

Misuse of Drugs (Amendment) Bill

Bill No. 27/2012.

Read the first time on 15th October 2012.

A BILL

i n t i t u l e d

An Act to amend the Misuse of Drugs Act (Chapter 185 of the 2008 Revised Edition) and to make a related amendment to the Criminal Procedure Code (Chapter 68 of the 2012 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

Short title and commencement

1. This Act may be cited as the Misuse of Drugs (Amendment) Act 2012 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. Section 2 of the Misuse of Drugs Act (referred to in this Act as the principal Act) is amended —

(a) by inserting, immediately after the definition of “committee of inquiry”, the following definition:

10 “ “community rehabilitation centre” means any place declared by the Minister as such under section 35;”;

(b) by inserting, immediately after the words “approved institution” in the definition of “inmate”, the words “or a
15 community rehabilitation centre”;

(c) by deleting the words “an Assistant Director” in the definition of “officer of the Bureau” and substituting the words “a Divisional Director”;

(d) by inserting, immediately after the definition of “permanent
20 resident of Singapore”, the following definition:

“ “place” includes —

(a) any building or structure, whether permanent or temporary;

(b) any land, whether or not built on;

25 (c) any place, whether or not enclosed, and whether or not situated underground or underwater;

(d) any vessel, aircraft, train, or vehicle (whether mechanically propelled or
30 otherwise) or any other means of transport; and

(e) any part of any place referred to in paragraphs (a) to (d);” and

(e) by deleting the full-stop at the end of the definition of “Vigilante Corps” and substituting a semi-colon, and by
5 inserting immediately thereafter the following definitions:

““vulnerable person” means any person who suffers from an impairment of, or a disturbance in the functioning of, the mind or brain resulting from any disability or disorder of the mind or brain
10 which impairs the ability to make a proper judgment in relation to the commission of any offence under this Act;

“young person” means any person who is below 21 years of age.”.

15 **Amendment of section 3**

3. Section 3 of the principal Act is amended —

(a) by deleting the words “Assistant Directors” in subsection (1) and substituting the words “Divisional Directors”; and

20 (b) by deleting subsection (3) and substituting the following subsections:

“(3) Subject to the provisions of this Act, the powers and functions conferred upon the Director under this Act, and the duties required to be discharged by him may,
25 subject to such limitations as the Director may impose, be exercised and discharged by any Deputy Director or Divisional Director of the Central Narcotics Bureau duly authorised by the Director to act on his behalf.

(4) The Director may issue such orders not inconsistent with the provisions of this Act and the regulations made thereunder, to be called General Orders, as he may think
30 necessary and expedient for the control, direction and information of the officers of the Bureau.

(5) It shall not be necessary to publish any General Orders in the *Gazette*.”.

New section 11A

5 **4.** The principal Act is amended by inserting, immediately after section 11, the following section:

“Arranging or planning gatherings where controlled drugs are to be consumed or trafficked

10 **11A.**—(1) Where there is a gathering of 2 or more persons in any place, any person who arranges or plans the gathering with the knowledge that any controlled drug is, or is to be, consumed or trafficked at that gathering shall be guilty of an offence and shall on conviction —

- (a) be punished with imprisonment for a term of not less than 3 years and not more than 20 years; and
- 15 (b) be liable to caning of not more than 10 strokes.

(2) A person may be guilty of an offence under subsection (1) notwithstanding that he does not supply any controlled drug to be consumed or trafficked at that gathering.”.

New section 12A

20 **5.** The principal Act is amended by inserting, immediately after section 12, the following section:

“Causing or procuring young person or vulnerable person to commit certain offences

25 **12A.** Any person of or above the age of 21 years who causes or procures any young person or vulnerable person to commit any offence under section 5(1) or 7 shall be guilty of an offence.”.

Amendment of section 13

6. Section 13 of the principal Act is amended —

30 (a) by deleting the word “or” at the end of paragraph (a); and

(b) by inserting, immediately after paragraph (a), the following paragraph:

5 “(aa) to aid, abet, counsel or procure the commission of any offence under this Act within Singapore, notwithstanding that all or any of the acts constituting the aiding, abetment, counselling or procurement were done outside Singapore; or”.

Amendment of section 24

7. Section 24 of the principal Act is amended —

10 (a) by inserting, immediately after the words “controlled substance” in subsection (1)(a)(i), the words “, drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule”;

15 (b) by deleting the words “or controlled substance” in subsection (1)(c) and substituting the words “, controlled substance, drug specified in the Fifth Schedule or substance containing any drug specified in the Fifth Schedule, which is”; and

20 (c) by inserting, immediately after subsection (2), the following subsection:

25 “(3) Notwithstanding subsection (1), if the use of any drug specified in the Fifth Schedule or any substance containing such drug at any place or premises searched under that subsection is authorised by the Director, that drug or substance shall not be liable to seizure under that subsection.”.

