

LAWS OF MALAYSIA
ACT 234
DANGEROUS DRUGS ACT 1952 (REVISED 1980)
Incorporating latest amendment – Act 846

First enacted : 1952 (Ordinance No. 30 of 1952)
Date of coming into operation : Peninsular Malaysia - 1 November 1952 [L.N. 554/52];
Sabah and Sarawak —1 June 1978 [P.U. (A) 157/1978]
Revised up to : 1980 (Act 234 w.e.f. 17th July 1980)

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Long Title

An Act to make further and better provision for the regulating of the importation, exportation, manufacture, sale, and use of opium and of certain other dangerous drugs and substances, to make special provision relating to the jurisdiction of courts in respect of offences thereunder and their trial, and for purposes connected therewith.

[*Peninsular Malaysia—1 November 1952,*
L.N. 554/1952;
Sabah and Sarawak—1 June 1978,
P.U. (A) 157/1978]

Section 1. Short title.

This Act may be cited as the Dangerous Drugs Act 1952.

PART I
INTERPRETATION AND DEFINITIONS

Section 2. Interpretation.

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 there is found to be present resin irrespective of its quantity, and by whatever name the plant may be designated;

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

“coca leaves” 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

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with 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;

“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 Hague Convention and signed at Geneva on 19 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 13 July 1931;

“Hague Convention” means the International Opium Convention signed at the Hague on 23 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;

“licensed pharmacist” means a registered pharmacist who is the holder of a Type A Licence issued under the Poisons Act 1952 [Act 366];

“manufacture”, in relation to a dangerous drug, includes—

- (a) the making, producing, compounding and assembling of the drug;
- (b) the making, producing, compounding and assembling a preparation of the drug;
- (c) the refining or transformation of the drug into another dangerous drug; and
- (d) any process done in the course of the foregoing activities;

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“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 charged 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;

“Peninsular Malaysia” has the meaning assigned thereto in section 3 of the Interpretation Acts 1948 and 1967 [Act 388], and includes the *Federal Territory;

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

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

“prepared opium” means the substance commonly called *candu* and means opium prepared or re-prepared so as to be suitable for smoking or consumption otherwise and includes dross 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 11 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 subsection 2(1) of the Dental Act 1971 [Act 51];

“registered dental surgeon” means a dental surgeon as defined in subsection 2(1) of the Dental Act 1971;

“registered medical practitioner” means a medical practitioner registered under the Medical Act 1971 [Act 50];

*NOTE—Federal Territories of Kuala Lumpur and Labuan are included—see P.U. (A) 220/1985. For Putrajaya see section 1 of Act A1095.

“Single Convention” means the Single Convention on Narcotic Drugs signed at New York on 30 March 1961;

“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;

“subordinate court” has the meaning assigned thereto in section 3 of the Courts of Judicature Act 1964 [Act 91];

“syringe” means any instrument suitable for the administration of hypodermic injections;

“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, sending, delivering, procuring, supplying or distributing any dangerous drug otherwise than under the authority of this Act or the regulations made under the Act;

“veterinary surgeon” has the meaning assigned thereto in the Veterinary Surgeons Act 1974 [Act 147];

“written law” has the meaning assigned thereto in the Interpretation Acts 1948 and 1967.

Section 3. Appointment of Drug Enforcement Officers.

The Yang di-Pertuan Agong may appoint such persons as he may think fit to be Drug Enforcement Officers for the purposes of this Act.

PART II CONTROL OF RAW OPIUM, COCA LEAVES, POPPY-STRAW AND CANNABIS

Section 4. Restriction on importation of raw opium, coca leaves, poppy-straw and cannabis.

(1) No person shall import into Malaysia any raw opium, coca leaves, poppy-straw or cannabis except under and in accordance with the authorization of the Minister and into such ports or places as may be prescribed by such authorization.

(2) Any person who contravenes this section shall be guilty of an offence against this Act, and shall be liable on conviction to imprisonment for a term not exceeding five years and not less than three years.

Section 5. Restriction on exportation of raw opium, coca leaves, poppy-straw and cannabis.

(1) No person shall export from Malaysia any raw opium, coca leaves, poppy-straw or cannabis except under and in accordance with the authorization of the Minister and from such ports or places as may be prescribed by such authorization.

(2) If at any time the importation of raw opium, coca leaves, poppy-straw or cannabis into any country or territory is prohibited or restricted by the laws of that country or territory, there shall, while that prohibition or restriction is in force, be attached to every authorization issued under this Part authorizing the exportation of raw opium, coca leaves, poppy-straw or cannabis from Malaysia such conditions as appear to the Minister necessary for preventing or restricting, as the case may be, the exportation of raw opium, coca leaves, poppy-straw or cannabis from Malaysia to that country or territory during such time as the importation of raw opium, coca leaves, poppy-straw or cannabis into that country or territory is so prohibited or restricted, and any such authorizations issued before the said prohibition or restriction came into force shall, if the Minister so directs, be deemed to be subject to the like conditions.

(3) Any person who contravenes this section or of any condition attached or applicable to any authorization under subsection (2) shall be guilty of an offence against this Act and shall be liable on conviction to *imprisonment for a term not exceeding five years and not less than three years.

Section 6. Restriction on possession of raw opium, coca leaves, poppy-straw and cannabis.

Any person who keeps or has in his possession, custody or control any raw opium, coca leaves, poppy-straw or cannabis or the seeds of the plants from which they may be obtained either directly or indirectly, except under and in accordance with an authorization such as is referred to in sections 4 and 5 or with any regulation made under section 7 thereof, shall be guilty of an offence against this Act and liable on conviction to a fine not exceeding **twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Section 6A. (*Deleted by Act A553*).

*NOTE—Previously “fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding five years or to both such fine and imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

**NOTE—Previously “ten thousand ringgit”—see Dangerous Drugs (Amendment) Act 1986 [Act A659].

Section 6B. Restriction on planting or cultivation of certain plants.

(1) No person shall—

- (a) either on his own behalf or on behalf of any other person, plant or cultivate any plant from which raw opium, coca leaves, poppy-straw or cannabis may be obtained either directly or indirectly;
- (b) allow any plant, from which raw opium, coca leaves, poppy-straw or cannabis may be obtained either directly or indirectly, to be planted or cultivated by some other person on land owned or occupied by him or in any receptacle on such land; or
- (c) allow any plant, from which raw opium, coca leaves, poppy-straw or cannabis may be obtained either directly or indirectly, planted or cultivated by some other person on land owned or occupied by him or in any receptacle on such land, to remain on such land or in such receptacle.

(2) Nothing in this section shall be construed to prevent the Minister from authorizing any public officer to plant or cultivate any plant, from which raw opium, coca leaves, poppy-straw or cannabis may be obtained either directly or indirectly, in places and on such terms and conditions as may be specified in such authorization for research, educational, experimental or medical purposes.

(3) Any person who contravenes this section shall be guilty of an offence against this Act and shall be punished on conviction with imprisonment for life and with whipping of not less than six strokes.

(4) Any person found on land or who occupies land on which, or any person found in possession of any receptacle in which, any plant, from which raw opium, coca leaves, poppy-straw or cannabis may be obtained either directly or indirectly, is planted or cultivated shall be presumed, until the contrary is proved, to be the person who planted or cultivated such plant.

Section 7. Power to regulate the production of and dealing in raw opium, coca leaves, poppy-straw and cannabis.

(1) The Minister may make regulations for prohibiting, controlling and restricting the cultivation, production, possession, sale and distribution of raw opium, coca leaves, poppy-straw or cannabis.

(2) All such regulations shall be made in accordance with section 47.

PART III
CONTROL OF PREPARED OPIUM, CANNABIS AND CANNABIS RESIN

Section 8. Application to cannabis and cannabis resin.

In this Part any reference to prepared opium or opium shall be construed as including a reference to cannabis, cannabis resin and substances of which such resin forms the base.

Section 9. Possession, etc., of prepared opium.

(1) No person shall—

- (a) import into or export from Malaysia; or
- (b) keep or have in his possession, custody or control; or
- (c) manufacture, sell or otherwise deal in,

any prepared opium.

(2) Any person who contravenes subsection (1) shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding *twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Section 10. Use of premises, possession of utensils and consumption of opium.

(1) If any person—

- (a) being the owner or occupier of any premises permits those premises to be used for the purpose of making prepared opium or for the sale or the smoking or consumption otherwise of prepared opium; or
- (b) is concerned in the management of any premises used for any such purposes as aforesaid,

he 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 **three years or to both.

*NOTE—Previously “ten thousand ringgit”—see Dangerous Drugs (Amendment) Act 1986 [Act A659].

**NOTE—Previously “five thousand ringgit” and “two years imprisonment”—see Dangerous Drugs (Amendment) Act 1972 [Act A112].

(2) If any person—

(a) has in his possession any pipe or other utensil for use in connection with the smoking of prepared opium, or any utensil used in the preparation of opium for smoking or consumption otherwise; or

(b) smokes or otherwise consumes prepared opium or frequents any place or places used for the purpose of smoking or otherwise consuming prepared opium,

he shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding *five thousand ringgit or to imprisonment for a term not exceeding *two years or to both.

(3) In this section “consume” with its grammatical variations means eat, chew, smoke, swallow, drink, inhale, or introduce into the body in any manner or by any means whatsoever.

