replaced by the following definition:

"Convention" means the Single Convention on Narcotic Drugs signed in New York on 30 March, 1961".

(4) the definition of "Director" shall be replaced by the following definition:

"Director" means the Director-General of the Ministry of Health or a person empowered by him;"

Amendment of section 3. 2. In section 3 of the Ordinance, the expression "the Director of Medical Services" shall be replaced by the expression "the Director".

Replacement of section 4. 3. Section 4 of the Ordinance shall be replaced by the following section:

"Prohibition of export, import, trade, supply and acting as go-between 4. (a) A person shall not export, import or facilitate the export or import of, or trade in, or effect any other transaction in respect of, or supply a dangerous drug in manner whatsoever, whether with or without consideration, save in so far as permitted by this Ordinance or by rules made thereunder, or under a licence from the Director.
(b) A person shall not, whether with or without consideration, act as a go-between in respect of an act prohibited under subsection (a)"

Replacement of section 6. 4. Section 6 of the Ordinance shall be replaced by the following section:

"Prohibition of manufacture, preparation and production. 6. A person shall not cultivate, manufacture, produce or from another substance, save under a licence from the Director".

Replacement of section 7. 5. Section 7 of the Ordinance shall be replaced by the following section:

"Prohibition of possession and use. 7. (a) a person shall not be in possession of, or use, a dangerous drug, save in so far as permitted by this Ordinance or by rules made thereunder, or under a licence from the Director.
(b) the provision of this section relating to the prohibition of possession shall not apply to a dangerous drug in lawful transit under the Ordinance".

Addition of section 7A. 6. The following section shall be inserted after section 7 of the Ordinance:

"Modes of possession. 7A. For the purposes of a prosecution for possession of a dangerous drug, it shall be immaterial whether the dangerous drug is under the control of the accused or under the control of a person having possession thereof on behalf of the accused or whether the drug is under the control of another person without the knowledge of that person or whether it is in a place not under the control, charge or supervision of any person".

Replacement of 7. Section 8 of the Ordinance shall be replaced by the following section 8.

"Offences
committed
abroad

8. (a) An Israel national or resident who does outside Israel an act which had it been done in Israel would be an offence under this Ordinance shall be deemed to have committed an offence in Israel.

(b) A person other than an Israel national or Israel resident who does outside Israel an act which had it been done in Israel would be an offence under section 4, 5 or 6 or unlawful possession of a dangerous drug under section 7 shall be deemed to have committed an offence in Israel.

(c) A person shall not be tried by virtue of subsection (b) if the act was done in a place under the jurisdiction of a foreign state unless the act is also prohibited by the Law applying in that place.

(d) An information under this section may only be filed on behalf of the Attorney-General or with his written consent.

(e) An information under this section shall not be filed against a person for an act of which he has been convicted or acquitted outside Israel".

Amendment of 8. Section 9 of the Ordinance shall be re-marked as section 9(1) section 9. and the following subsection shall be inserted thereafter:

"(2) The use of a dangerous drug is permitted if it is for curative purposes and the drug has been supplied to the user by a pharmacist, medical practitioner or veterinary surgeon on the conditions set out in subsections 9(1) (c) or has been supplied under a licence".

Amendment of 9. In section 12 of the Ordinance, the expression "9(a), (b) and (d)" section 12. shall be replaced by the expression "9(1) (a), (b) and (d)".

Amendment of 10. In section 14 of the Ordinance - section 14. (1) paragraph (a) shall be replaced by the following paragraph:

"(a) being the occupier of any premises, permits the same to be used for the illicit preparation or use of a dangerous drug or for the illicit sale thereof or any other illicit transaction in respect thereof; or",

(2) paragraph (c) shall be replaced by the following paragraph:

"(c) has under his control any utensils used for the illicit preparation or destined for the illicit use of a dangerous drug; or";

(3) paragraph (d) shall be replaced by the following paragraph:

"(d) frequents any place intended for the use of dangerous drugs".

Amendment of section 15. 11. In section 15 of the Ordinance, subsection (3) shall be replaced by the following subsection:

"(3) The Minister of Health may, with the approval of the Public Services Committee of the Knesset, by notice in Reshumot, vary, add to and make deletions in, the Schedule and insert conditions therein".

Amendment of section 16. 12. In section 16 of the Ordinance - (1) in the first subsection:

(a) the words "or under any rules made thereunder" shall be deleted;

(b) the words "to a fine not exceeding five thousand pounds" shall be replaced by the words "to a fine of fifty thousand pounds".