Amendment of section 26

8. Section 26 of the principal Act is amended —

30 (a) by inserting, immediately after the words “controlled substance” in subsections (1)(a) and (2)(a), the words “, drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule”; and

(b) by inserting, immediately after subsection (2), the following subsection:

5 “(3) Notwithstanding subsection (2), if the use of any drug specified in the Fifth Schedule or any substance containing such drug onboard any ship, hovercraft, aircraft, vehicle or train or by any person searched under that subsection is authorised by the Director, that drug or substance shall not be liable to seizure under that subsection.”.

10 **Amendment of section 27**

9. Section 27 of the principal Act is amended by inserting, immediately after subsection (4), the following subsection:

15 “(5) Any drug specified in the Fifth Schedule or any substance containing such drug shall be deemed to be forfeited at the expiration of one month after the date of the seizure thereof unless a claim thereto has been made before that date in such manner as may be prescribed.”.

Amendment of section 31

20 **10.** Section 31 of the principal Act is amended by inserting, immediately after subsection (4), the following subsections:

25 “(5) Notwithstanding subsection (4), where upon conducting any preliminary urine test under subsection (4)(a), a part of a urine specimen has tested negative for controlled drugs, any of the officers referred to in subsection (1) may either discard the remaining 2 parts of the same urine specimen or proceed in accordance with subsection (4)(b).

30 (6) A certificate stating the result of a urine test shall be signed by an analyst employed by the Health Sciences Authority or any other person that the Minister, by notification in the *Gazette*, appoints for such purpose.

(7) The certificate stating the result of a urine test may be signed by an analyst or person appointed under subsection (6) notwithstanding that he did not personally conduct the test to

analyse the urine specimen as long as the test was conducted by another person acting under his direction.

5 (8) In this section, a specimen of urine may be collected from a person on different occasions within the time referred to in subsection (2).”.

New section 31A

11. The principal Act is amended by inserting, immediately after section 31, the following section:

“Hair tests

10 **31A.**—(1) Any officer of the Bureau, immigration officer or police officer not below the rank of sergeant may, if he reasonably suspects any person to have committed an offence under section 8(b), require that person to provide specimens of his hair for a hair test to be conducted under this section.

15 (2) A person who fails, without reasonable excuse, to provide specimens of his hair of such type and quantity as may be required by any of the officers referred to in subsection (1) shall be guilty of an offence.

20 (3) All specimens of hair provided under this section shall be marked and sealed for hair testing in accordance with the prescribed procedure.

25 (4) A certificate stating the result of a hair test shall be signed by an analyst employed by the Health Sciences Authority or any other person that the Minister, by notification in the *Gazette*, appoints for such purpose.

30 (5) The certificate stating the result of a hair test may be signed by an analyst or person appointed under subsection (4) notwithstanding that he did not personally conduct the test to analyse the specimens of hair as long as the test was conducted by another person acting under his direction.”.

Amendment of section 32

12. Section 32 of the principal Act is amended by inserting, immediately after subsection (1), the following subsection:

5 “(1A) Where any search is conducted by an officer of the Bureau under section 24 or 26 in relation to a drug specified in the Fifth Schedule or any substance containing such drug, the officer may examine orally any person found within the place searched and section 22 of the Criminal Procedure Code shall apply, with the necessary modifications, to any statement made
10 by any person so examined.”.

Amendment of section 33

13. Section 33 of the principal Act is amended —

- (a) by inserting, immediately after the words “subsection (4)” in subsection (1), the words “, (4A), (4B) or (4C)”;
- 15 (b) by inserting, immediately after subsection (4), the following subsections:

“(4A) Where —

- (a) any person is convicted of an offence under section 5(1) or 7; and
- 20 (b) that person is again convicted of an offence under section 5(1) or 7,

that person so convicted shall be punished with —

- (i) in relation to a Class A drug —
- (A) imprisonment for a term of not less than
25 10 years and not more than 30 years; and
- (B) not less than 10 strokes and not more than 15 strokes of the cane;
- (ii) in relation to a Class B drug —
- (A) imprisonment for a term of not less than
30 6 years and not more than 30 years; and

(B) not less than 6 strokes and not more than 15 strokes of the cane; and

(iii) in relation to a Class C drug —

(A) imprisonment for a term of not less than 4 years and not more than 20 years; and

(B) not less than 4 strokes and not more than 15 strokes of the cane.