PART IV CONTROL OF CERTAIN DANGEROUS DRUGS

Section 11. Extent of application of Part IV.

(1) This Part applies to dangerous drugs listed in Parts III, IV and V of the First Schedule.

(2) If it appears to the Minister that any other derivative of cocaine or morphine or of any salts of cocaine or morphine or of any other alkaloid of opium or any other drug of whatever kind or any substance whatever is or is likely to be productive, if improperly used, or is capable of being converted into a substance which is, or is likely to be productive, if improperly used, of ill effects substantially of the same character or nature as or analogous to those produced by cocaine or morphine, the Minister may by order declare that this Part shall apply to that derivative or alkaloid or other drug or that substance in the same manner as it applies to the drugs mentioned in subsection (1).

(3) The Minister may by order amend Parts III, IV and V of the First Schedule by including therein any drug or substance in respect of which an order has been made under subsection (2) or by removing therefrom any drug or substance which has been exempted from the provisions of this Act by an order or regulations made under section 45.

***NOTE—Previously “two thousand ringgit” and “one year imprisonment”—see Dangerous Drugs (Amendment) Act 1972 [Act A112].

Section 12. Restriction on import and export of certain dangerous drugs.

(1) No person shall except under the authorization of the Minister—

- (a) import into Malaysia any dangerous drug specified in Parts III, IV and V of the First Schedule;
or
- (b) export from Malaysia any dangerous drug specified in Parts III and IV of the First Schedule.

(2) No person shall have in his possession, custody or control any dangerous drug to which this Part applies unless he is authorized to be in possession, custody or control of such drug or is deemed to be so authorized under this Act or the regulations made thereunder.

(3) Any person who contravenes subsection (2) of this section shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding *one hundred thousand ringgit or to imprisonment for a term not exceeding **five years or to both.

(4) Any person who is a public officer employed at any prison, rehabilitation centre, police lock-up or place of detention shall, on his conviction under subsection (3) for contravening subsection (2), be liable to whipping of not more than three strokes in addition to the punishment to which he is liable under subsection (3).

Section 13. Keeping or using premises for unlawful administration.

Any person who—

- (a) being the occupier of any premises, and not being a registered medical practitioner or a registered dentist, keeps or uses such premises for the purpose of the administration of any dangerous drug specified in Parts III and IV of the First Schedule to a human being; or
- (b) being the owner or occupier of any premises permits such premises to be used for the purpose of the administration of any such dangerous drug to a human being by any person other than a registered medical practitioner or registered dentist or a person acting under the directions of a registered medical practitioner or registered dentist; or
- (c) being the owner or occupier of any premises permits such premises to be used for the purpose of the smoking or consumption otherwise of any such dangerous drug by a human being,

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 period not exceeding *five years or to both.

*NOTE—Previously “twenty thousand ringgit”—see Dangerous Drugs (Amendment) Act 1998 [Act A1025].

**NOTE—Previously “three years”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

Section 14. Administration to others.

(1) Any person who administers any dangerous drug specified in Parts III and IV of the First Schedule to any other person 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 three years or to both.

(2) Nothing in this section shall be deemed to render unlawful the administration of any such drug by or under the directions of a registered medical practitioner or a registered dentist or a medical or dental officer of any visiting force lawfully present in Malaysia who is resident in Malaysia on full pay and acting in the course of his duty.

Section 15. Self administration.

(1) Any person who—

(a) consumes, administers to himself or suffers any other person, contrary to section 14 to administer to him any dangerous drug specified in Parts III and IV of the First Schedule; or

(b) is found in any premises kept or used for any of the purposes specified in section 13 in order that any such dangerous drug may be administered to or smoked or otherwise consumed by him,

shall be guilty of an offence against this Act and shall be liable on conviction to a fine not exceeding five thousand ringgit or to imprisonment for a term not exceeding two years.

(2) For the purpose of this section, “consumes” includes eat, chew, smoke, swallow, drink, inhale or introduce into the body in any manner or by any means whatsoever.

Section 16. Control of manufacture and sale of certain dangerous drugs.

(1) For the purpose of preventing the improper use of the dangerous drugs specified in Parts III, IV and V of the First Schedule, the Minister may make regulations to provide for controlling the manufacture, sale, possession, and distribution of such drugs, and in particular, but without prejudice to the generality of the foregoing power, for—

(a) prohibiting the manufacture of any such drug except on premises licensed for the purpose and subject to any conditions specified in the licence;

(b) prohibiting the manufacture, sale, or distribution of any such drug except by persons licensed or otherwise authorized under the regulations and subject to any conditions specified in the licence or authority;

- (c) regulating the issue by registered medical practitioners, registered dentists, and veterinary surgeons of prescriptions containing any such drug, and the dispensing of any such prescriptions;
- (d) requiring persons engaged in the manufacture, sale or distribution of any such drug to keep such books and to furnish such information, either in writing or otherwise, as may be prescribed; and
- (e) prescribing the marking of packages, bottles or containers in which any such drug is supplied.

(2) The regulations made under this section may provide for authorizing any licensed pharmacist in accordance with any written law relating to poisons from time to time in force in Malaysia or any part thereof—

- (a) to manufacture in the ordinary course of his retail business any preparation, admixture, or extract of any dangerous drug specified in Parts III, IV and V of the First Schedule; and
- (b) to carry on the business of retailing, dispensing, or compounding any such drug,

subject in each case to the power of the Minister to withdraw the authorization in the case of a person who has been convicted of an offence against this Act, and who cannot, in the opinion of the Minister properly be allowed to carry on the business of manufacturing, selling, or distributing, as the case may be, any such drug.

(3) Nothing contained in any regulation made under this section shall be construed as authorizing the sale, or the keeping of an open shop for the retailing, dispensing, or compounding of poisons by any person who is not duly qualified in that behalf under, or otherwise than in accordance with, any written law relating to poisons from time to time in force in Malaysia or any part thereof, or as derogating from the said Act, for prohibiting, restricting, or regulating the sale of poisons.

(4) All such regulations shall be made in accordance with section 47.

Section 17. Prohibition of trade, etc., in new drugs, and power to apply Part IV with or without modifications to certain drugs.

(1) It shall not be lawful for any person to trade in, or manufacture for the purposes of trade, any products obtained from any of the phenanthrene alkaloids of opium or from the ecgonine alkaloids of the coca leaf, not being a product which was on 30 March 1961, being used for medical or scientific purposes or not being a substance specified in the First Schedule:

Provided that if the Minister is at any time satisfied as respects any such product that it is of medical or scientific value, the Minister may by order direct that this subsection shall cease to apply to that product.

If any person acts in contravention of this subsection, he 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.

(2) If it is made to appear to the Minister that a decision with respect to any such product as is mentioned in subsection (1) has in pursuance of article 3 of the Single Convention been communicated by the Secretary General of the United Nations Organization to the parties to the said Convention, the Minister may by order, as the case requires, either declare that this Part shall apply to that product in the same manner as they apply to the drugs mentioned in subsection 11(1) or apply this Part to that product with such modifications as may be specified in the order.

(3) The Minister may by order make, in the First Schedule, any alterations incidental to the inclusion of any such drug or substance in such Schedule.

PART V CONTROL OF EXTERNAL TRADE

Section 18. Interpretation.

In this Part—

“Convention” means the Single Convention;

“diversion certificate” means a certificate issued by the competent authority of a country through which a dangerous drug passes in transit, authorizing the diversion of such drug to a country other than that specified as the country of ultimate destination in the export authorization, and containing all the particulars required to be included in an export authorization, together with the name of the country from which the consignment was originally exported;

“export authorization” means an authorization issued by a competent authority in a country from which a dangerous drug is exported;

“import authorization” means a licence, issued by a competent authority in a country into which it is intended to import dangerous drugs.

*NOTE—Previously “three years”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

Section 19. Export of dangerous drugs.

(1) Upon the production of an import authorization or an approval of import certificate duly issued by the competent authority in any country, it shall be lawful for the Minister to issue an export authorization in the Form B set out in the Second Schedule in respect of any drug referred to in the import authorization to any person who is named as the exporter in such import authorization, and is, under this Act, otherwise lawfully entitled to export such drug from Malaysia. The export authorization shall be prepared in triplicate and two copies shall be issued to the exporter who shall send one copy with the drug to which it refers when such drug is exported. The Minister shall send the third copy direct to the appropriate authority of the country of ultimate destination. Where the intended exportation is to a country which is not a party to the Convention, it shall not be necessary to produce an import authorization as aforesaid. In all cases it shall be in the absolute discretion of the Minister to issue or refuse an export authorization, as he may see fit.

(2) No dangerous drug shall be exported from Malaysia unless the consignor is in possession of a valid and subsisting export authorization relating to such drug granted under this Act.

(3) At the time of exportation of any dangerous drug the exporter shall produce to such officer as the Minister may appoint, the dangerous drug, the export authorization relating thereto, and such other evidence as such officer may require to satisfy him that the drug is being lawfully exported to the place and person named in the authorization which refers to it.

(4) Any person who shall export any dangerous drug from Malaysia except in pursuance of and in accordance with this Act and the terms and conditions of any authorization or licence granted under this Act in respect of such export shall be guilty of an offence against this Act, and shall be liable on conviction to *imprisonment for a term not exceeding five years and not less than three years.