(c) the first provision shall be replaced by the following proviso:

"(i) notwithstanding anything contained in this Ordinance or in any other Law -

(a) a person may be tried by a Magistrates' Court for the possession or use of a dangerous drug in contravention of the provisions of this Ordinance and shall on conviction be sentenced to imprisonment for a term not exceeding three years or a fine not exceeding ten thousand pounds;

(b) a District Court trying an offence under this Ordinance may consist of a single Judge unless the President of the District Court otherwise directs.";

(2) the following subsection shall be inserted after (1):

"(1A) A person who contravenes any rule under this Ordinance shall be liable to imprisonment for a term of three years or to a fine of five thousand pounds.";

(3) the words "sections 4, 5, 6, 7 and 14 of this Ordinance" in subsection (2) shall be replaced by the words "the provisions of this Ordinance or the rules made thereunder";

(4) the following subsection shall be inserted after subsection 2:

"(2A) Where any dangerous drugs or any utensils destined for the use thereof have come into the hands of the police in consequence of the investigation of an offence under this Ordinance, the Court may order the forfeiture of the drugs or utensils even if the accused charged in connexion therewith has been acquitted and even if no legal proceedings have been taken".

Amendment of section 17. 13. Section 17 of the Ordinance shall be re-marked as section 17(1) and the following subsection shall be inserted thereafter:

"(2) In proceedings for an offence in respect of a drug under this Ordinance or the rules made thereunder, the accused shall be presumed to have known that the drug was dangerous, and a person who alleges in his defence that he did not know it shall bear the burden of proof".

Amendment of Schedule 14.(a) In Part I of the Schedule to the Ordinance, item (g) shall be deleted.

(b) In Part II of the Schedule to the Ordinance, the following item shall be added after item (t):

- "(a)(1) Acidum Diethylamido Lysergicum:
NN - diethyl - lysergamudum;
synonyma: LSD, LSD -25, Lysergide, Delysid.
- (2) Bufoteninum:
dimethyl-serotoninum vel 5 - hydroxy - N - dimethyl
tryptaminum.
- (3) Dimethyltryptaminum
3 - (dimethyl-aminoethyl) indolum.
- (4) Harmalinum:
3, 4 - dihydro - harminum.
- (5) Harminum:
7 - methoxy - 1 - methyl - 9 - pyrid - (3, 4-b) -
indolum;
synonyma: Banisterine, Yageine, Telepathine,
Leucoharmine.
- (6) Mescalinum and Sales: [Mescaline]^{1/}
3, 4, 5 - trimethoxy - phenethylaminum.
- (7) Psilocinum: [Psilocyne]
4-hydroxy - dimethyl - tryptaminum vel 3 -
(2 - dimethyl) - aminoethyl) - 4 hydroxy - indolum
- (8) Psilocybinum [Psilocybine]
4 - phosphoryloxy - NN - dimethyl - tryptaminum
vel 3 - ((2 - dimethyl - aminoethyl) - indol -
4 - yl - dihydrogen phosphas; synonymum: Indocybin."

GOLDA MEIR
Prime Minister

VICTOR SHEMTOV
Minister of Health

SHLOMO ZAIMAN SHAZAR
President of the State.

^{1/} Note by the Secretariat: The words in square brackets have been inserted by the Secretariat.

PENAL LAW (MODES OF PUNISHMENT)
(CONSOLIDATED VERSION), 5730-1970^{c/}

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CHAPTER SEVEN: DETENTION IN CLOSED INSTITUTION

Detention order. 45. (a) Where a person has been sentenced to imprisonment, other than conditional imprisonment, for a term of six months or more, and the court is satisfied, after hearing the opinion of a psychiatrist, that the accused is addicted to dangerous drugs, within the meaning of the Dangerous Drugs Ordinance, 1936 ^{b/}, and that there is reason to believe that he committed the offence for which he has been sentenced in consequence of that addiction, and that the said addiction may lead him to commit further offences, the court may, in its sentence, order that he be detained in a closed institution to be cured of that addiction.

^{c/} The text of this Consolidated Version was determined by the Constitution, Legislation and Juridical Committee of the Knesset on the 11th Tammuz, 5730 (15th July, 1970) under section 16 of the Law and Administration Ordinance, 5708 - 1948. It was published in Sefer Ha-Chukkim No.598 of the 16th Tammuz, 5730 (20th July, 1970), p.109. References: Sefer Ha-Chukkim of 5714, p.234 - LSI vol.VIII, p.206; Sefer Ha-Chukkim of 5721, pp.19 and 115 - LSI vol.XV, pp.17 and 122; Sefer Ha-Chukkim of 5723, p.80 - LSI vol.XVII, p.96; Sefer Ha-Chukkim of 5725, pp.181 and 183 - LSI vol.XIX, pp.186 and 188; Sefer Ha-Chukkim of 5730, pp.16 and 25 - supra, pp.15 and 23.