(4B) If a person of or above the age of 21 years is convicted of an offence under section 5(1) or 7 and the intended recipient of the controlled drug which is, or is to be, trafficked is a young person or a vulnerable person, that person so convicted shall be punished with —

(a) in relation to a Class A drug —

(i) imprisonment for a term of not less than 10 years and not more than 30 years; and

(ii) not less than 10 strokes and not more than 15 strokes of the cane;

(b) in relation to a Class B drug —

(i) imprisonment for a term of not less than 6 years and not more than 30 years; and

(ii) not less than 6 strokes and not more than 15 strokes of the cane; and

(c) in relation to a Class C drug —

(i) imprisonment for a term of not less than 4 years and not more than 20 years; and

(ii) not less than 4 strokes and not more than 15 strokes of the cane.

(4C) If a person of or above the age of 21 years is convicted of an offence under section 11A (Arranging or planning gatherings where controlled drugs are to be consumed or trafficked) and the gathering consists of any

young person or vulnerable person, that person so convicted shall be punished with —

(a) imprisonment for a term of not less than 5 years and not more than 20 years; and

5 (b) not less than 3 strokes and not more than 10 strokes of the cane.

(4D) The punishment provided under subsection (4A) or (4B) in relation to an offence shall apply only if the punishment as shown in the sixth column of the Second Schedule is not applicable in relation to that offence.”.

10

New section 33B

14. The principal Act is amended by inserting, immediately after section 33A, the following section:

“Discretion of court not to impose sentence of death in certain circumstances

15

33B.—(1) Where a person commits or attempts to commit an offence under section 5(1) or 7, being an offence punishable with death under the sixth column of the Second Schedule, and he is convicted thereof, the court —

20 (a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes; or

25 (b) shall, if the person satisfies the requirements of subsection (3), instead of imposing the death penalty, sentence the person to imprisonment for life.

(2) The requirements referred to in subsection (1)(a) are as follows:

30 (a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

- (i) to transporting, sending or delivering a controlled drug;
 - (ii) to offering to transport, send or deliver a controlled drug;
 - 5 (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
 - (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and
 - 10 (b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.
- (3) The requirements referred to in subsection (1)(b) are that
- 15 the person convicted proves, on a balance of probabilities, that —
- (a) his involvement in the offence under section 5(1) or 7 was restricted —
 - 20 (i) to transporting, sending or delivering a controlled drug;
 - (ii) to offering to transport, send or deliver a controlled drug;
 - (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or
 - 25 delivering a controlled drug; or
 - (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and
 - (b) he was suffering from such abnormality of mind (whether arising from a condition of arrested or
 - 30 retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and

omissions in relation to the offence under section 5(1) or 7.

5 (4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.”.

10 **Amendment of section 34**

15. Section 34 of the principal Act is amended —

(a) by inserting, immediately after subsection (2), the following subsection:

15 “(2A) If, as a result of any hair test conducted under section 31A on specimens of hair, it appears to the Director that it is necessary for any person who supplied his specimens of hair to be subject to supervision, the Director may make a supervision order requiring that person to be subject to the supervision of an officer of the Bureau for a period not exceeding 2 years.”;

20

(b) by inserting, immediately after subsection (3), the following subsection:

25 “(3A) Where a person who is admitted to an approved institution under this section is transferred from that approved institution to one or more other approved institutions or to one or more community rehabilitation centres, the combined period of his detention in all the approved institutions and community rehabilitation centres shall not be less than 6 months unless he is discharged earlier by the Director or the Review Committee of the approved institution or community rehabilitation centre.”;

30

(c) by deleting subsection (4) and substituting the following subsection:

“(4) If the Review Committee of an approved institution or a community rehabilitation centre is of the opinion that an inmate of that institution or centre whose period of detention therein is about to expire requires further treatment or rehabilitation or both, the Committee may, by order in writing, direct that the inmate be detained in the institution or centre for a further period or periods not exceeding 6 months at any one time.”;

(d) by inserting, immediately after the words “subsection (2)(a)” in subsection (4A), the words “or (2A)”;

(e) by inserting, immediately after the words “approved institution or institutions” in subsection (5), the words “or a community rehabilitation centre or centres”.

Repeal and re-enactment of section 35

16. Section 35 of the principal Act is repealed and the following section substituted therefor:

“Approved institutions and community rehabilitation centres

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

New section 36A

17. The principal Act is amended by inserting, immediately after section 36, the following section:

“Administration of community rehabilitation centres

36A.—(1) Subject to the directions of the Minister, the general charge and administration of a community rehabilitation centre shall be under the Director of Prisons.