Section 20. Import of dangerous drugs.

(1) An import authorization in the Form C set out in the Second Schedule permitting the importation into Malaysia of any dangerous drug specified therein may be granted by the Minister, subject to such conditions as he shall deem fit, to any person who may lawfully import such drug and such conditions shall be endorsed upon the import authorization.

*NOTE—Previously “fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

(2) Where an import authorization is issued in pursuance of subsection (1), the Minister shall also issue, in relation to the dangerous drug intended to be imported, an approval of import certificate in the Form A set out in the Second Schedule which shall be forwarded by the intending importer to the person from whom the drug is to be obtained. When the importer to whom an import authorization is issued under this section intends to import the drug or drugs to which such authorization relates in more than one consignment, a separate approval of import certificate shall be issued to him in respect of each such consignment.

(3) No dangerous drug shall be imported into Malaysia unless the person to whom the drug is consigned is in possession of a valid and subsisting import authorization granted in pursuance of this section.

(4) Every dangerous drug imported into Malaysia from a country which is a party to the Convention shall be accompanied by a valid and subsisting export authorization or diversion certificate.

(5) Any person who shall import any dangerous drug into Malaysia except in pursuance of and in accordance with this Act and the terms and conditions of any approval, authorization or licence granted under this Act in respect of such import shall be guilty of an offence against this Act, and shall be liable on conviction to *imprisonment for a term not exceeding five years and not less than three years.

Section 21. Dangerous drugs in transit.

(1) No person shall bring any dangerous drug to Malaysia in transit unless—

(a) the drug is in course of transit from a country from which it may lawfully be exported, to another country into which such drug may lawfully be imported; and

(b) except where the drug comes from a country not a party to the Convention, it is accompanied by a valid and subsisting export authorization or diversion certificate, as the case may be.

(2) Where any dangerous drug in transit is accompanied by an export authorization or diversion certificate and there are reasonable grounds for believing that such authorization or certificate is false, or that it has been obtained by fraud or wilful misrepresentation of a material particular, it shall be lawful for the Minister, or any officer authorized by him in that behalf, to seize and detain the drug to which such authorization or certificate relates. Upon being satisfied that such authorization or certificate is valid or has not been obtained by fraud or misrepresentation as aforesaid, the Minister or such officer shall release the drug.

*NOTE—Previously “fine not exceeding ten thousand dollars or to imprisonment for a term not exceeding three years or to both such fine and imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

(3) Where the dangerous drug in transit is not accompanied by an export authorization or diversion certificate by reason of the fact that the drug comes from a country not a party to the Convention and there are reasonable grounds for believing that such drug is being conveyed in an unlawful manner or for an unlawful purpose or is in course of transit for the purpose of being imported into another country in contravention of the laws of that country, it shall be lawful for the Minister, or any officer authorized by him in that behalf, to seize and detain the drug.

(4) Where a dangerous drug brought into Malaysia in transit is landed, or transhipped in Malaysia, it shall be stored and dealt with as the Minister may direct and shall be moved only under and in accordance with a removal licence granted in pursuance of section 22.

(5) Nothing in this section shall be deemed to apply to any dangerous drug in transit by post or in transit by air if the aircraft passes over Malaysia without landing, or to such quantities of dangerous drugs as may reasonably form part of the medical stores of any ship or aircraft.

(6) Any person who brings any dangerous drug into Malaysia in transit otherwise than in accordance with this section shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding *twenty thousand ringgit or to imprisonment for a term not exceeding *five years or to both.

Section 22. Removal licences in transit.

(1) No person shall—

(a) in any way move any such drug from the conveyance by which it is brought into Malaysia in transit; or

(b) in any way move any such drug in Malaysia at any time after removal from such conveyance,

except under and in accordance with a licence (in the Form D set out in the Second Schedule and in this Act referred to as a “removal licence”) issued by the Minister. In all cases it shall be in the absolute discretion of the Minister to issue or refuse a removal licence as he shall deem fit.

(2) No removal licence for the transfer of any such drug to any conveyance for removal out of Malaysia shall be issued unless and until a valid and subsisting export authorization or diversion certificate relating to it is produced to the Minister save that where the drug has come from a country not a party to the Convention this subsection shall not apply.

(3) This section shall not apply to dangerous drugs in transit by post.

*NOTE—Previously “ten thousand ringgit” and “three years imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

(4) Notwithstanding this section the Minister may in his absolute discretion authorize the temporary removal for safe custody of such quantities of dangerous drugs as may reasonably form part of the medical stores of any ship or aircraft on such terms and subject to such conditions as he shall think fit.

(5) Any person who contravenes this section shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding *twenty thousand ringgit or to imprisonment for a term not exceeding *five years or to both.

Section 23. Drugs not to be tampered with.

(1) It shall be unlawful for any person to cause any dangerous drug in transit to be subjected to any process which would alter its nature, or wilfully to open or break any package containing a dangerous drug in transit except upon the instructions of the Minister or of any officer authorized by the Minister to give such instructions and in such manner as he or such officer may direct.

(2) Any person who contravenes this section shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding **twenty thousand ringgit or to imprisonment for a term not exceeding **five years or to both.

Section 24. The diversion of dangerous drugs in transit

(1) No person shall, except under the authority and in accordance with the terms and conditions of a diversion certificate in the Form E set out in the Second Schedule, cause or procure any dangerous drug brought into Malaysia in transit to be diverted to any destination other than that to which it was originally consigned. In the case of any drug in transit accompanied by an export authorization or a diversion certificate issued by a competent authority of some other country, the country to which the drug was originally consigned shall be deemed to be the country stated in such export authorization or diversion certificate to be the country of destination.

(2) The Minister may, in his absolute discretion, issue a diversion certificate in respect of any dangerous drug in transit upon production to him of a valid and subsisting import certificate issued by a competent authority in the country to which it is proposed to divert the drug, or if that country is not a party to the Convention upon such evidence as may satisfy him that the drug is to be sent in a lawful manner and for a proper purpose.

(3) A diversion certificate shall be issued in duplicate: one copy thereof shall accompany the drug when it is removed from Malaysia; another copy shall be despatched by or on behalf of the Minister direct to the proper authority in the country to which the consignment has been diverted.

*NOTE—Previously “ten thousand ringgit” and “three years imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

**NOTE—Previously “ten thousand ringgit” and “three years imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

(4) Upon the issue of a diversion certificate the export authorization or diversion certificate (if any) accompanying the drug on its arrival in Malaysia shall be detained by the Minister or by such officer as the Minister may appoint to perform such duties and returned to the authority issuing such authorization or diversion certificate together with a notification of the name of the country to which such drug has been diverted.

(5) Any person who contravenes this section shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding *twenty thousand ringgit or to imprisonment for a term not exceeding *five years or to both.

Section 25. Exemption of preparation in the possession of travellers.

Nothing in this Part shall be deemed to apply to such quantity of any dangerous drug in the form of a medicinal preparation in the possession of any person arriving in Malaysia by land, air or water from any place outside Malaysia as is reasonably required for the use of such person and which has been supplied to such person bona fide by or on the prescription of a medical practitioner residing outside Malaysia in accordance with the law of the country in which such drug was so supplied, provided that such person shall, as soon as possible on arrival, declare his possession of such dangerous drug to an officer having authority under this Act to search such person and shall submit to such medical examination as may be required of him.

PART VA

Section 25A-25P [*Deleted by Act 283*]

PART VI

ANCILLARY AND GENERAL PROVISIONS

Section 26. Interpretation.

In this Part—

“senior officer of customs” and “officer of customs” have, respectively, the same meaning as that assigned to such expressions in the Customs Act 1967 [*Act 235*].

**NOTE*—Previously “ten thousand ringgit” and “three years imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [*Act A194*].

Section 27. Powers of inspection and seizure.

(1) Whenever it appears to any Magistrate or Justice of the Peace, upon information and after such inquiry as he thinks necessary, that there is reasonable cause to believe that in or on any premises there is concealed or deposited any dangerous drug, syringe, pipe, lamp, utensil or other article liable to forfeiture under this Act, or as to which an offence under this Act has been committed, or any book or document directly or indirectly relating to or connected with any transaction or dealing which was, or any intended transaction or dealing which would if carried out be, an offence under this Act, or, in the case of a transaction or dealing carried out or intended to be carried out in any place outside Malaysia, an offence under the provisions of any corresponding law in force in that place, such Magistrate or Justice of the Peace may, by his warrant directed to any police officer not below the rank of Sergeant or to any officer of customs or to any Drug Enforcement Officer, empower such officer by day or by night—

- (a) to enter such premises and there to search for, and seize and detain, any such dangerous drug, article, book or document;
- (b) where the officer is a police officer or an officer of customs, to arrest any person or persons being in or on such premises in whose possession any dangerous drug or article subject to forfeiture under this Act is found, or whom the officer reasonably believes to have concealed or deposited such dangerous drug or article; and
- (c) to seize and detain any book or document found in or on such premises or on such person.

(2) Such officer may if it is necessary so to do—

- (a) break open any outer or inner door or window of such premises and enter thereinto;
- (b) forcibly enter such premises and every part thereof;
- (c) remove by force any obstruction to such entry, search, seizure and removal as he is empowered to effect;
- (d) detain every person found in or on such premises, until such premises have been searched.

