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ภาคผนวก

ภาคผนวก ก
Sentencing Act
Act
No.49 / 1991

28. *Conditional suspension in case of drunkenness or drug addiction*

- (1) A court which-
 - (a) has convicted a person of an offence punishable on conviction by imprisonment; and
 - (b) is satisfied-
 - (i) that drunkenness or drug addiction contributed to the commission of the offence; and
 - (ii) that the offender is an alcoholic or drug-dependent person; and
 - (c) is considering sentencing the offender to a term of imprisonment; and
 - (d) has considering a report by a medical officer of an assessment centre about the offender's mental and physical condition and his or her suitability for treatment in a treatment centre-
may, if it imposes a sentence of sentence of imprisonment, make an order wholly suspending the sentence, irrespective of its length.
- (2) The court must attach to the order conditions that the offender-
 - (a) seeks and undergoes treatment in a treatment centre (as an in-patient or an out-patient) for a specified period of not less than 6 months and not more than 24 months; and
 - (b) abstains from using during the treatment period-
 - (i) alcoholic liquors; or
 - (ii) drugs of addiction; or
 - (iii) both alcoholic liquors and drugs of addiction-
unless with the authority of a legally qualified medical practitioner; and

- (c) during the treatment period submits to testing for alcohol or drug use as directed by the medical officer in charge of a treatment centre- and, subject to Division 6 of Part 3, may attach to the order a condition that the offender participates in the services specified in a justice plan.
- (3) A court may only make an order under this section if the offender agrees to comply with the conditions attached to it.
- (4) A court must not give directions concerning the supervision and treatment of the offender in the treatment centre and may vary or revoke any such direction.
- (5) A court must not impose a suspended sentence of imprisonment under this section unless the sentence, if unsuspended, would be appropriate in the circumstances having regard to the provisions of this Act.
- (6) A sentence of imprisonment that is suspended under this section must be taken to be a sentence of imprisonment for the purposes of all enactments except any enactment providing for disqualification for, or loss of, office or the forfeiture or suspension of pensions or other benefits.
- (7) An offender must not-
- (a) during the treatment period fail without reasonable excuse to comply with the conditions attached under sub-section (2); or
 - (b) while the order suspending the sentence is force commit another offence punishable by imprisonment-
- if he or she is to avoid being dealt with under section 31.
- (8) If under section 31 an offender is ordered to serve the whole or part of the sentence then, for the purposes of any enactment providing for disqualification for, or loss of, office or the forfeiture or suspension of pensions or other benefits the offender must be taken to have been sentenced to imprisonment on the day on which the order was made under that section.
- (9) For the purposes of this section a suspended sentence of imprisonment imposed on an offender on appeal must be taken to have been imposed by the appellate court.

- (10) If the Inspector is satisfied that an offender is fit to be discharged from a treatment centre before the end of the treatment period, the Inspector may report accordingly the court which may discharge him or her from the treatment condition or all the conditions attached under sub-section (2).

29. Effect of suspended sentence

An offender in respect of whom a suspended sentence has been imposed under section 27 or 28 only has to serve the sentence or part sentence held in suspense if he or she is ordered to do so under section 31.

30. Variation of under conditionally suspending sentence

- (1) A court which has under section 28 made an order wholly suspending a sentence of imprisonment on certain conditions may, on application under this sub-section, if satisfied-
- (2)
- (3) A person must give at least 28 days written notice of an application under sub-section (2) to the Chief Commissioner of Police and the registrar at the proper venue of the Magistrates' Court.
- (4) If a court finds a person guilty, or convicts a person, of stealing or attempting to steal a motor vehicle, the court may (in the case of a finding of guilt) and must (in the case of a conviction)-
- (a) if the offender holds a driver licence-
- (i) cancel that license and, if the court thinks fit, also disqualify him or her from obtaining one for such time as it thinks fit; or
- (ii) suspend that licence for such time as it thinks fit;
- or
- (b) if the offender does not hold a driver licence, disqualify him or her from obtaining one for such time as it thinks fit.

PART 5-HOSPITAL ORDERS

90. Assessment orders

If on the trial of a person for an offence-

- (a) the person is found guilty; and
- (b) the court is of the opinion that-
 - (i) the person appears to be suffering from a mental illness that may require treatment; and
 - (ii) the treatment can be obtained by admission to and detention in a psychiatric in-patient service; and
 - (iii) the person may require to be admitted as an involuntary patient for his or her health or safety or for the protection of members of the public; and
- (c) the court has received advice in writing from the authorised psychiatrist of the psychiatric in-patient service to which it is proposed to admit the person that it has facilities to undertake an assessment of the person's suitability for an order under section 93-

the court may make an order (an assessment order) under which the person is admitted to and detained in a psychiatric in-patient service as an involuntary patient for a period (not exceeding 72 hours) to be specified in the order to enable an assessment to be made of his or her suitability for an order under section 93.

91. Diagnosis, assessment and treatment orders

If on the trial of a person for an offence-

- (a) the person is found guilty; and
- (b) the court is satisfied by the production of a certificate in the prescribed form of a psychiatrist and any other evidence that it may require that-
 - (i) the person appears to be suffering from a mental illness that requires treatment; and
 - (ii) the treatment can be obtained by admission to and detention in a psychiatric in-patient service; and
 - (iii) the person should be admitted as an involuntary patient for his or her health or safety or for the protection of members of the public; and

(c) the court has received a report in the prescribed form from the authorised psychiatrist of the psychiatric in-patient service to which it is proposed to admit the person recommending the proposed admission-

the court may make an order (a diagnosis, assessment and treatment order) under which the person is admitted to and detained in the psychiatric in-patient service as an involuntary patient to enable diagnosis, assessment and treatment for a period (not exceeding 3 months) to be specified in the order.