(2) The Director of Prisons may appoint a person to be the manager of the community rehabilitation centre and such person shall be responsible for the supervision and administration of that community rehabilitation centre.”.

5 **Amendment of section 37**

18. Section 37 of the principal Act is amended —

- (a) by inserting, immediately after the words “approved institution or institutions” in subsection (1), the words “, or any community rehabilitation centre or centres,”; and
- 10 (b) by inserting, immediately after the words “approved institutions” in the section heading, the words “and community rehabilitation centres”.

Repeal and re-enactment of section 38

15 **19.** Section 38 of the principal Act is repealed and the following section substituted therefor:

“Review, discharge and transfer of inmates

20 **38.—**(1) The Review Committee of an approved institution or a community rehabilitation centre shall keep the case of every inmate under review and shall, as often as practicable, consider whether he should be discharged.

(2) The Director or the Review Committee of an approved institution or a community rehabilitation centre may at any time by order in writing —

- (a) discharge any inmate; or
- 25 (b) transfer any inmate from one approved institution or community rehabilitation centre to another approved institution or community rehabilitation centre.

30 (3) The Superintendent of an approved institution or the manager of a community rehabilitation centre may enter into an arrangement with the Superintendent of another approved institution or the manager of another community rehabilitation centre for the transfer of any inmate to that other institution or

community rehabilitation centre and may, subject to any direction given by the Director or the Review Committee, carry out any transfer in accordance with that arrangement.

- 5 (4) On proof to his satisfaction that the presence at any place of an inmate is required in the interests of justice, or for the purpose of any inquiry, or in the public interest or in the interest of the inmate, the Superintendent of an approved institution or the manager of a community rehabilitation centre may order that the inmate be taken to that place.”.

10 **Amendment of section 39**

20. Section 39 of the principal Act is amended —

- (a) by inserting, immediately after the words “an approved institution” in subsection (1), the words “or a community rehabilitation centre”; and
- 15 (b) by deleting subsection (4) and substituting the following subsection:

20 “(4) If, after considering the result of any such inquiry, the Magistrate is satisfied that any person who is detained in an approved institution or a community rehabilitation centre ought not to be so detained, the Magistrate may make an order for the discharge of that person from the approved institution or community rehabilitation centre and that person shall be discharged accordingly.”.

25 **Repeal and re-enactment of section 40**

21. Section 40 of the principal Act is repealed and the following section substituted therefor:

“Inmates deemed to be in legal custody

30 **40.—**(1) Every inmate shall be deemed to be in the legal custody of the approved institution or community rehabilitation centre in which he is for the time being detained.

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

- (a) while he is confined in, or is being taken to or from, an approved institution or a community rehabilitation centre;
- 5 (b) while he is for any other reason outside an approved institution or a community rehabilitation centre and in the custody or under the control of an officer of the approved institution or community rehabilitation centre; or
- 10 (c) while he is being taken to any place to which he is required or authorised under this Act to be taken, or is kept in custody in pursuance of any such requirement or authorisation.”.

Amendment of section 58

22. Section 58(1) of the principal Act is amended —

- 15 (a) by inserting, immediately after the words “approved institutions” in paragraph (m), the words “or community rehabilitation centres”;
- (b) by inserting, immediately after the words “an approved institution” in paragraph (o), the words “or a community rehabilitation centre”; and
- 20 (c) by inserting, immediately after the words “approved institutions” in paragraph (p), the words “or community rehabilitation centres”.

New section 58A

25 **23.** The principal Act is amended by inserting, immediately after section 58, the following section:

“Specifying drugs as temporarily listed drugs in Fifth Schedule

30 **58A.**—(1) The Minister may, by order published in the *Gazette*, amend the Fifth Schedule by specifying any drug as a temporarily listed drug in that Schedule if that drug is not specified in Part I, II or III of the First Schedule.

(2) Any drug specified in the Fifth Schedule on the date of commencement of section 23 of the Misuse of Drugs (Amendment) Act 2012, or any additional drug specified under subsection (1) as a temporarily listed drug, shall be deleted from the Fifth Schedule —

(a) at the expiry of a period of 12 months commencing from the date the drug is so specified (referred to in this section as the initial period); or

(b) at the expiry of a period of 24 months commencing from the date the drug is so specified, if before the expiry of the initial period, the Minister states, by notification published in the *Gazette*, that the drug shall remain a temporarily listed drug for a further period.

(3) Before the expiry of the period referred to in subsection (2)(a) or (b), the Minister may amend the Fifth Schedule by deleting any drug specified in that Schedule.”.