(3) Any police officer not below the rank of Sub-Inspector or any senior officer of customs or any Drug Enforcement Officer or any person authorized in that behalf by any general or special order of the Minister may, for the purposes of this Act, enter the premises of any person carrying on the business of a producer, manufacturer, seller or distributor of any dangerous drug and demand the production of, and inspect, any book or document relating to dealing in any such dangerous drug, and inspect any stock of such dangerous drug.

(4) Whenever it appears to any police officer not below the rank of Sub-Inspector or to any senior officer of customs or to any Drug Enforcement Officer that there is reasonable cause to believe that in or on any premises there is concealed or deposited, in contravention of this Act, any dangerous drug, syringe, pipe, lamp, utensil or other article or any such book or document as is described in subsection (1) and

he has good grounds for believing that, by reason of the delay in obtaining a search warrant, the object of the search is likely to be frustrated, he may exercise in, upon and in respect of such premises all the powers mentioned in subsection (1), except, in the case of a Drug Enforcement Officer, the power of arrest, in as full and ample a manner as if he were empowered to do so by warrant issued under the said subsection.

(5) Any police officer not below the rank of Sub-Inspector or any senior officer of customs shall be entitled to exercise in, upon and in respect of any ship, not being or having the status of a ship of war, or any aircraft, islet, landing place or wharf or any warehouse or place adjoining a wharf, and used in connection therewith, all the powers mentioned in subsection (1) in as full and ample a manner as if he were empowered to do so by warrant issued under the said subsection.

(6) Any police officer or officer of customs may, for the purpose of carrying out this Act, board any ship, not being or having the status of a ship of war, or any aircraft and remain on board as long as such ship or aircraft remains in Malaysia.

(7) Any box, chest, package or other article, which is being landed or has been recently landed from any ship or which is in or upon any ship (not being or having the status of a ship of war), aircraft, islet, landing place or wharf, or which is being removed from any such ship, islet, landing place or wharf, or which is being brought into, or has recently been brought into Malaysia, by land, air or water, or is about to be taken out of Malaysia by land, air or water—

(a) may be examined and searched by any officer of customs and may be detained until any person in charge or possession thereof has opened the same to admit of such examination and search and in default of such opening may be removed by such officer to a police station or to a customs office;

(b) may be broken open by the order of any senior officer of customs to facilitate such examination and search:

Provided that any person in charge, or in possession of such box, chest, package or other article shall be afforded every reasonable facility for being present at such breaking open, examination or search.

(8) Any police officer or any officer of customs may stop and search any conveyance which he has reasonable ground for believing to be used for the carriage of any dangerous drug in contravention of this Act.

(9) Any person landing or being about to land or having recently landed from any ship, or leaving any ship in the waters of Malaysia, whether for the purpose of landing or otherwise, or entering or having recently entered Malaysia by land, air or water, or being about to leave Malaysia by land, air or water shall—

(a) on demand by any officer of customs, either permit his person and goods and baggage to be searched by such officer or, together with such goods and baggage, accompany such officer to

a police station or a customs office, and there permit his person, goods and baggage to be searched by any officer of customs in the presence and under the supervision of a senior officer of customs;

(b) on demand by any senior officer of customs, permit his person and goods and baggage to be searched by him or by some other officer of customs in his presence and under his supervision:

Provided that the goods of any person who claims to be present when these are searched shall not be searched except in his presence and provided that no female shall be searched except by a female.

Section 27A. Power to intercept communication.

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

(a) to intercept, detain and open any postal article in the course of transmission by post;

(b) to intercept any message transmitted or received by any telecommunication; or

(c) to intercept or listen to any conversation by telecommunication.

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

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

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

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

(5) No person shall be under any duty, obligation or liability, or be in any manner compelled, to disclose in any proceedings the procedure, method, manner or means, or any matter whatsoever related thereto, with regard to anything done under paragraph(1)(a), (b) or (c).

(6) For the purpose of this section—

“postal article” shall have the same meaning as in the *Postal Services Act 1991 [Act 465]; and

“telecommunication” shall have the same meaning as in the **Communications and Multimedia Act 1998 [Act 588].

Section 28. Obstruction of inspection or search.

Any person who—

- (a) refuses any officer authorized to enter or search access to any premises, or conveyance; or
- (b) assaults, obstructs, hinders or delays him in effecting any entrance which he is entitled to effect under this Act, or in the execution of any duty imposed or power conferred by this Act; or
- (c) fails to comply with any lawful demands of any police officer or officer of customs in the execution of his duty under this Act; or
- (d) refuses or neglects to give any information which may reasonably be required of him and which he has it in his power to give; or
- (e) fails to produce or conceals or attempts to conceal any book, document, dangerous drug, syringe, pipe, lamp, or utensil in relation to which there is reasonable ground for suspecting that an offence has been or is being committed against this Act; or
- (f) rescues or endeavours to rescue or causes to be rescued any things which have been duly seized; or
- (g) furnishes to any officer as true, information which he knows or has reason to believe to be false; or
- (h) before or after any seizure, breaks or otherwise destroys anything to prevent the seizure thereof, or the securing of the same,

shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

*NOTE—This Act has replaced the Post Office Act 1947 [Act 211] - see section 50 of Act 465.

**NOTE—This Act has replaced the Telecommunications Act 1950 [Act 20]—see subsection 273(1) of Act 588.

Section 29. Indemnity.

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

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

Section 30. Seizure and forfeiture of drugs, etc.

(1) All dangerous drugs, syringes, pipes, lamps, utensils, books and documents in respect of which any police officer or officer of customs reasonably believes that an offence under this Act or any breach of the restrictions or conditions subject to or upon which any licence, permit or authorization has been granted has been or is being committed, together with any receptacle, package or conveyance or other article in which the same is found or which is reasonably suspected of having been used in the commission of the offence or breach, may be seized by such officer.

(2) All things liable to seizure under this section, shall be liable to forfeiture.

(3) Whenever any conveyance is seized under this section, the seizing officer shall forthwith give notice in writing of such seizure and the grounds thereof to the owner of such conveyance, if known, either by delivering such notice to him personally or by post at his place of abode:

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

(4) Subsection (1) shall not apply to any ship of more than one hundred tons burden or to any train or to any aircraft belonging to any person carrying on a regular passenger or freight service to and from Malaysia:

Provided that any such ship or aircraft may be detained by a police officer not below the rank of Sub-Inspector or a senior officer of customs pending an application to the Court for an order under section 38, which application shall be made as soon as practicable after the commencement of such detention of such ship or aircraft.

(5) When any conveyance has been seized under this section, a police officer not below the rank of Sub-Inspector or a senior officer of customs may at his discretion return such conveyance to the owner of the same on security being furnished to the satisfaction of such officer that the conveyance shall be surrendered to him on demand.

(6) An order for the forfeiture or for the release of anything liable to forfeiture under this section shall be made by the Court before which the prosecution with regard thereto has been held, and an order for the

forfeiture of the thing shall be made if it is proved to the satisfaction of the Court that an offence under this Act or any breach of the restrictions or conditions subject to or upon which any licence, permit or authorization has been granted has been committed and that the thing was the subject matter of or was used in the commission of the offence notwithstanding that no person may have been convicted of such offence or breach.

(7) If there be no prosecution with regard to anything seized under this section, such thing shall be taken and deemed to be forfeited at the expiration of one calendar month from the date of seizure unless a claim thereto is made before that date in the manner hereinafter set forth.

(8) Any person asserting that he is the owner of anything liable to forfeiture under subsection (7) and that it is not liable to forfeiture may personally or by his agent authorized in writing give written notice to a police officer not below the rank of Sub-Inspector or a senior officer of customs that he claims the same.

(9) On receipt of such notice the police officer or the senior officer of customs shall refer the claim to a Sessions Court Judge in Peninsular Malaysia or to a Magistrate of the First Class in the State of Sabah or Sarawak for his decision.

(10) The Sessions Court Judge or the Magistrate to whom reference is made under subsection (9) shall issue a summons requiring the person asserting that he is the owner of the thing and the person from whom it was seized to appear before him, and upon their appearance or default to appear, due service of such summons being proved, the Sessions Court Judge or the Magistrate shall proceed to the examination of the matter and on proof that an offence under this Act or a breach of the restrictions or conditions subject to or upon which any licence, permit or authorization has been granted has been committed and that such thing was the subject matter, or was used in the commission of such offence or breach shall order the same to be forfeited, or may in the absence of such proof order its release.

(11) In any proceeding before any Court relating to the seizure of any dangerous drugs, syringes, pipes, lamps, utensils, books, documents, receptacles, packages or conveyance subject to forfeiture under this section the Court shall proceed with the trial or the appeal as the case may be on the merits of the case only without enquiring into the manner or form of making any seizure except in so far as the manner and form of seizure may be evidence on such merits.

Section 30A. Things seized may be delivered to the owner or other person.

The Minister may upon application made to him in writing order anything seized under this Act, whether forfeited or taken and deemed to be forfeited, to be delivered to the owner or other person entitled there to upon such terms and conditions as he may deem fit:

Provided that any such application shall be made before the expiration of one calendar month from the date of forfeiture of such thing or from the date on which such thing shall be taken and deemed to be forfeited as the case may be.