92. Termination of assessment orders and diagnosis, assessment and treatment orders

At the expiry of an order made under section 90-91 or at any time before then if the authorised psychiatrist applies or the Mental Health Review Board or the chief psychiatrist discharges the person under the Mental Health Act 1986, the court, after considering a report from the authorised psychiatrist specifying the results of the assessment or the diagnosis, assessment and treatment (as the case requires)-

- (a) may make an order under section 93; or
- (b) may pass sentence on the person according to law and, if the sentence is a term of imprisonment, must deduct the period of time that the person was detained under the assessment order or the diagnosis, assessment and treatment order.

93. Hospital orders and hospital security orders

(1) If on the trial of a person for an offence-

- (a) the person is found guilty; and
- (b) the court is satisfied by the production of a certificate in the prescribed form a psychiatrist and any other evidence that it may require that-
 - (i) the person appears to be suffering from a mental illness that requires treatment; and
 - (ii) the treatment can be obtained by admission to and detention in a psychiatric in-patient service; and

(iii) the person should be admitted as a patient for his or her health or safety or for the protection of members of the public; and

(c) the court has received a report in the prescribed form from the authorised psychiatrist of the psychiatric in-patient service to which it is proposes to admit the person recommending the proposes admission-

the court may-

(d) instead of passing sentence make an order (a hospital order) under which the person is admitted to and detained in a psychiatric in-patient service as an involuntary patient; or

(e) by way of sentence make an order (a hospital security order) under which the person is admitted to and detained in a psychiatric in-patient service as a security patient patient for a period specified in the order.

(2) A court must not make a hospital security order unless, but for the mental illness of th eperson, the court would have sentenced the person to a term of imprisonment.

(3) A court must not in a hospital security order specify a period of detention in a psychaitric in-patient service that is longer than the period of imprisonment to which the person would have been sentenced had the order not been made.

(4) A court, when making a hospital security order, must fix a non-parole period in accordance with section 12 as if the order were a term of imprisonment.

(5) If at any time before the end of the period secified in a hospital security order the Mental Health Review Board or the chief psychiatrist discharges the person under the Mental Health Act 1986, the hospital security order has effect as a sentence of imprisonment for the unexpire portion of it and that unexpired portin must be served in a period unless the person is released on parole.

(6) A non-parole period fixed under sub-section (4) is only relevant in the circumstances referred to in sub-section (5).

94. *Custody of admitted person*

(1) A court, when making an order under this Part, may include in the order the names of a person or persons who shall be responsible for taking the offender.

(a) to the psychiatric in-patient service named in the order;

and

(b) from the psychiatric in-patient service to the court in connection with the exercise by the court of its powers under section 92.

(2) A copy of the order and the advice or report (as the case requires) of the authorised psychiatrist is to accompany the offender to the psychiatric in-patient service named in the order.

PART 6-MAKING OF SENTENCING AND OTHER ORDERS

Division 1-Explanation of Orders

95. *Explanation of orders*

If a court proposes to make an order which has attached to it conditions to which a person is required to consent or which requires a person to give an undertaking, it must before making the order explain, or cause to be explained, to the person in language likely to be readily understood by him or her-

(a) the purpose and effect of the proposed order; and

(b) the consequences that may follow if he or she fails without reasonable excuse to comply with the proposed order; and

(c) the manner in which the proposed order may be varied.

Division 2-Pre-Sentence Reports

96. *Court may order pre-sentence report*

- (1) If a court finds a person guilty of an offence, before passing sentence, order a pre-sentence report in respect of the offender and adjourn the proceeding to enable the report to be prepared.
- (2) A court must order a pre-sentence report if it is considering making an intensive correction order, a youth training centre order or a community-based order so that it may-
 - (a) establish the person's suitability for the order being considered; and
 - (b) establish that any necessary facilities exist; and
 - (c) if the order being considered is an intensive correction order or a community-based order, gain advice concerning the most appropriate program condition or conditions to be attached to the order.
- (3) If a court orders a pre-sentence report, it must be prepared by-
 - (a) the Director-General of Community Services if the court is considering making a youth training centre order; or
 - (b) the Chief General Manager if the court is considering imposing a suspended sentence of imprisonment under section 28; or
 - (c) the Director-General of Corrections in any other case
- (4) The author of a pre-sentence report must conduct any investigation that he or she thinks appropriate or that is directed by the court.

97. *Contents of pre-sentence report*

- (1) A pre-sentence report may set out all any of the following matters which, on investigation, appear to the author of the report to be relevant to the sentencing of the offender and are readily ascertainable by him or her:
 - (a) the age of the offender,
 - (b) the social history and background of the offender;
 - (c) the medical and psychiatric history of the offender;
 - (d) the offender's educational background;
 - (e) the offender's employment history;
 - (f) the circumstances of any other offences of which the offender has been found guilty and which are

known to the court;

(g) the extent to which the offender is complying with any sentence currently in force in respect of him or her;

(h) the offender's financial circumstances;

(i) any special needs of the offender;

(j) any courses, programs, treatment, therapy or other assistance that could be available to the offender and from which he or she may benefit.

(2) The author of a pre-sentence report must include in the report any other matter relevant to the sentencing of the offender which the court has directed to be set out in the report.

98. *Distribution of report*

(1) A pre-sentence report must be filed with the court no later than the time directed by the court.

(2) The author of a pre-sentence report must, a reasonable time before sentencing is to take place, provide a copy of the report to -

(a) the prosecutor; and

(b) the legal practitioners representing the offender; and

(c) if the court has so directed, the offender.

99. *Disputed pre-sentence report*

(1) The prosecution or the defence may file with the court a notice of intention to dispute the whole or any part of a pre-sentence report.

(2) If a notice is filed under sub-section (1) before sentencing is to take place, the court must not take the report or the part in dispute (as the case requires) into consideration when determining sentence unless the party that filed the notice has been given the opportunity-

- (a) to take evidence on the disputed matters; and
- (b) to cross-examine the author of the report on its contents.