Amendment of First Schedule

24. The First Schedule to the principal Act is amended by deleting the Schedule reference and substituting the following Schedule reference:

“Sections 2 and 58A”.

Amendment of Second Schedule

25. The Second Schedule to the principal Act is amended —

(a) by deleting the Schedule reference and substituting the following Schedule reference:

“Sections 2, 33 and 33B”;

(b) by inserting, immediately after the entries relating to section 11, the following entries:

“	12A	Causing or procuring young person or vulnerable person to commit certain offences	Maximum 30 years and 15 strokes Minimum 10 years and 10 strokes	Maximum 30 years and 15 strokes Minimum 6 years and 6 strokes	Maximum 20 years and 15 strokes Minimum 4 years and 4 strokes	—	—
---	-----	---	--	--	--	---	---

”; and

(c) by inserting, immediately after the entries relating to section 31(2), the following entries:

“	31A(2)	Failure to provide specimens of hair for hair testing	—	—	—	—	Maximum 2 years or \$5,000 or both
---	--------	---	---	---	---	---	------------------------------------

”.

New Fifth Schedule

26. The principal Act is amended by inserting, immediately after the Fourth Schedule, the following Schedule:

“FIFTH SCHEDULE

5

Sections 24, 26, 27, 32 and 58A

TEMPORARILY LISTED DRUGS

1. Any compound containing a 3-(1-naphthoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, halo alkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

- {1-[(1-Methylpiperidin-2-yl)methyl]-1H-indol-3-yl}(naphthalen-1-yl)methanone, also known as AM-1220
- [1-(5-Fluoropent-1-yl)-6-nitro-1H-indol-3-yl](naphthalen-1-yl)methanone, also known as AM-1235
- [1-(5-Fluoropent-1-yl)-1H-indol-3-yl](naphthalen-1-yl)methanone, also known as AM-2201
- [1-(Heptan-2-yl)-2-methyl-1H-indol-3-yl](naphthalen-1-yl)methanone, also known as JWH-011
- (2-Methyl-1-propyl-1H-indol-3-yl)(naphthalen-1-yl)methanone, also known as JWH-015
- Naphthalen-1-yl(1-pentyl-1H-indol-3-yl)methanone, also known as JWH-018
- (1-Hexyl-1H-indol-3-yl)(naphthalen-1-yl)methanone, also known as JWH-019
- Naphthalen-1-yl[1-(pent-4-en-1-yl)-1H-indol-3-yl]methanone, also known as JWH-022
- (1-Butyl-1H-indol-3-yl)(naphthalen-1-yl)methanone, also known as JWH-073

(4-Methoxynaphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone, also known as JWH-081

(4-Methylnaphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone, also known as JWH-122

5 {1-[2-(Morpholin-4-yl)ethyl]-1H-indol-3-yl}(naphthalen-1-yl)methanone, also known as JWH-200

(4-Ethyl-naphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone, also known as JWH-210

10 (4-Chloronaphthalen-1-yl)(1-pentyl-1H-indol-3-yl)methanone, also known as JWH-398

[1-(5-Fluoropent-1-yl)-1H-indol-3-yl](4-methylnaphthalen-1-yl)methanone, also known as MAM-2201

2. Any compound containing a 3-(1-naphthylmethyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups, whether or not further substituted in the indole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

3-(Naphthalen-1-ylmethyl)-1-pentyl-1H-indole, also known as JWH-175

25 3-[(4-Methylnaphthalen-1-yl)methyl]-1-pentyl-1H-indole, also known as JWH-184

3. Any compound containing a 3-(1-naphthoyl)pyrrole structure with substitution at the nitrogen atom of the pyrrole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups, whether or not further substituted in the pyrrole ring to any extent and whether or not substituted in the naphthyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

Naphthalen-1-yl(1-pentyl-1H-pyrrol-3-yl)methanone, also known as JWH-030

40 (1-Hexyl-1H-pyrrol-3-yl)(naphthalen-1-yl)methanone, also known as JWH-031

Naphthalen-1-yl(1-pentyl-5-phenyl-1H-pyrrol-3-yl)methanone, also known as JWH-145

(1-Hexyl-5-phenyl-1H-pyrrol-3-yl)(naphthalen-1-yl)methanone, also known as JWH-147

5 [5-(2-Fluorophenyl)-1-pentyl-1H-pyrrol-3-yl](naphthalen-1-yl)methanone, also known as JWH-307

Naphthalen-1-yl[5-(naphthalen-1-yl)-1-pentyl-1H-pyrrol-3-yl]methanone, also known as JWH-309