Section 31. Power of arrest and seizure.

(1) Any police officer or any officer of customs may arrest without a warrant any person whom he reasonably believes to have committed or to be committing an offence against this Act, and every offence against this Act shall be deemed to be a seizable offence for the purposes of the Criminal Procedure Code [Act 593].

(2) Every person so arrested shall, together with any article as to which an offence may have been committed or which is otherwise reasonably believed by the officer making such arrest to be liable to forfeiture under this Act, be taken to a police station or to a customs office, and every person so arrested maybe searched at any convenient place provided that no female shall be searched except by a female.

(3) Any police officer or officer of customs making an arrest under this section may seize and detain any package, receptacle and conveyance which he has reasonable grounds for believing is liable to forfeiture under section 30 or to detention under an order of the Court under section 38.

Section 31A. Examination of arrested person by a medical officer.

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

(a) which is of such a nature; or

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

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

(1A) For the purpose of preservation of evidence, it shall be lawful for a police officer not below the rank of Sergeant or an officer of customs to require an arrested person to provide a specimen of his urine for the purposes of an examination under subsection (1) if it is not practicable for the medical officer or the person who is acting in aid of or on the direction of a medical officer to obtain the specimen of the urine within a reasonable period.

(1AA) Any biological sample collected for the purposes of an examination under this section may be analysed by a science officer employed by the Government.

[(1AA) Ins. Act A1457 of the year 2014]

(1B) Any person who, without reasonable excuse, fails to provide a specimen of his urine as may be required under subsection (1) or (1A) shall be guilty of an offence and shall, on conviction, be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding four years or to both.

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

Section 31B. Procedure where investigation cannot be completed within twenty-four hours by an officer of customs.

(1) Whenever any person is arrested and detained in custody by any officer of customs for an offence against this Act, and it appears that the investigation cannot be completed within a period of twenty-four hours from the time that the person is arrested, any officer of customs may produce such person before a Magistrate and the Magistrate may, whether he has or has not jurisdiction to try the case, from time to time, authorize the detention of such person in such custody as such Magistrate thinks fit for a term not exceeding fifteen days in the whole.

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

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

Section 32. False declaration.

Any person who, for the purpose of obtaining, whether for himself or for any other person, the issue, grant, or renewal of any licence or authority under this Act, makes any declaration or statement which is false in any material particular, or knowingly utters, produces, or makes use of, any such declaration or statement or any document containing the same, shall be guilty of an offence against this Act, and shall be liable on conviction to a fine not exceeding two thousand ringgit or to imprisonment for a term not exceeding one year or to both.

Section 33. Abetments and attempts punishable as offences.

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

Section 34. Abetting or procuring the commission of an offence abroad.

Any person who within Malaysia, abets the commission in any place outside Malaysia of any offence punishable under any corresponding law in force in that place, or does any act preparatory to, or in furtherance of, any act, which offence or act if committed in Malaysia would constitute an offence under this Act shall be guilty of an offence under this Act and shall be punishable in the same manner as if the offence or act which he abetted or in respect of which he did such preparatory act or which he furthered had been committed or intended to be committed in Malaysia.

Section 35. Liability of officers of a company and employers and servants.

(1) Where an offence against this Act is committed by a company, the chairman and every director and every officer concerned in the management of the company shall be guilty of the like offence, unless he proves to the satisfaction of the Court that the act constituting the offence took place without his knowledge or consent.

(2) Any person licensed or authorized under any regulation made under this Act who would be liable under this Act or under any regulation made there under to any punishment, penalty or forfeiture for any act, omission, neglect or default shall be liable to the same punishment, penalty or forfeiture for every such act, omission, neglect or default of any agent or servant employed by him in the course of his business as such licensed or authorized person, if such act, omission, neglect or default is committed by such agent or servant in the course of his employment by such licensed or authorized person.

(3) Every such agent or servant shall also be liable to every punishment, penalty or forfeiture prescribed by this Act or under any regulation made there under for such acts, omissions, neglects or defaults done or omitted to be done by him as fully and effectually as if he had been the person licensed or authorized.

Section 36. Burden of proof.

It shall not be necessary in any proceedings against any person for an offence against this Act to negative by evidence any licence, authorization, authority, or other matter of exception or defence, and the burden of proving any such matter shall be on the person seeking to avail himself thereof.

Section 37. Presumptions.

In all proceedings under this Act or any regulation made thereunder—

- (a) any premises shall be deemed to be used for a purpose if they are used for that purpose even on one occasion only;
- (b) a person, until the contrary is proved, shall be deemed to be the occupier of any premises, if he has, or appears to have, the care or management of such premises;

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- (c) if any syringe and dangerous drug suitable for hypodermic injection, or any pipe and dangerous drug suitable for smoking be found in any premises, it shall be presumed, until the contrary is proved, that the premises are used for the purpose of the administration of a dangerous drug to, or the smoking or consumption otherwise of a dangerous drug by, a human being and that the occupier permits such premises to be used for such purpose;
- (d) any person who is found to have had in his custody or under his control anything whatsoever containing any dangerous drug shall, until the contrary is proved, be deemed to have been in possession of such drug and shall, until the contrary is proved, be deemed to have known the nature of such drug;
- (da) any person who is found in possession of—
- (i) 15 grammes or more in weight of heroin;
 - (ii) 15 grammes or more in weight of morphine;
 - (iii) 15 grammes or more in weight of monoacetylmorphines;
 - (iiia) a total of 15 grammes or more in weight of heroin, morphine and monoacetylmorphines or a total of 15 grammes or more in weight of any two of the said dangerous drugs;
 - (iv) 1,000 grammes or more in weight of prepared opium;
 - (v) 1,000 grammes or more in weight of raw opium;
 - (va) a total of 1,000 grammes or more in weight of prepared opium and raw opium;
 - (vi) 200 grammes or more in weight of cannabis;
 - (vii) 200 grammes or more in weight of cannabis resin;
 - (viii) a total of 200 grammes or more in weight of cannabis and cannabis resin;
 - (ix) 40 grammes or more in weight of cocaine;
 - (x) 2,000 grammes or more in weight of coca leaves;
 - (xi) 50 grammes or more in weight of 2-Amino-1-(2, 5-dimethoxy-4-methyl) phenylpropane;
 - (xii) 50 grammes or more in weight of Amphetamine;
 - (xiii) 50 grammes or more in weight of 2, 5-Dimethoxyamphetamine (DMA);
 - (xiv) 50 grammes or more in weight of Dimethoxybromoamphetamine (DOB);

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- (xv) 50 grammes or more in weight of 2, 5-Dimethoxy-4-ethylamphetamine (DOET);
- (xvi) 50 grammes or more in weight of Methamphetamine;
- (xvii) 50 grammes or more in weight of 5-Methoxy-3, 4-Methylenedioxyamphetamine (MMDA);
- (xviii) 50 grammes or more in weight of Methylenedioxyamphetamine (MDA);
- (xix) 50 grammes or more in weight of N-ethyl MDA;
- (xx) 50 grammes or more in weight of N-hydroxy MDA;
- (xxi) 50 grammes or more in weight of N-methyl-1 (3, 4-methylenedioxyphenyl)-2-butanamine;
- (xxii) 50 grammes or more in weight of 3, 4-Methylenedioxymethamphetamine (MDMA);
- (xxiii) 50 grammes or more in weight of Paramethoxyamphetamine (PMA);
- (xxiv) 50 grammes or more in weight of 3, 4, 5-Trimethoxyamphetamine (3, 4, 5-TMA); or
- (xxv) a total of 50 grammes or more in weight of any combination of the dangerous drugs listed in subparagraphs (xi) to (xxiv),

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

- (e) any person who is found to have had in his possession or under his control or subject to his order any document of title relating to any dangerous drug shall, until the contrary is proved, be deemed to have known the nature of such drug;
- (f) if any dangerous drug is found to be concealed in any ship or aircraft it shall be presumed, until the contrary is proved, that the said drug is so concealed with the knowledge of the master of the ship or aircraft and has been imported in such ship or aircraft;
- (g) if any dangerous drug is found to be concealed in any premises, it shall be presumed, until the contrary is proved, that the said drug is so concealed with the knowledge of the occupier of the premises;
- (h) if any dangerous drug is found concealed in any compartment, specially constructed for the purpose, on any vehicle, it shall until the contrary is proved, be deemed to have been so concealed with the knowledge of the owner of the vehicle and of the person in charge of the vehicle for the time being;

- (i) evidence by a police officer not below the rank of Sergeant or by a senior officer of customs that any pipe or other article is for use in the consumption of prepared opium, cannabis, cannabis resin or substances of which such resin forms the base, or in the preparation of any of the aforesaid substances for consumption shall, until the contrary is proved, be deemed to be sufficient evidence of the fact, and for the purposes of this paragraph "consumption" means eating, chewing, smoking, swallowing, drinking, inhaling or introducing any of the aforesaid substances into the body in any manner or by any means whatsoever;
- (j) when any substance suspected of being a dangerous drug has been seized and such substance is contained in a number of receptacles, it shall be sufficient to analyse samples of the contents of a number not less than ten percentum of such receptacles and if such analysis establishes that such samples are all of the same nature and description, it shall be presumed, until the contrary is proved, that the contents of all the receptacles were of the same nature and description as the samples so analyzed and if such analysis establishes that such samples consist of or contain a dangerous drug, it shall be presumed, until the contrary is proved, that the contents of all the receptacles consist of or contain the same proportion of such drug;
- (k) if a person is charged for an offence of consuming a dangerous drug or administering a dangerous drug to himself or suffering any other person to administer a dangerous drug to him, and any dangerous drug is found in the urine of the person charged as a result of a urine test conducted under section 31A, the person shall be presumed, until the contrary is proved, to have consumed the drug or to have administered the drug to himself or to have suffered any other person to administer the drug to him in contravention of this Act or its regulations.