ภาคผนวก ข

The Narcotic Addict Rehabilitation Amendments of 1971

Section 3401. Declaration of policy

It is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offense should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively crime and delinquency which from narcotic addiction

Section 3402. State facilities and personnel for care and treatment; encouragement of adequate provision; benefit of experience of Surgeon General and Attorney General

The Surgeon General and the Attorney General are authorized to give representatives of States and local subdivisions thereof the benefit of their experience in the care, treatment, and rehabilitation of narcotic addicts so that each State may be encouraged to provide adequate facilities and personnel for the care and treatment of narcotic addicts in its jurisdiction.

Section 3411. Definitions

For the purposes of this subchapter, the term-

(a) "Narcotic addict" means any individual who habitually uses any narcotic drug as defined in section 802(16) of Title 21, so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

(b) "Treatment" includes confinement and treatment in a hospital of the Service and under supervised aftercare in the community and includes, but is not limited to, medical, educational, social, psychological, and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction.

(c) "Surgeon General" means the Surgeon General of the Public Health Service.

(d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts, and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.

(e) "patient" means any person with respect to whom a petition has been filed by a United States attorney as provided under subsection (b) of section 3412 of this title.

(f) "posthospitalization program" shall mean any program providing for the treatment and supervision of a person established by the Surgeon General pursuant to section 3417 of this title.

(g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(h) "United States" includes the Commonwealth of Puerto Rico.

(i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.

Section 3412. Preliminary proceedings

Petition for treatment

(a) Except as otherwise provided in section 3421 of this title, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person

be admitted to a hospital of the Service for treatment of his addiction. Any such petition filed by a narcotic addict shall set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict shall set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

Petition for confinement; consultations respecting availability of facilities

(b) After considering such petition, the United States attorney shall, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States district court to commit such person to a hospital of the Service for treatment as provided in this subchapter. In making his determination with respect to the nonavailability of such facilities, the United States attorney shall consult with the Surgeon General, and other appropriate State or local officials.

Order for medical examination and hearing; personal service

(c) Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 3413 of this title and for a hearing, if required, under section 3414 of this title. The court shall cause a copy of such petition and order to be served personally upon the patient by a United States marshal.

Section 3413. Judicial proceedings; advisement of patient: counsel, retained physician's authority, treatment program of commitment, withdrawal, duration, confinement, postconfinement, and recommitment; examination of patient: appointment of physicians, order of commitment, conduct and report of examination, and copies to patient and counsel; return of patient for further proceedings

The court shall immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 3412 of this title of this right to have (1) counsel at every stage of the judicial proceedings under this subchapter and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patients'

request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified to participate in any such examination. The court shall also advise such patient that if, after an examination and hearing as provided in this subchapter, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including posthospitalization treatment and supervision) may last forty-two months; that during treatment he will be confined on an institution; that for a period of three years following his release from confinement he will be under the care and custody of the Surgeon General for treatment and supervision under a posthospitalization program established by the Surgeon General; and that should he fail or refuse to cooperate in such posthospitalization program or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional posthospitalization treatment and supervision. After so advising the patient, the court shall appoint two qualified physicians, one of whom shall be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it shall determine, not to exceed thirty days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court shall, within such period so determined by the court, examine the patient and file with the court, a written report with respect to such examination. Each such report shall include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined shall be returned to the court for such further proceedings as it may direct under this subchapter. Copies of such reports shall be made available to the patient and his counsel.

Section 3414. Hearings

Discharge of patient and dismissal of proceedings; notice of time and place; service; issues of fact: demand for jury or judicial determination

(a) If both examining physicians (referred to in section 3413 of this title) conclude in their respective written reports that the patient is not a narcotic addict, or a narcotic addict not likely to be rehabilitated through treatment, the proceedings under this subchapter. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court shall promptly set the case for hearing. The court shall cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice shall also inform the patient that upon demand made by him within fifteen days after he has been served, he shall be entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, shall determine all issues of fact without a jury.

Evidence; patient's testimony; examinations and cross-examinations; judicial review of orders of commitment

(b) In conducting any hearing under this subchapter, the court shall receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 3413 of this title. Any patient with respect to whom a hearing is held under this subchapter shall be entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this subchapter shall be subject to review in conformity with the provisions 1254 and 1291 of Title 28.

Detention of patient

(c) Any patient with respect to whom a hearing has been set under this subchapter may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

Witness fees and mileage

(d) Witnesses subpoenaed by either party under the provisions of this subchapter shall be paid the same fees and mileage as are paid to other witnesses in the courts of the United States.

Section 3415. Order of commitment for treatment to care and custody of Surgeon General; reports of Surgeon General

If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court shall order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Service. The Surgeon General shall submit to the court written report which include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

Section 3416. Period of commitment to care and custody of Surgeon General; patient subject to posthospitalization program; release from confinement

Any patient committed to the care and custody of the Surgeon General pursuant to section 3415 of this title shall be committed for a period of six months, and shall be subject to such posthospitalization program as may be established pursuant to section 3417 of this title; except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

Section 3417. Release from confinement

Notice and return to committing court; placing under care and custody of Surgeon General for posthospitalization treatment; recommendations of Surgeon General

(a) Whenever any patient under the care and custody of the Surgeon General pursuant to this subchapter to be released from confinement in accordance with the provisions thereof, the Surgeon General shall give notice of such pending release to the committing court within ten days prior thereto and shall, at the time of the patient's release, promptly return him to that court. The court, after considering the recommendations of the Surgeon General with respect to posthospitaliza-

tion treatment for any such patient so returned, may place such patient under the care and custody of the Surgeon General for the three-year period immediately following the patient's release, for treatment and supervision under such posthospitalization program as the Surgeon General may direct.

Return to committing court for recommitment and submission to posthospitalization treatment

(b) If, at any time during such three-year period, any patient (1) fails or refuses to comply with the directions and orders of the Surgeon General in connection with such patient's posthospitalization treatment and supervision, or (2) is determined by the Surgeon General to be again using narcotic drugs, the Surgeon General may order such patient's immediate return to the committing court which may recommit such patient to a hospital of the Service for additional for additional treatment for a period of not to exceed six months, and may require such patient thereafter to submit to a posthospitalization program in accordance with subsection (a) of this section.