10 [5-(3-Fluorophenyl)-1-pentyl-1H-pyrrol-3-yl](naphthalen-1-yl)methanone, also known as JWH-368

[5-(2-Chlorophenyl)-1-pentyl-1H-pyrrol-3-yl](naphthalen-1-yl)methanone, also known as JWH-369

[5-(2-Methylphenyl)-1-pentyl-1H-pyrrol-3-yl](naphthalen-1-yl)methanone, also known as JWH-370

15 4. Any compound containing a naphthylideneindene structure with substitution at the 3-position of the indene ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups,
20 whether or not further substituted in the indene ring to any extent and whether or not substituted in the naphthyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

25 E-1-[1-(1-Naphthalenylmethylene)-1H-inden-3-yl]pentane, also known as JWH-176

5. Any compound containing a 3-phenylacetylindole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups,
30 whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:
35

2-(2-Methoxyphenyl)-1-{1-[(1-methylpiperidin-2-yl)methyl]-1H-indol-3-yl}ethanone, also known as cannabipiperidiethanone

40 2-(4-Methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, also known as JWH-201

2-(2-Chlorophenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, also known as JWH-203

2-(2-Methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, also known as JWH-250

5 2-(2-Methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, also known as JWH-251

2-(3-Methoxyphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone, also known as JWH-302

10 1-[1-(2-Cyclohexylethyl)-1H-indol-3-yl]-2-(2-methoxyphenyl)ethanone, also known as RCS-8

6. Any compound containing a 2-(3-hydroxycyclohexyl)phenol structure with substitution at the 5-position of the phenolic ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups, whether or not substituted in the cyclohexyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

20 2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-yl)phenol, also known as CP47,497

2-[5-Hydroxy-2-(3-hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol, also known as CP55,940

25 7. Any compound containing a 3-(benzoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of the above compounds containing hydroxy and/or carboxylic acid groups, whether or not further substituted in the indole ring to any extent and whether or not substituted in the phenyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

35 [1-(5-Fluoropentyl)-1H-indol-3-yl](2-iodophenyl)methanone, also known as AM-694

(2-Iodo-5-nitrophenyl){1-[(1-methylpiperidin-2-yl)methyl]-1H-indol-3-yl}methanone, also known as AM-1241

(2-Iodophenyl){1-[(1-methylpiperidin-2-yl)methyl]-1H-indol-3-yl}methanone, also known as AM-2233

(4-Methoxyphenyl){2-methyl-1-[2-(morpholin-4-yl)ethyl]-1H-indol-3-yl}methanone, also known as pravadoline

(4-Methoxyphenyl)(1-pentyl-1H-indol-3-yl)methanone, also known as RCS-4

- 5 8. Any compound containing a 3-(1-adamantoyl)indole structure with substitution at the nitrogen atom of the indole ring by an alkyl, haloalkyl, alkenyl, cycloalkylmethyl, cycloalkylethyl, 1-(N-methyl-2-piperidinyl)methyl or 2-(4-morpholinyl)ethyl group, and any derivatives of
10 the above compounds containing hydroxy and/or carboxylic acid groups, whether or not further substituted in the indole ring to any extent and whether or not substituted in the adamantyl ring to any extent, including any salt or stereoisomeric form of the above compounds or derivatives, and any preparation or product containing the above compounds or derivatives, for example:

15 Adamantan-1-yl{1-[(1-methylpiperidin-2-yl)methyl]-1H-indol-3-yl}methanone, also known as AM-1248

Adamantan-1-yl(1-pentyl-1H-indol-3-yl)methanone, also known as AB-001

- 20 9. Any compound, other than bupropion, methcathinone and 4-methylmethcathinone, that is structurally derived from 2-amino-1-phenylpropan-1-one by modification in any of the following ways:

- 25 (a) substitution in the phenyl ring to any extent with alkyl, alkoxy, alkylendioxy, haloalkyl, or halide substituents, whether or not further substituted in the phenyl ring by one or more other univalent substituents;
- (b) substitution at the 3-position with an alkyl substituent; or
- (c) substitution at the nitrogen atom with alkyl or dialkyl, benzyl or methoxybenzyl groups, or by inclusion of the nitrogen atom in a cyclic structure,

- 30 including any salt or stereoisomeric form of the above compounds, and any preparation or product containing the above compounds, for example:

2-(Dimethylamino)-1-phenylpropan-1-one, also known as metamfepramone or dimethylcathinone