Section 37A. Application of presumptions.

Notwithstanding anything under any written law or rule of law, a presumption may be applied under this Part in addition to or in conjunction with any other presumption provided under this Part or any other written law.

[37A. *Ins. Act A1457 of the year 2014*]

Section 37B. Admission of statement in evidence.

(1) Where any person is charged with any offence against this Act any statement, whether such statement amounts to a confession or not or is oral or in writing, made at any time, whether before or after such person is charged and whether in the course of a police investigation or not and whether or not wholly or partly in answer to questions, by such person to or in the hearing of any police officer of or above the rank of Inspector or any senior officer of customs and whether or not interpreted to him by any other police officer or senior officer of customs or any other person concerned or not in the arrest, shall notwithstanding anything to the contrary contained in any written law, be admissible at his trial in evidence and, if such person tenders himself as a witness, any such statement may be used in cross-examination and for the purpose of impeaching his credit:

Provided that no such statement shall be admissible or used as aforesaid—

- (a) if the making of the statement appears to the Court to have been caused by any inducement, threat or promise having reference to the charge against such person, proceeding from a person in authority and sufficient in the opinion of the Court to give such person grounds which would appear to him reasonable for supposing that by making it he would gain any advantage or avoid any evil of a temporal nature in reference to the proceeding against him; or
- (b) in the case of a statement made by such person after his arrest, unless the court is satisfied that a caution was administered to him in the following words or words to the like effect—

“It is my duty to warn you that you are not obliged to say anything or to answer any question, but anything you say, whether in answer to a question or not, may be given in evidence”:

Provided that a statement made by any person before there is time to caution him shall not be rendered inadmissible in evidence merely by reason of no such caution having been given if it has been given as soon as possible.

(2) Notwithstanding anything to the contrary contained in any written law a person accused of an offence to which subsection (1) applies shall not be bound to answer any questions relating to such case after any such caution as aforesaid has been administered to him.

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

[This section 37B was former the 37A - Act A1457 of the year 2014]

Section 38. Ship or aircraft used for unlawful import or export.

(1) If any ship or any aircraft is used for the import or export of any drug contrary to this Act or for the receipt or storage of any drug imported contrary to this Act, the owner and master thereof shall be guilty of an offence against this Act and liable to a fine not exceeding ten thousand ringgit unless it is proved to the satisfaction of the Court that the owner or master was not implicated in the placing or keeping of such drug on board the ship or aircraft and that the offence in question was committed without his knowledge, consent or connivance, and the ship or aircraft may be detained by order of the Court until security has been given for such sum as the court orders, not exceeding ten thousand ringgit.

(2) Except in the case of drugs consigned in accordance with an authorization issued under section 19, 20 or 24 or in transit in accordance with section 21, the finding of any drug on board any ship or aircraft shall be prima facie evidence that the ship or aircraft has been used for the importation or exportation of such drug contrary to this Act or for the receipt or storage of drugs imported contrary to this Act.

(3) Any person who conceals any dangerous drug in any part of any ship or aircraft or who, being cognizant of any dangerous drug being concealed in any ship or aircraft, does not take the earliest reasonable opportunity of reporting the same to the master of such ship or aircraft after such ship has entered the territorial waters of Malaysia or such aircraft has landed in Malaysia, as the case may be, shall be liable on conviction to a fine not exceeding *twenty thousand ringgit or to imprisonment for a term not exceeding *five years or to both, unless he shall prove that he informed such master before such ship entered such waters or such aircraft so landed, as the case may be.

Section 38A. Powers of the Court in respect of drug dependants below the age of eighteen.

Where any person below the age of eighteen years is found guilty of an offence against this Act other than an offence under section 6B or 39B or other than in a case where a person is found guilty of an offence against this Act for which the punishment shall be under section 39A, the court may, if it is satisfied that such person is a drug dependant as certified by a government medical officer or a registered medical practitioner and that it is inexpedient to inflict the punishment provided, deal with such person under section 6 of the Drug Dependants (Treatment and Rehabilitation) Act 1983 [Act 283].

Section 38B. Powers of the Court in respect of persons found guilty under section 15.

(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 an officer as defined under section 2 of the Drug Dependants (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 court.

(2) A person required to undergo supervision under subsection (1) shall be deemed to have been placed under such supervision under paragraph 6(1)(b) of the Drug Dependants (Treatment and Rehabilitation) Act 1983.

Section 39. General penalty.

Every person convicted of an offence under this Act for which no penalty is specifically provided shall, in respect of each offence, be liable to a fine not exceeding **five thousand ringgit or to imprisonment for a term not exceeding **two years or to both.

*NOTE—Previously “two thousand ringgit” and “one year imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

**NOTE—Previously “two thousand ringgit” and “one year imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

Section 39A. Increased penalty where the subject matter is the prescribed amount of certain dangerous drugs.

(1) Every person found guilty of an offence against this Act where the subject matter of the offence is—

- (a) 2 grammes or more but less than 5 grammes in weight of heroin;
- (b) 2 grammes or more but less than 5 grammes in weight of morphine;
- (c) 2 grammes or more but less than 5 grammes in weight of monoacetylmorphines;
- (d) a total of 2 grammes or more but less than 5 grammes in weight of heroin, morphine and monoacetylmorphines or a total of 2 grammes or more but less than 5 grammes in weight of any two of the said dangerous drugs;
- (e) 5 grammes or more but less than 15 grammes in weight of cocaine;
- (f) 20 grammes or more but less than 50 grammes in weight of cannabis;
- (g) 20 grammes or more but less than 50 grammes in weight of cannabis resin;
- (h) a total of 20 grammes or more but less than 50 grammes in weight of cannabis and cannabis resin;
- (i) 100 grammes or more but less than 250 grammes in weight of raw opium;
- (j) 100 grammes or more but less than 250 grammes in weight of prepared opium;
- (k) a total of 100 grammes or more but less than 250 grammes in weight of raw opium and prepared opium;
- (l) 250 grammes or more but less than 750 grammes in weight of coca leaves;
- (m) 5 grammes or more but less than 30 grammes in weight of 2-Amino-1-(2, 5-dimethoxy-4methyl) phenylpropane;
- (n) 5 grammes or more but less than 30 grammes in weight of Amphetamine;
- (o) 5 grammes or more but less than 30 grammes in weight of 2, 5-Dimethoxyamphetamine (DMA);
- (p) 5 grammes or more but less than 30 grammes in weight of Dimethoxybromoamphetamine (DOB);
- (q) 5 grammes or more but less than 30 grammes in weight of 2, 5-Dimethoxy-4-ethylamphetamine (DOET);

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- (r) 5 grammes or more but less than 30 grammes in weight of Methamphetamine;
- (s) 5 grammes or more but less than 30 grammes in weight of 5-Methoxy-3, 4-Methylenedioxyamphetamine (MMDA);
- (t) 5 grammes or more but less than 30 grammes in weight of Methylenedioxyamphetamine (MDA);
- (u) 5 grammes or more but less than 30 grammes in weight of N-ethyl MDA;
- (v) 5 grammes or more but less than 30 grammes in weight of N-hydroxy MDA;
- (w) 5 grammes or more but less than 30 grammes in weight of N-methyl-1-(3, 4-methylenedioxyphenyl)-2-butanamine;
- (x) 5 grammes or more but less than 30 grammes in weight of 3, 4-Methylenedioxymethamphetamine (MDMA);
- (y) 5 grammes or more but less than 30 grammes in weight of Paramethoxyamphetamine (PMA);
- (z) 5 grammes or more but less than 30 grammes in weight of 3, 4, 5-Trimethoxyamphetamine (3, 4, 5-TMA); or
- (za) a total of 5 grammes or more but less than 30 grammes in weight of any combination of the dangerous drugs listed in paragraphs (m) to (z),

shall, instead of being liable to the punishment provided for that offence under the section under which the person has been so found guilty, be punished with imprisonment for a term which shall not be less than two years but shall not exceed five years, and he shall also be punished with whipping of not less than three strokes but not more than nine strokes.