Section 3418. Petition for inquiry into health and general condition and necessity for continuation of confinement; order for release from confinement and return to court; placing patient under posthospitalization treatment

The court, upon the petition of any patient after his confinement pursuant to this subchapter for a period in excess of three months, shall inquire into the health and general condition of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it shall order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a posthospitalization program in accordance with the provisions of subsection (a) of section 3417 of this title.

Section 3419. Criminal conviction or criminal appeal from determination of being narcotic addict; criminal proceedings prohibited from using information gained in addiction inquiry

Any determination by the court pursuant to this subchapter that a patient is a narcotic addict shall not be deemed a criminal conviction, nor shall such patient be denominated a criminal by reason of that determination. The results of any hearing, examination, test, or procedure to determine narcotic of any patient under this subchapter shall not be used against such patient in any criminal proceeding.

Section 3420. Evidence; examining physician competent and compellable witness; physician-patient privilege

Any physician conducting an examination under this subchapter shall be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this subchapter and the physician patient privilege shall not be applicable.

Section 3421. Subchapter inapplicable to persons with criminal charge pending, on probation, or with sentence unserved; consent to commitment of such persons by authority with power over their custody

The provisions of this subchapter shall not be applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision shall be applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

Section 3425. Penalties; escape or rescue from custody

Whoever escapes or attempts to escape while committed to institutional custody for examination or treatment under this subchapter, or whoever rescues or attempts to rescue or instigates, or whoever rescues or attempts to rescue or instigates, aids, or assists the escape or attempt to escape of such a person, shall be subject to the penalties provided in sections 751 and 752 of Title 18.



ภาคผนวก ค

Dangerous Durgs (Amendment) Act 1984

Interpretation

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

"aircraft" includes every description of craft which may be used for the conveyance of passengers or goods by air;

"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;

"cannabis resin" means the leaves of any plant of the genus of the Erythroxylaceae from which cocaine can be extracted either directly or by chemical transformation;

"Commission" means the Commission on Narcotic Drugs of the Economic and Social Council of the United Nations;

"conveyance" includes ship, train, vehicle, aircraft, or any other means of transport by which persons or goods can be carried;

"corresponding law" means any law stated in a certificate purporting to be issued by or on behalf of the Government of any country or territory to be a law providing for the control and regulation in that country or territory of the manufacture, sale, use, export, and import of drugs and substances in accordance with the provisions of the Geneva Convention (No.1) or of the Geneva Convention (No.2) or of the Hague Convention or of the Protocol or of the Single Convention and any statement in any such certificate (or in any official copy thereof), as to the effect of the law mentioned in the certificate (or in any official copy thereof), or any statement in any such certificate (or in any official copy thereof) that any facts constitute an offence against that law, shall be conclusive;

"crude cocaine" means any extract of the coca leaf which can be used directly or indirectly for the manufacture of cocaine;

"dangerous drug" means any drug or substance which is for the time being comprised in the First schedule:

“Drug Enforcement Officer” means a Drug Enforcement Officer appointed under section 3 of this Act.

“export”, with its grammatical variations and cognate expressions, in relation to Malaysia, means to take or cause to be taken out of Malaysia by land air or water, otherwise than in transit;

“Geneva Convention (No.1)” means the Convention concluded at the Second Opium Conference held at Geneva for the purpose of completing and strengthening the provision of the Hague Convention and signed at Geneva on the 19th day of February, 1925;

“Geneva Convention (No.2)” means the Convention concluded at a Conference held at Geneva for the purpose of supplementing the Hague Convention and the Geneva Convention (No.1) and signed at Geneva on the 13th day of July, 1931;

“Hague Convention” means the International Opium Convention signed at the Hague on the 23rd day of January, 1912;

“import”, with its grammatical variations and cognate expressions, in relation to Malaysia, means to bring, or to cause to be brought into Malaysia by land, air or water, otherwise than in transit;

“in transit” means taken or sent from any country and brought into Malaysia by land, air or water (whether or not landed or transhipped in Malaysia) for the sole purpose of being carried to another country either by the same or another conveyance;

“medicinal opium” means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia, whether in powder form or granulated or otherwise, or mixed with neutral materials;

“Minister” means the Minister charge with the responsibility for medical and health services;

“offence under this Act” includes an offence under any regulation made under this Act;

“opium poppy” means any plant from which morphine may be produced.

“poppy-straw” means all parts except the seeds of the opium poppy, after nowing;

"premises" includes any house, shop, store, room, cubicle, shed, conveyance, or any place whether open or enclosed;

"prepared opium" means the substance commonly called chandu and means opium prepared or re-prepared so as to be suitable for smoking or consumption otherwise and includes deoss and any other residues remaining after such opium has been smoked;

"Protocol" means the Protocol on Narcotic Drugs signed at Lake Success, New York, on the 11th day of December, 1946;

"raw opium" means the coagulated juice obtained from any plant from which morphine may be produced, whatever its content of morphine and in whatever form the coagulated juice is, but does not include medicinal opium,

"registered dentist" means a dental practitioner as defined in section 2 (1) of the Dental Act 1971;

"registered dental surgeon" means a dental surgeon as defined in section 2 (1) of the Dental Act 1971;

"registered medical practitioner" means a medical practitioner registered under the Medical Act 1971;

"registered pharmacist" means a pharmacist registered under any written law relating to the registration of pharmacists, and includes, in Sabah or Sarawak, a person holding a qualification recognized by the Director of Medical Services in Sabah or Sarawak, as the case may be, as a sufficient guarantee of the possession of the requisite knowledge and skill for the efficient practice of the profession of a pharmacist;

"ship" includes every description of ship, boat or craft used in navigation, whether propelled by oars or otherwise, or used for the carriage or storage of goods;

"Single Convention" means the Single Convention on Narcotic Drugs signed at New York on the 30th day of March 1961;

"subordinate court" has the meaning assigned thereto in section 3 of the Courts of Judicature Act 1964;

"syringe" means any instrument suitable for the administration of hypodermic injection;

"trafficking" includes the doing of any of the following acts, that is to say, manufacturing, importing, exporting, keeping, concealing, buying, selling, giving, receiving, storing, administering, transporting, carrying, delivering, procuring, supplying or distributing any dangerous drug;

"veterinary surgeon" has the meaning assigned thereto in the Veterinary Surgeons Act 1971;

"West malaysia" has the meaning assigned thereto in section 3 of the Interpretation Act 1967, and includes the Federal Territory;

"written law" has the meaning assigned thereto in the Interpretation Act 1967.