1-(Fluorophenyl)-2-(methylamino)propan-1-one

35 2-(Methylamino)-1-phenylbutan-1-one, also known as buphedrone

1-(1,3-Benzodioxol-5-yl)-2-(methylamino)butan-1-one, also known as butylone

2-(Ethylamino)-1-phenylpropan-1-one, also known as ethcathinone

- 1-(1,3-Benzodioxol-5-yl)-2-(ethylamino)propan-1-one, also known as ethylone
- 1-(4-Methoxyphenyl)-2-(methylamino)propan-1-one, also known as methedrone
- 5 2-(Ethylamino)-1-(4-methylphenyl)propan-1-one, also known as 4-methylethcathinone
- 1-(1,3-Benzodioxol-5-yl)-2-(methylamino)propan-1-one, also known as methylone or 3,4-methylenedioxy-N-methylcathinone
- 10 1-(1,3-Benzodioxol-5-yl)-2-(pyrrolidin-1-yl)pentan-1-one, also known as 3,4-methylenedioxypropylone or MDPV
- 1-(1,3-Benzodioxol-5-yl)-2-(pyrrolidin-1-yl)butan-1-one, also known as MDPBP
- 1-(1,3-Benzodioxol-5-yl)-2-(pyrrolidin-1-yl)propan-1-one, also known as MDPPP
- 15 1-(4-Methylphenyl)-2-(pyrrolidin-1-yl)butan-1-one, also known as MPBP
- 1-(4-Methoxyphenyl)-2-(pyrrolidin-1-yl)propan-1-one, also known as MOPPP
- 2-(Methylamino)-1-phenylpentan-1-one, also known as pentedrone
- 20 1-(1,3-Benzodioxol-5-yl)-2-(methylamino)pentan-1-one, also known as pentylone
- 1-Phenyl-2-(pyrrolidin-1-yl)butan-1-one, also known as α -PBP
- 1-Phenyl-2-(pyrrolidin-1-yl)propan-1-one, also known as α -PPP
- 1-Phenyl-2-(pyrrolidin-1-yl)pentan-1-one, also known as α -PVP
- 25 1-(4-Methylphenyl)-2-(pyrrolidin-1-yl)pentan-1-one, also known as pyrovalerone
10. Any compound that is structurally derived from 2-aminopropan-1-one by substitution at the 1-position with any monocyclic, or fused-polycyclic ring system (not being a phenyl ring or alkylenedioxyphenyl ring system), whether or not the compound is further modified in any of the following ways:
- 30 (a) substitution in the ring system to any extent with alkyl, alkoxy, haloalkyl, or halide substituents, whether or not further substituted in the ring system by one or more other univalent substituents;
- 35 (b) substitution at the 3-position with an alkyl substituent; or

- (c) substitution at the 2-amino nitrogen atom with alkyl or dialkyl groups, or by inclusion of the 2-amino nitrogen atom in a cyclic structure,

including any salt or stereoisomeric form of the above compounds, and any preparation or product containing the above compounds, for example:

1-(Naphthalen-2-yl)-2-(pyrrolidin-1-yl)pentan-1-one, also known as naphyrone or naphthylpyrovalerone

11. The following compounds, including any salt or stereoisomeric form of such compounds, and any preparation or product containing such compounds:

2,3-Dihydro-1H-inden-2-amine, also known as 2-Aminoindane

2,3-Dihydro-5-iodo-1H-inden-2-amine, also known as 5-Iodo-2-aminoindane or 5-IAI

6,7-Dihydro-5H-indeno[5,6-d][1,3]dioxol-6-amine, also known as 5,6-(methylenedioxy)-2-aminoindane or MDAI

5-(2-Aminopropyl)benzofuran, also known as 5-APB

6-(2-Aminopropyl)benzofuran, also known as 6-APB or BenzoFury

5-(2-Aminopropyl)-2,3-dihydrobenzofuran, also known as 5-APDB

6-(2-Aminopropyl)-2,3-dihydrobenzofuran, also known as 6-APDB

1-(Fluorophenyl)propan-2-amine

N-Methyl-1-(fluorophenyl)propan-2-amine

N-Methyl-1-(methylphenyl)propan-2-amine

N-Methyl-1-(methoxyphenyl)propan-2-amine

1-(4-Methylbenzo-1,3-dioxol-6-yl)propan-2-amine, also known as 5-methyl-MDA or 5-methyl-3,4-methylenedioxyamphetamine

N,N-Dimethyl-1-phenylpropan-2-amine, also known as N,N-dimethylamphetamine

[2,3-Dihydro-5-methyl-3-(morpholin-4-ylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl](naphthalen-1-yl)methanone