(2) Every person found guilty of an offence against this Act where the offence is not punishable with death and where the subject matter of the offence is—

- (a) 5 grammes or more in weight of heroin;
- (b) 5 grammes or more in weight of morphine;
- (c) 5 grammes or more in weight of monoacetylmorphines;
- (d) a total of 5 grammes or more in weight of heroin, morphine and monoacetylmorphines or a total of 5 grammes or more in weight of any two of the said dangerous drugs;
- (e) 15 grammes or more in weight of cocaine;
- (f) 50 grammes or more in weight of cannabis;

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- (g) 50 grammes or more in weight of cannabis resin;
- (h) a total of 50 grammes or more in weight of cannabis and cannabis resin;
- (i) 250 grammes or more in weight of raw opium;
- (j) 250 grammes or more in weight of prepared opium;
- (k) a total of 250 grammes or more in weight of raw opium and prepared opium;
- (l) 750 grammes or more in weight of coca leaves;
- (m) 30 grammes or more in weight of 2-Amino-1-(2, 5-dimethoxy-4-methyl) phenylpropane;
- (n) 30 grammes or more in weight of Amphetamine;
- (o) 30 grammes or more in weight of 2, 5-Dimethoxyamphetamine (DMA);
- (p) 30 grammes or more in weight of Dimethoxybromoamphetamine (DOB);
- (q) 30 grammes or more in weight of 2, 5-Dimethoxy-4-ethylamphetamine (DOET);
- (r) 30 grammes or more in weight of Methamphetamine;
- (s) 30 grammes or more in weight of 5-Methoxy-3, 4-Methylenedioxyamphetamine (MMDA);
- (t) 30 grammes or more in weight of Methylenedioxyamphetamine (MDA);
- (u) 30 grammes or more in weight of N-ethyl MDA;
- (v) 30 grammes or more in weight of N-hydroxy MDA;
- (w) 30 grammes or more in weight of N-methyl-1-(3, 4-Methylenedioxyphenyl)-2-butanamine;
- (x) 30 grammes or more in weight of 3, 4-Methylenedioxymethamphetamine (MDMA);
- (y) 30 grammes or more in weight of Paramethoxyamphetamine (PMA);
- (z) 30 grammes or more in weight of 3, 4, 5-Trimethoxyamphetamine (3, 4, 5-TMA); or
- (za) a total of 30 grammes or more in weight of any combination of the dangerous drugs listed in paragraphs (m) to (z),

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

Section 39B. Trafficking in dangerous drug.

(1) No person shall, on his own behalf or on behalf of any other person, whether or not such other person is in Malaysia—

(a) traffic in a dangerous drug;

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

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

(2) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence against this Act and shall be punished on conviction with death or imprisonment for life and shall, if he is not sentenced to death, be punished with whipping of not less than ***twelve strokes.

[Subs. Act 846]

(2A) [Deleted by Act 846]

(2B) [Deleted by Act 846]

(3) A prosecution under this section shall not be instituted except by or with the consent of the Public Prosecutor:

Provided that a person may be arrested, or a warrant for his arrest may be issued and executed, and any such person may be remanded in custody notwithstanding that the consent of the Public Prosecutor to the institution of a prosecution for the offence has not been obtained, but the case shall not be further prosecuted until the consent has been obtained.

(4) When a person is brought before a Court under this section before the Public Prosecutor has consented to the prosecution the charge shall be explained to him but he shall not be called upon to plead, and the provisions of the law for the time being in force relating to criminal procedure shall be modified accordingly.

*NOTE—Previously “a term not exceeding fourteen years and not less than three years”—see Dangerous Drugs (Amendment) Act 1983 [Act A553].

**NOTE—Previously “six strokes”—see Dangerous Drugs (Amendment) Act 1986 [Act A659].

***NOTE—Previously “fifteen strokes”—see Dangerous Drugs (Amendment) Act 2017 [Act A1558].

Section 39c. Increased penalty where person has prior admissions or convictions.

(1) Where a person who has not less than—

- (a) two previous admissions;
- (b) two previous convictions under paragraph 10(2)(b) or paragraph 15(1)(a) or any combination of the sections;
- (c) one previous admission and one previous conviction under paragraph 10(2)(b) or paragraph 15(1)(a);
- (d) one previous admission and two previous convictions under section 31A; or
- (e) one previous conviction under paragraph 10(2)(b) or paragraph 15(1)(a) and two previous convictions under section 31A,

is found guilty of an offence under paragraph 10(2)(b), paragraph 15(1)(a) or section 31A, he shall, instead of being liable to the punishment provided for that offence under the section under which he has been found guilty, be punished with imprisonment for a term which shall not be less than five years but shall not exceed seven years, and he shall also be punished with whipping of not more than three strokes.

(2) Where a person who has been punished under subsection (1) is convicted of a subsequent offence under paragraph 10(2)(b), paragraph 15(1)(a) or section 31A, he shall, instead of being liable to the punishment provided for that offence under the section under which he has been found guilty, be punished with imprisonment for a term which shall not be less than seven years but shall not exceed thirteen years, and he shall also be punished with whipping of not less than three strokes but not more than six strokes.

(3) A certificate to be signed by an officer authorized in writing by the Director General and purporting to relate to a person's admission to a Rehabilitation Centre shall be admissible in evidence in any proceedings under this section, on its production by the prosecution without proof of signature; and, until the contrary is proved, that certificate shall be evidence of all matters contained in the certificate.

(4) For the purposes of this section—

“admission” means an admission to undergo treatment and rehabilitation at a Rehabilitation Centre by an order of a magistrate under paragraph 6(1)(a) of the Drug Dependents (Treatment and Rehabilitation) Act 1983;

“Director General” means the Director General appointed under subsection 2(2) of the Drug Dependents (Treatment and Rehabilitation) Act 1983;

“Rehabilitation Centre” means the Rehabilitation Centre established under section 10 of the Drug Dependents (Treatment and Rehabilitation) Act 1983.

Section 40. Protection of informers.

(1) Except as hereinafter provided, no complaint as to an offence under this Act shall be admitted in evidence in any civil or criminal proceeding whatsoever, and no witness shall be obliged or permitted to disclose the name or address of any informer, or state any matter which might lead to his discovery.

(2) If any books, documents or papers which are in evidence or liable to inspection in any civil or criminal proceeding whatsoever contain any entry in which any informer is named or described or which might lead to his discovery, the Court before which the proceeding is had shall cause all such passages to be concealed from view or to be obliterated so far as is necessary to protect the informer from discovery, but no further.

(3) If on trial for any offence under this Act the Court, after full inquiry into the case, is of opinion that the informer wilfully made in his complaint a material statement which he knew or believed to be false or did not believe to be true, or if in any other proceeding the Court is of opinion that justice cannot be fully done between the parties thereto without the discovery of the informer, the Court may require the production of the original complaint, if in writing, and permit inquiry and require full disclosure concerning the informer.

Section 40A. Evidence of agent provocateur admissible.

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

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

Section 41. Jurisdiction.

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

(2) Notwithstanding subsection (1), the High Court shall have jurisdiction to try any case in respect of any offence under this Act if the Public Prosecutor requires any such case to be tried by the High Court.

(3) Subsections (1) and (2) shall have effect notwithstanding any other written law to the contrary.

Section 41A. Special provisions relating to transmission of a case to, and trial by, the High Court.

(1) Where any case in respect of an offence under this Act is triable exclusively by the High Court or is required by the Public Prosecutor to be tried by the High Court, the accused person shall be produced before the appropriate subordinate court which shall, after the charge has been explained to him, transmit the case to the High Court without holding a preliminary inquiry under Chapter XVII of the Criminal Procedure Code, and cause the accused person to appear or be brought before such Court as soon as may be practicable.

(2) When the accused person appears or is brought before the High Court in accordance with subsection (1), the High Court shall fix a date for his trial which shall be held in accordance with the procedure under Chapter XX of the Criminal Procedure Code.

(3) The trial of a case transmitted to the High Court under subsection (1) shall be by a Judge of the High Court sitting alone, and *Chapters XXI and XXII of the Criminal Procedure Code shall not apply to such trial.

(4) Subsections (1), (2) and (3) shall have effect notwithstanding any other written law to the contrary.

Section 41B. No bail to be granted in respect of certain offences.

(1) Bail shall not be granted to an accused person charged with an offence under this Act—

(a) where the offence is punishable with death;

(b) where the offence is punishable with imprisonment for more than five years; or

(c) where the offence is punishable with imprisonment for five years or less and the Public Prosecutor certifies in writing that it is not in the public interest to grant bail to the accused person.

(2) Subsection (1) shall have effect notwithstanding any other written law or any rule of law to the contrary.

*NOTE—Chapters XXI and XXII of the Criminal Procedure Code [Act 593] has since been repealed by the Criminal Procedure Code (Amendment) Act 1995 [Act A908]—see section 11 of Act A908.

Section 42. Power to conduct prosecutions.

Prosecution in respect of offences under this Act may be conducted by any police officer not below the rank of Sub-Inspector, any senior officer of customs, or any officer of customs specially or generally authorized thereto in writing by the Director General of Customs and Excise.

Section 42A. Rewards

The Inspector General of Police or the Director General of Customs and Excise may order such rewards as he may deem fit to be paid to any officer or other person for services rendered in connection with the detection of offences under this Act or in connection with any seizures made under this Act.

Section 43. Licences, permits, etc., may be subject to conditions.

Any licence, authorization permit or authority issued or granted under this Act or under any regulation made thereunder may be issued or granted on such terms and subject to such conditions as may be prescribed, or as the officer issuing or granting the same shall (either generally or in any particular instance) think proper; and in such case, such terms and conditions shall be binding on and observed by the licensee or grantee, as the case may be.

Section 44. Power of Minister to delegate powers and functions.