Medical examination etc. of suspected drug dependant

25A. (1) Any Social Welfare officer or any police not below the rank of Sergeant or an officer-in-charge of a police station may take into his custody any person whom he reasonably suspects to be a drug dependant and shall within twenty-four hours produce such person before a Magistrate. If the Magistrate has reasonable cause to believe that the person so brought before him is a drug dependant, he may order such person to be remanded and be medically examined or observed by a medical officer at a detection centre.

(2) If, as a result of such medical examination or observation, such person is certified to be a drug dependant and accompanied by a report of a Social Welfare officer, the Magistrate in Chambers may-

- (a) if it appears necessary for such person to undergo treatment and rehabilitation at a rehabilitation centre, order such person to attend a rehabilitation centre for a period of six months; or
- (b) if it appears not necessary for such person to undergo treatment and rehabilitation at a rehabilitation centre, order such person to be supervised by a Social Welfare officer for a period of two years, subject to such person entering into a bond, with or without sureties, and to appear and receive

judgment if and when called upon at any time during such period:

Provide that in the case of a person below the age of twenty-one years, wherever practicable, the parent or guardian of such person shall be the surety for this purpose.

(3) Any person who-

- (a) refuses to undergo the medical examination or observation at a detection centre under subsection (1);
- (b) refuses to undergo the treatment and rehabilitation at a rehabilitation centre or the supervision by a Social Welfare officer under subsection (2); or
- (c) escapes from the lawful custody of a detection centre, shall be guilty of an offence against this Act.

(4) It shall be the duty of the person in charge of a detection centre to immediately inform the Social Welfare officer of any person remanded for medical examination or observation at a detection centre to enable the Social Welfare officer to prepare the report as required for the purpose of subsection (2)

(5) It shall be the duty of the Social Welfare officer or the police officer whoever initiates action under subsection (1) to produce such person before a Magistrate in Chambers after such person has been medically examined or observed by a medical officer at a detection centre.

(6) A supervision order made under subsection (2) (b) shall contain such requirements as to residence, submission to periodical clinical laboratory tests and any other requirements as the Court may consider necessary for securing the good conduct and supervision of the supervisee or for preventing a repetition by him of the same offence or the commission of other offences.

(7) Any supervisee who commits a breach of his bond shall be guilty of an offence against this Act, and any Court which is satisfied by information on oath that the supervisee has failed to observe any of the conditions of his bond may issue a warrant for his apprehension, and deal with him for the offence in respect of which the

supervision order was made in any manner in which the Court could deal with him if it had just found him guilty of that offence.

(8) An order made under subsection (1) or (2) shall be sufficient authority for the person in charge of a detection centre or a rehabilitation centre to detain any person in respect of whom an order has been made.

Power of Court in respect of drug dependants below the age of twenty-one

25B. (1) Where any person below the age of twenty-one years is found guilty of an offence against this Act the court shall consider a report of a Social Welfare officer and if the Court is satisfied that such a person is a drug dependant as certified by a medical officer and that having regard to the circumstances of the case and 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-

- (a) release the offender on probation subject to his entering into a bond, with or without sureties, to be supervised by a Social Welfare officer for a period of two years and to be of good behaviour and to appear and receive judgment if and when called upon at any time during such period; or
- (b) direct that the offender be required to undergo treatment and rehabilitation at a rehabilitation centre for a period of six months.

(2) A probation order made under subsection (1) A a) shall contain such requirements as to residence, submission to periodical clinical and laboratory tests and any other requirements as the Court may consider necessary for securing the good conduct and supervision of the probationer or for preventing a repetition by him of the same offence or the commission of other offences.

Breach of bond

25C. Any probationer who commits a breach of his bond shall be guilty of an offence against this Act, and any Court which is satisfied by information on oath that the

probationer has failed to observe any of the conditions of his bond, may issue a warrant for his apprehension, and deal with him for the offence in respect of which the probation order was made in any manner in which the Court could deal with him if it had just found him guilty of that offence.

Period of detention

25D. The period of detention in a rehabilitation centre shall be for a period of six months:

Provided that

- (a) the Board of Visitors of a rehabilitation centre may, in its absolute discretion, shorten the period of detention for reasons which appear to it to be sufficient, if such person has already completed a period of four months in a rehabilitation centre; and
- (b) no such person shall be released from a rehabilitation centre during the first four months of the period of detention without the consent of the Minister of Welfare Services in writing.

Further detention in a rehabilitation centre beyond period of order.

25E. If the person for the time being in charge of a rehabilitation centre is satisfied that a resident, whose period of detention therein is about to expire, needs further treatment and rehabilitation he may, if the Board of Visitors of the rehabilitation centre consent, detain him for a further period not exceeding six months.

Board of Visitors.

25F. The Minister of Welfare Services may appoint a Board of Visitors for each rehabilitation centre-

- (a) to perform such duties and functions as the Minister of Welfare Services may by rules prescribe; and
- (c) to advise and make recommendations to the Director General on such matters as the Director General may refer to it.