^{2/} Note by the Secretariat: The sections which are not relevant to narcotics have been omitted.

(b) An order under this section (hereinafter referred to as a "detention order") shall not be made unless an institution approved by the Minister of Health, for the purposes of this section, as suitable for curative treatment has intimated that it can accommodate the sentenced person for the purposes of such treatment.

(c) The Minister of Health may, with the consent of the Minister of Police, approve a psychiatric ward in a prison as a suitable institution within the meaning of this section.

46. (a) A detention order shall not be made for a period exceeding three years or exceeding the term of imprisonment which the sentenced person has to undergo, whichever is the longer period. Period of detention.

(b) The period of detention of a person in respect of whom a detention order has been made (hereinafter referred to as "the patient") shall be deducted from the term of imprisonment which he has to undergo unless the court directs that the whole or part of that period shall not be deducted; where the court so directs, it shall, after hearing the opinion of a psychiatrist, determine the sequence of the detention and the imprisonment.

47. (a) The Minister of Justice shall appoint a board of three persons (hereinafter referred to as "the Board"), of whom one - who shall act as chairman of the Board - shall be a District Court Judge and at least one shall be a psychiatrist. Releases and leave.

(b) Where the Board is satisfied that a patient is no longer in need of treatment in a closed institution or is incurable, it may direct his release from the closed institution at any time prior to the expiration of the period of the order. The Board also may, for such reason as commends itself to it from the point of view of the cure or rehabilitation of the patient direct that he be released for such time or on such conditions as it may think fit.

(c) The person in charge of the closed institution or a person empowered by him in that behalf may, on such conditions as he may deem right or unconditionally, grant the patient special leave for a period not exceeding four days.

(d) Without prejudice to the provisions of subsection (b) the Attorney-General or his representative shall, once every six months, bring the case of the patient before the court which made the detention order, and the court may rescind the order if it is satisfied that there is no justification for the continued detention of the patient in a closed institution.

(e) Release from a closed institution under subsection (b), (c) or (d) shall not relieve the patient of liability to the penalty of imprisonment which he still has to undergo at the time.

Penalties.

48. A patient who leaves the closed institution without permission lawfully given him, and a person who aids a patient to leave as aforesaid, shall be liable to imprisonment for a term of one year.

Regulations.

49. The Minister of Health may, in consultation with the Minister of Police, make regulations as to the conditions of detention and modes of treatment of patients. Subject to such regulations, a detention order shall be authority for:

- (1) the Police to transfer the patient to the institution;
- (2) the person in charge of the closed institution to detain the patient thereat;
- (3) the physician in charge of the treatment of the patient to take the requisite therapeutic measures.

CHAPTER EIGHT: MISCELLANEOUS

Postponement
of dates

50. (a) Where a date for the carrying out of a penalty is prescribed by any provision of this Law or by the court under any such provision, the court may postpone the carrying out to another date.

(b) Where the carrying out of a penalty has been postponed under subsection (a), the court may again postpone it for special reasons which shall be recorded.

(c) A court which postpones the carrying out of a penalty under this section may make the postponement conditional upon the giving of security and upon such other conditions as it may think fit. The provisions of sections 38 to 40 and 44 of the Criminal Procedure Law, 5725 - 1965 d/, shall apply mutatis mutandis to security given under this provision.

(d) A decision of the court under this Law shall be appealable.

Saving of civil
liability.

51. Neither an acquittal in a criminal proceeding nor the imposition of a penalty or a requirement to pay compensation under section 40 shall relieve from liability for damage under any other law.

Saving
of rights.

52. The provisions of this law shall not apply to a person charged or convicted or imprisoned before the 19th Elul, 5713 (17th September 1954), save in so far as in the opinion of the court or the Parole Board, they are likely to be of benefit to him or to alleviate his position.

d/ Sefer Ha-Chukkim of 5725, p.161; LSI vol.XIX, p.158.

53. The provisions of this Law apply to offences under any law. Application.

54. The Minister of Justice is charged with the implementation of this Law and may make regulations as to any matter relating to such implementation. Implementation and regulations.

55. This version shall come into force on the 30th Av, 5730 (1st September, 1970). Commencement.

YAAKOV S. SHAPIRO
Minister of Justice