It shall be lawful for the Minister by order under his hand to delegate to any fit and proper officer authority to exercise (subject to any limitations which may in such order be specified) any of the powers and functions vested in the Minister by this Act and thereupon such officer shall, to the extent of such delegation, be deemed to be empowered and authorized to exercise such powers and functions accordingly. The Minister may under this section delegate the same powers and functions to more than one officer and different powers and functions to different officers.

Section 45. Power of Minister to exempt certain drugs and institutions from certain provisions of the Act.

The Minister may, by order or by regulations made under this Act, exempt from any of the provisions of this Act or the regulations made thereunder:

- (a) dangerous drugs in respect of which—
 - (i) the Secretary General of the United Nations Organization shall have communicated to the parties to the Single Convention under article 3 of the said Convention a decision of the Commission; or

- (ii) the Minister shall have decided that such dangerous drugs cannot give rise to the drug habit on account of the medicaments with which the said dangerous drugs are compounded; or
- (b) any hospital, infirmary, dispensary wholly or mainly maintained by a public authority out of public funds or such like institutions as he may approve from time to time.

Section 45A. Power of the Minister to vary First Schedule.

If—

- (a) it appears to the Minister that a decision of the Commission or of the United Nations Organization to alter any of the Schedules to the Single Convention or to apply to a substance, measures of control applicable under that Convention to substances specified in Schedule 1 thereto, requires the addition of a substance to the First Schedule; or
- (b) it appears to him probable that there will be taken such a decision as aforesaid of the Commission or of the United Nations Organization as will require the addition of a substance to the First Schedule and that, in the circumstances of the case, it is expedient to anticipate the decision; or
- (c) he considers it expedient to add a substance to, or remove a substance from, or vary the First Schedule,

he may by order make the requisite modifications in the said First Schedule.

Section 46. Act not to derogate from other statutory or other legal provisions and powers.

The provisions contained in and the powers conferred by this Act shall, except so far as may otherwise expressly be enacted or provided, be in addition to and not in derogation of any other provisions or powers existing under any written law for the time being in force in Malaysia or in any part thereof and in particular, but without prejudice to the generality of the foregoing, to the provisions and powers existing under the Sale of Drugs Act 1952 [*Act 368*] or the corresponding written law in force in Sabah or Sarawak.

Section 47. Regulations.

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

- (a) the matters referred to in sections 7 and 16;

(b) the prescription of forms and fees in connection with any matter under this Act;

(c) the prescription of anything which is required to be, or which may be prescribed, under this Act.

(2) The Minister may in such regulations or by separate regulations made under this Act provide that any act or omission in contravention of the provisions of any regulation or of the terms or conditions of any licence, permit or other authority issued under any regulation shall be an offence and may impose one or more of the following penalties for such offence, namely, fine, imprisonment and forfeiture:

Provided that no fine imposed by such regulations shall exceed *twenty thousand ringgit and no penalty of imprisonment imposed shall exceed a term of *seven years.

(3) All regulations made under this Act shall be published in the *Gazette* and shall be laid as soon as practicable before the Dewan Rakyat.

(4) If a resolution of the Dewan Rakyat is passed within the next subsequent three months after any such regulation is laid before it annulling the regulation or any part thereof, the whole regulation or such part thereof as the case may be shall thenceforth be void but without prejudice to the validity of anything previously done thereunder.

Section 48. Drug Enforcement Officers to be deemed public servants.

All Drug Enforcement Officers under this Act shall be deemed to be public servants within the meaning of the Penal Code.

Section 49. Action of officers no offence.

Nothing done by any officer of the Government in the course of his duties shall be deemed to be an offence under this Act.

Section 50. Repeal.

The Ordinances, Enactments and Proclamation specified in the Third Schedule are hereby repealed.

*NOTE—Previously “ten thousand ringgit” and “four years imprisonment”—see Dangerous Drugs (Amendment) Act 1973 [Act A194].

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LIST OF AMENDMENTS

<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
L.N. 336/56	Dangerous Drugs Order 1956	25-10-1956
L.N. 185/58	Dangerous Drugs Order 1958	03-07-1958
L.N. 332/58	Federal Constitution (Modification of Laws) (Ordinances and Proclamations) Order 1958	13-11-1958
L.N. 165/61	Dangerous Drugs Order 1961	18-05-1961
L.N. 60/1963	Dangerous Drugs Order 1963	07-03-1963
Act 64/66	Dangerous Drugs (Amendment) Act 1966	19-09-1966
P.U. (A) 85/69	Dangerous Drugs Order 1969	14-03-1969
P.U. (A) 67/71	Emergency (Essential Powers) Ordinance No. 82, 1971	19-02-1971
Act A112	Dangerous Drugs (Amendment) Act 1972	04-04-1972
Act A194	Dangerous Drugs (Amendment) Act 1973	01-06-1973
P.U. (A) 164/74	Dangerous Drugs Order 1974	10-05-1974
P.U. (A) 233/74	Dangerous Drugs Order (No. 2) 1974	05-07-1974
Act A293	Dangerous Drugs (Amendment) Act 1975	30-04-1975
Act A318	Dangerous Drugs (Amendment) (No. 2) Act 1975	05-09-1975
Act A330	Dangerous Drugs (Amendment) Act 1976	27-02-1976
P.U. (A) 321/76	Dangerous Drugs Order 1976	15-10-1976
Act A389	Dangerous Drugs (Amendment) Act 1977	15-11-1977
Act A390	Dangerous Drugs (Amendment) (No. 2) Act 1977	18-03-1977

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<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
Act A413	Dangerous Drugs (Amendment) (No. 3) Act 1977	15-11-1977
Act A426	Dangerous Drugs (Amendment) Act 1978	10-03-1978
P.U.(A) 157/78	Modification of Laws (Dangerous Drugs and Poisons) (Extension and Modification) Order 1978	01-06-1978
Act A434	Subordinate Courts (Amendment) Act 1978	01-07-1978
Act A491	Dangerous Drugs (Amendment) Act 1980	30-05-1980
P.U.(A) 69/81	Dangerous Drugs (Amendment) Order 1981	20-03-1981
P.U.(A) 116/81	Dangerous Drugs (Amendment) (No. 2) Order 1981	24-04-1981
P.U.(A) 242/81	Dangerous Drugs (Amendment) (No. 3) Order 1981	21-08-1981
Act A 553	Dangerous Drugs (Amendment) Act 1983	15-04-1983; except s.7: 15-11-1977 and s17: 30-5-1980
Act 283	Drug Dependants (Treatment And Rehabilitation) Act 1983	16-04-1983
P.U. (A) 263/84	Dangerous Drugs (Amendment) Order 1984	27-07-1984
Act A 596	Dangerous Drugs (Amendment) Act 1984	07-09-1984
P.U.(A) 220/85	Federal Territory of Labuan (Modification of Dangerous Drugs Act) Order 1985	16-04-1984
P.U.(A) 319/85	Dangerous Drugs (Amendment) Order 1985	19-07-1985
P.U.(A) 120/86	Dangerous Drugs (Amendment) Order 1986	18-04-1986

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<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
P.U.(A) 225/86	Dangerous Drugs (Amendment) (No.2) Order 1986	11-07-1986
Act A659	Dangerous Drugs (Amendment) Act 1986	01-01-1987
P.U.(A) 174/88	Dangerous Drugs (Amendment) Order 1988	03-06-1988
P.U.(A) 14/91	Dangerous Drugs (Amendment) Order 1991	25 -01-1991
Act A834	Dangerous Drugs (Amendment) Act 1992	04-09-1992
P.U.(A) 170/96	Dangerous Drugs (Amendment of First Schedule) Order 1996	12-04-1996
P.U.(A) 500/97	Dangerous Drugs (Amendment) Order 1997	19-12-1997
P.U.(A) 135/98	Dangerous Drugs (Amendment) Order 1998	10-04-1998
Act A1025	Dangerous Drugs (Amendment) Act 1998	15-09-1998
P.U.(A) 320/99	Dangerous Drugs (Amendment) Order 1999	13-08-1999
P.U.(A) 151/2001	Dangerous Drugs (Amendment of First Schedule) Order 2001	25-05-2001
P.U (A) 145/2002	Dangerous Drugs (Amendment of First Schedule) Order 2002	19-04-2002
P.U.(A) 339/2002	Dangerous Drugs (Amendment of First Schedule) (No.2) Order 2002	23-08-2002
Act A1167	Dangerous Drugs (Amendment) Act 2002	01-11-2002 [P.U.(B) 342/2002]
P.U.(A) 44/2003	Revision of Laws (Rectification of Dangerous Drugs Act 1952) Order 2003	07-02-2003
Act A1457	Dangerous Drugs (Amendment) Act 2014	15-02-2014
P.U. (A) 267/2017	Dangerous Drugs (Amendment of First Schedule) (No.2) Order 2017	22-09-2017
Act A1558	Dangerous Drugs (Amendment) Act 2017	15-03-2018

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<i>Amending law</i>	<i>Short title</i>	<i>In force from</i>
P.U. (A) 10/2019	Dangerous Drugs (Amendment of First Schedule) Order 2019	11-01-2019
P.U. (A) 296/2021	Dangerous Drugs (Amendment of First Schedule) Order 2021	06-07-2021
P.U. (A) 40/2023	Dangerous Drugs (Amendment of First Schedule) Order 2023	15-02-2023
Act 846	Abolition of Mandatory Death Penalty Act 2023	04-07-2023