Admission of volunteers to a rehabilitation centre

25G. (1) Any person may, and a parent or guardian shall, on behalf of a minor of whom he is the parent or guardian, apply to a Social Welfare officer that he or such minor, as the case may be, be admitted to a rehabilitation centre.

(2) The Social Welfare officer shall require the applicant or the minor, as the case may be, to be medically examined or observed by a medical officer at a detection centre and the provision of section 25A shall apply mutatis mutandis in the case of a volunteer drug dependant.

(3) A rehabilitation centre may admit any drug dependant for voluntary treatment and rehabilitation on such terms and conditions as may be prescribed.

(4) In the case of a minor, the parent or guardian shall him for treatment and rehabilitation at a rehabilitation centre, regardless of whether or not the minor is willing to undergo such treatment and rehabilitation.

Contribution order

25H. (1) Where a Social Welfare officer admits any person as a volunteer or requires any person to be admitted to a rehabilitation centre, the Social Welfare officer may make a contribution order on the person requiring him to make such contribution in respect of his maintenance as the Social Welfare officer may deem fit.

(2) Where an order is made by a Court requiring any person to be admitted to a rehabilitation centre, the Court may make a contribution order on the person requiring him to make such contributions in respect of his maintenance as the Court may deem fit.

(3) Where a contribution order is made in respect of a minor, it shall be the duty of the parent or guardian of the said minor to comply with the contribution order.

(4) If any person shall wilfully neglect to comply with a contribution order, 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 Magistrates, or may sentence such person to imprisonment for a term not exceeding one month for each month's contribution remaining unpaid.

Escape from lawful custody of a rehabilitation centre

25I. Any person who-

- (a) while undergoing treatment and rehabilitation in a rehabilitation centre escapes from the lawful custody thereof; or
- (b) being absent from the rehabilitation centre on leave of absence fails to return to the rehabilitation centre upon the expiration of his leave without reasonable cause, shall be guilty of an offence against this Act.

Transfer of a resident from one rehabilitation centre to another

25J. If it appears to the Director General to be expedient in the interest of a resident that he should be transferred from one rehabilitation centre to another, it shall be lawful for the Director General to issue an order that such person shall be so transferred.

Aftercare of residents released from a rehabilitation center

25K. (1) A drug dependant admitted to a rehabilitation center shall, after his release from the rehabilitation center, be under the aftercare of a Social Welfare officer or of such other person as the rehabilitation committee shall appoint on the advice of the Social Welfare officer for a period of two years.

(2) Any person who is subject to aftercare on release from a rehabilitation center shall, while under such supervision, comply with such conditions as may be specified in the aftercare order by the Board of Visitors of the rehabilitation centre.

(3) The Board of Visitors of rehabilitation center may, if it is satisfied that a person against whom an aftercare order is in force has failed to comply with any requirement of the order, make a recall against such person requiring him to return to the rehabilitation centre; and if he fails to do so, such person may be detained further for a period not exceeding six months as may be ordered by the Board of Visitors.

(4) The Board of Visitors of a rehabilitation center may release a person who has been recalled from aftercare and exempt him from subsequent aftercare.

Rehabilitation committees

25L. The Minister of Welfare Services may appoint rehabilitation committees for any States or district, as the case may be, and such committees shall be engaged in the welfare of drug dependants and shall assist the Social Welfare officer in the supervision and aftercare of such person, and shall carry out any duties and function as the Minister of Welfare Services may by rules prescribe.

Private rehabilitation centres.

25M. (1) The Minister of Welfare Services may, on the application of any person, approve the establishment of any private rehabilitation centre for the treatment and rehabilitation of drug dependants, upon such conditions as he may prescribe, and he may revoke any such approval at any time he may deem necessary.

(2) Notification of every such approval and of any revocation thereof shall be published in the Gazette.

(3) Any person who carries on the management of a private rehabilitation centre without the approval of the Minister of Welfare Services shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Compulsory notification of drug dependants.

25N. (1) It shall be the duty of a registered medical practitioner to notify the Minister, of persons who are being treated or rehabilitated by him as drug dependants in accordance with rules as may be prescribed by the Minister.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence against this Act.

Rules.

25O. The Minister of Welfare Services may make rules generally for carrying out the provision of this Part, and without prejudice to the generality of such powers, may make rules providing for-

- (a) the forms to be used for the purposes of this Part;
- (b) the administration of a rehabilitation centre including care and treatment, detention, discipline, discharge and aftercare, temporary absence, maintenance, education and employment of persons admitted to a rehabilitation centre;
- (c) the composition, duties, functions and procedure of conducting the business of the Board of Visitors and the rehabilitation committees;
- (d) matters required to be prescribed under this Part.

Jurisdiction

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 a 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, as the case may be.

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

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 punishments shall be under section 39A, the Court shall consider a report of a Rehabilitation Officer as defined in the Drug Dependants (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-

(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.

(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 this Act, and the provision of that Act shall apply accordingly in relation to such order.

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

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.

(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.

(2) Drug Dependents (Treatment And Rehabilitation) Act 1983

Interpretation

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

“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;

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

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

“ Day Centre” means a center 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 use of any dangerous drug undergoes a psychic and sometimes physical state which is characterized by behavioral 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;

“office” means any Rehabilitation Officer and includes any Social Welfare Office or any police 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 (d) 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;

"test" 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 office 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 three shall be appointed such number of Rehabilitation Officers as may from time to time required for the purposes of this Act

Detention of suspected drug dependant for tests

3. (1) An officer may take in to 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.

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

4. (1) If the tests cannot be held or completed or the results of such test 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 section 390, 391, 392, 393 and 404 of the Criminal Procedure Code shall apply mutates 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 office shall be construed as references to as office under this Act.

Obligation of suspected drug dependant to undergo tests procedures.

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 office, 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.

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

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 of 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.

Breach of terms of bond executed under Section 6 (1) (b)

(4) In making an order under subsection (10), the Magistrate shall have regard to the circumstanced 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 office of 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.

Breach of terms of bond executed under Section 6 (1) (b)

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 the procedure under Chapter KL 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.

Procedure for treatment and rehabilitation of drug dependant who volunteers 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 test under subsection (2), such person is certified by a government medical officer of 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 Office 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 Office 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.

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

9. (1) Any parent or guardian of a minor whom the parent or guardian suspects of 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.

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
- (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.

Board of Visitors

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, discharged all such duties and perform 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.

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

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:

Providing 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 welfare of such person.

After-care

13. (1) A drug dependant who has been discharged from a Rehabilitation Centre shall, immediately upon 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.

Procedure where person undergoing after-care relapses into drug dependency

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.

(2) Where a person is taken into custody under subsection (1), the provisions of sections 3, 4, 5 and 6 shall apply mutates 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 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 case, be less than six months.

Rehabilitation Committee

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 relations 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.

Private centers for treatment and rehabilitation and for after-care

16. (1) The Minister may on the application of any individual person or of any organization, body or group of persons, grant approval for the establishment and operation of a private center 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 center 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.

Transfer between Centres

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.

Lawful custody

19. (1) A person shall be in 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.

Offences by residents of Rehabilitation Centres and After-care Centres, and by supervisees

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 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 of 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 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

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

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 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.

(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

Contribution for cost of maintenance, treatment and rehabilitation.

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 and 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 toward the cost of the maintenance, treatment and rehabilitation of such person at the Rehabilitation Centre.

(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.

(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 willfully 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.

Jurisdiction

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 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 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.

Activity which will assist treatment and rehabilitation

26. Any person undergoing treatment and rehabilitation in a Centre may be requires to engage in 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 of outside the Centre.

Separation of minors

27. Where a minor is held in custody, or is requires to reside at a Rehabilitation Centre or and 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.

ภาคผนวก ง

The Misuse of Drugs (Amendment) Act, 1979

Interpretation

2. In this Act, unless the context otherwise requires

"approved institution" means any institution or place declared by the Minister to be an approved institution under section 38;

"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;

"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;

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

"Class A drug", "Class B drug" and "Class C drug" mean any of the substances and products for the time being specified respectively in Parts I, II and III 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 or anything that contains any such substance or product;

"corresponding law" means law stated in a certificate purporting to be issued by or on behalf of the government of a country outside Singapore 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 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 of arrangement to which the government of the country and the Government of Singapore are for the time being parties;

"drug addict" means a person who through the use of any controlled drug

- (a) has developed a desire or need to continue to take that controlled drug;
or
- (b) has developed a psychological or physical dependence upon the effect
of that controlled drug;

"immigration officer" has the same meaning as in the Immigration Act;

"inmate" means a person who is detained in an approved institution;

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

"officer of customs" has the same meaning as in the Customs Act;

"Officer of the Bureau" means the Direction or any officer of the Central Narcotic Bureau;

"police officer" has the same meaning as in the Police Force Act;

"Review Committee" in relation to any approved institution, means a Review Committee appointed for the institution under section 39;

"senior officer of customs" has the same meaning as in the Customs Act;

"special police officer" means a member of the Special Constabulary constituted under Part VIII of the Police Force Act;

"traffic" means-

- (a) to sell, give administer, transport, send, deliver or distribute; or
- (b) to offer to do anything mentioned in paragraph (a)

otherwise than under the authority of this Act or the regulations made there under; and "trafficking" has a corresponding meaning;

"Vigilante Corps" means the Vigilante Corps constituted under the Vigilante Corps Act.

Appointed of Director and other officers of Central Narcotics Bureau.

3. (1) The Minister may appoint a Director and a Deputy Director of the Central Narcotics Bureau and such number of Assistant Directors and other officers as the Minister may think fit.

(2) All officers of the Bureau appointed by the Minister before the commencement of this section shall be deemed to have been appointed under subsection (1)

Advisory committees

4. (1) For the purpose of assisting in the administration of this Act the Minister may from time to time appoint such advisory committees as he thinks fit.

(2) Every such committee shall have such functions as the Minister may from time to time determine.

(3) Subject to any regulations made under this Act, every such committee may regulate its own procedure.

Presumption relation to urine test

22. 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 have consumed that controlled drug in contravention of section 8 (b)

Power of arrest

25. (1) An officer of the Bureau, a police officer, an officer of customs or any special police or member of the Vigilante Corps authorized in writing by a police officer not below the rank of Assistant Superintendent of Police, may arrest without a warrant any person who has committed or whom he reasonably suspects to have committed an offence under this Act.

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

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

(4) An officer making an arrest under this section may seize and detain any article liable to seizure.

Urine test

31. (1) Any officer of the Bureau, immigration officer or police officer no below the rank of sergeant may, if he reasonably suspects any person to have committed an offence under section 8 (b), require that person to provide a specimen of his urine for a urine test.

(2) A person who, without reasonable excuse, fails to provide a specimen of his urine within such time as may be required by any of the officers referred to in subsection (1) shall be guilty of an offence.

(3) Any person (other than a Singapore citizen or a permanent resident) arriving in Singapore by land, sea or air who-

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

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

(4) Any person who has been required to provide a specimen of his urine for a urine test under subsection (1) may, within such time and in such manner as may be prescribed, apply for a second test of the specimen of his urine which is kept for that purpose in accordance with any regulations made under this Act; but except as provided by subsection (5) no such application shall affect any order made by the Director or the Deputy Director of the Central Narcotics Bureau under section 37.

(5) If as a result of any second test which has been conducted on the application of any person under subsection (4) it is found that there is no controlled drug in the specimen of his urine, he shall be immediately discharged from any approved institution in which he is detained.

Powers of investigation of officers of Bureau.

32. 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 in relation to an investigation into a seizable offence.

Treatment and rehabilitation

37. (1) The Director of the Central narcotics Bureau 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.

(2) If as a result of such examination or observation or as a result of a urine test it appears to the Director of the Central Narcotics Bureau that it is necessary for any person to undergo treatment or rehabilitation or both at an approved institution, the Director may make an order in writing requiring that person to be admitted for that purpose to an approved institution.

(3) The Director may, by writing under his hand, delegate to the Deputy Director of the Central Narcotics Bureau the power vested in the Director under subsection (1) or (2), either absolutely or subject to such conditions as he may specify, but no such delegation shall prevent the Director from exercising that power.

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

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

(6) Every person who has been admitted to an approved institution under this section shall be detained in the institution for a period of 6 months unless he is earlier discharged by the Director or the Review Committee of the institution.

(7) If the Review Committee of an approved institution is of the opinion that an inmate whose period of detention therein is about to expire requires further treatment or rehabilitation or both, the Committee may by order in writing direct that the inmate be detained in the 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) shall be detained in an approved institution or institutions for a period of more than 3 years after his admission to any approved institution pursuant to that order.

Approved institutions

38. (1) The Minister may from time to time, by notification in the Gazette, declare any institution or place to be an approved institution for the purpose of the treatment and rehabilitation of drug addicts and other persons under this Act and may at any time in like manner revoke or amend any such notification.

(2) Every institution which on 1st January 1978 is an approved institution shall be deemed to have been so declared by the Minister under this section.

Review Committees for approved institutions

39. (1) The Minister shall appoint for any approved institution or institutions a Review Committee which shall have such functions as are conferred upon it by this Act or the regulation made thereunder.

(2) Every such Committee shall consist of a Chairman, who shall be a person registered under the Medical Registration Act, and 5 other members.

(3) The Chairman and members of a Review Committee shall be appointed by the Minister for a term not exceeding 3 years, but may from time to time be reappointed, or may at any time be removed from office by the Minister, or may at any time resign from their office by writing addressed to the Minister.

(4) Three members of the Committee shall constitute a quorum at any meeting of the Committee.

(5) The Chairman shall preside at every meeting of the Committee at which he is present and in his absence the members present shall elect one of their number to preside at the meeting.

(6) Every question before the Committee shall be determined by a majority of the votes of the members present and voting thereon and in the event of an equality of votes the chairman or the member presiding at the meeting shall have a casting vote in addition to his original vote.

(7) Subject to the provisions of this Act and any regulations made thereunder the Committee may determine its own procedure.

(8) Any order of the Committee may be signed by the Chairman or a member of the Committee.

Review, discharged and transfer of inmates

40. (1) The Review Committee of an approved institution shall keep the case of every inmate under review and shall as often as practicable consider whether he should be discharged.

(2) The Director of the Central Narcotics Bureau or the Review Committee of an approved institution may at any time by order in writing-

- (a) discharged any inmate; or
- (b) transfer any inmate from one approved institution to another approved institution.

(3) The Superintendent of an approved institution may enter into an arrangement with the Superintendent of another approved institution for the transfer of any inmate to that other institution and, subject to any directions given by the Director or the Review Committee, may carry out any transfer in accordance with that arrangement.

(4) On proof to his satisfaction that the presence at any place of an inmate is required in the interests of justice, or for the purpose of any inquiry, or in the public interest or in the interest of the inmate, the Superintendent may order that the inmate be taken to that place.

Power of Magistrate to inquire into complaints of misconduct or breach of duty

41. (1) Where a complaint is made on oath to a Magistrate that any person is improperly detained in an approved institution by reason of any misconduct or breach of duty on the part of any officer in the discharge of his functions pursuant to this Act or any regulations made thereunder, the Magistrate may either inquire into the complaint himself or direct a police officer to make an inquiry for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of the inquiry.

(2) Every inquiry under subsection (1) shall be conducted in private but, save as aforesaid, the procedure for conducting any inquiry shall be such as the Magistrate considers appropriate in the circumstances of the case.

(3) A Magistrate or a police officer conducting any inquiry under subsection (1) shall have all the powers conferred on him by the Criminal Procedure Code in relation to

the attendance and examination of witnesses, the taking of evidence and the production of documents.

(4) If after considering the result of any such inquiry the Magistrate is satisfied that any person who is detained in an approved institution ought not to be so detained he may make an order for the discharge of that person from the approved institution and that shall be discharged accordingly.

(5) Any order or decision of the Magistrate made under this section shall be final.

(6) No evidence taken for the purpose of any such inquiry shall be admissible in any civil or criminal proceedings except where the person who gave that evidence is charged with giving or fabricating false evidence.

Inmates deemed to be in legal custody

42. (1) Every inmates shall be deemed to be in the legal custody of the approved institution in which he is for the time being detained.

(2) An inmate shall be deemed to be in legal custody-

- (a) While he is confined in, or is being taken to or from an approved institution;
- (b) While he is for any other reason outside an approved institution in the custody or under the control of an officer of the approved institution; or
- (c) While he is being taken to any place to which he is required or authorized under this Act to be taken, or is kept in custody in pursuance of any such requirement or authorization.



ประวัติผู้เขียนวิทยานิพนธ์

ชื่อ นาย รัชพงษ์ วงษ์เหรียญทอง สำเร็จการศึกษาในชั้นระดับมัธยมศึกษา ณ โรงเรียนจักรคำคณาธร จังหวัดลำพูน ในปีการศึกษา พ.ศ. 2537 สำเร็จการศึกษาชั้นปริญญาวิทยาศาสตรบัณฑิต มหาวิทยาลัยพายัพ จังหวัดเชียงใหม่ ในปีการศึกษา พ.ศ. 2542 สำเร็จการศึกษาคณะศึกษาศาสตร์บัณฑิต จากสำนักอบรมเนติบัณฑิตสภา สมัยที่53 ในปีการศึกษา2544 และเข้าศึกษาต่อในระดับชั้นปริญญาวิทยาศาสตรมหาบัณฑิต จุฬาลงกรณ์มหาวิทยาลัย เมื่อปีการศึกษา พ.ศ.2544 ปัจจุบันประกอบอาชีพ ทนายความ