6,6-Dimethyl-3-(2-methyloctan-2-yl)-6a,7,8,9,10,10a-hexahydro-6H-benzo[c]chromen-1,9-diol

[9-Hydroxy-6-methyl-3-(5-phenylpentan-2-yl)oxy-5,6,6a,7,8,9,10,10a-octahydrophenanthridin-1-yl]acetate

9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-6a,7,10,10a-tetrahydro-6H-benzo[c]chromen-1-ol

- 1-Hydroxy-6,6-dimethyl-3-(2-methyloctan-2-yl)-6,6a,7,8,10,10a-hexahydro-9H-benzo[c]chromen-9-one
- {4-[2,6-Dimethoxy-4-(2-methyloctan-2-yl)phenyl]-6,6-dimethyl-bicyclo[3.1.1]hept-2-en-2-yl}methanol, also known as HU-308
- 5 3-Hydroxy-2-[3-methyl-6-(2-propenyl)-cyclohex-2-en-1-yl]-5-pentyl-1,4-benzoquinone
- 5-[3-(1-Naphthoyl)-1H-indol-1-yl]pentanenitrile, also known as AM-2232
- (1-Pentyl-1H-indol-3-yl)(2,2,3,3-tetramethylcyclopropyl)methanone, also known as UR-144
- 10 [1-(5-Fluoropent-1-yl)-1H-indol-3-yl](2,2,3,3-tetramethylcyclopropyl)methanone, also known as XLR-11 or 5-fluoro UR-144
- N-(1-Adamantyl)-1-pentyl-1H-indole-3-carboxamide, also known as APICA
- 15 N-(1-Adamantyl)-1-pentyl-1H-indazole-3-carboxamide, also known as APINACA
- Naphthalen-1-yl(4-pentyloxynaphthalen-1-yl)methanone, also known as CB-13
- 20 Salvinorin A
- Mitragynine
- 7-Hydroxymitragynine
- 16-Carboxymitragynine
- 17-O-Desmethyl-16,17-dihydromitragynine
- 25 9-O-Desmethylmitragynine
- 17-Carboxy-16,17-dihydromitragynine
- 2-Diphenylmethylpiperidine, also known as desoxypipradol
- Diphenyl(pyrrolidin-2-yl)methanol, also known as diphenylprolinol
- N-Methyl-1-(thiophen-2-yl)propan-2-amine, also known as methiopropamine
- 30 2-(3-Methoxyphenyl)-2-(N-ethylamino)cyclohexanone, also known as methoxetamine
- (N-Methyl-4-phenylpiperidin-4-yl)propanoate, also known as desmethylprodine
- 35 4-(Fluorophenyl)piperazine.”.

Savings and transitional provisions

27.—(1) Where, on or after the appointed day, a person is convicted of a relevant offence committed before that day, he may be sentenced in accordance with section 33B of the principal Act if the court determines that the requirements referred to in that section are satisfied.

(2) Where before the appointed day, a person is convicted of a relevant offence but is not yet sentenced, he may be sentenced in accordance with section 33B of the principal Act if the court determines that the requirements referred to in that section are satisfied after hearing any further arguments or admitting any further evidence.

(3) Where before the appointed day, a person is convicted of and sentenced for a relevant offence and the time to lodge a notice of appeal as prescribed in Division 1 of Part XX of the Criminal Procedure Code (Cap. 68) is still current on the appointed day, the following provisions shall apply:

(a) the person may not lodge an appeal against his conviction until after the High Court has affirmed the sentence of death imposed on him or re-sentenced him in accordance with paragraph (b);

(b) the High Court shall, on the application of the person so convicted, determine whether the requirements referred to in section 33B of the principal Act are satisfied after hearing any further arguments or admitting any further evidence, and —

(i) if the requirements referred to in section 33B of the principal Act are not satisfied, the High Court shall affirm the sentence of death imposed on the person; or

(ii) if the requirements referred to in section 33B of the principal Act are satisfied, the High Court shall re-sentence the person in accordance with that section;

- (c) the decision of the High Court in paragraph (b) shall be deemed to be made in its original jurisdiction and an appeal may lie from such decision;
- 5 (d) the provisions of Division 1 of Part XX of the Criminal Procedure Code relating to appeals shall apply to any appeal against the judgment, sentence or order of the High Court for the offence with which the person has been charged with the modification that any appeal must be lodged by the appellant with the Registrar of the Supreme Court within
10 14 days after the date of the affirmation of the sentence or the re-sentencing by the High Court;
- (e) if the High Court affirms the sentence of death imposed on the person or re-sentences the person to death, the execution of the sentence of death must not be carried out until after
15 the sentence is confirmed by the Court of Appeal pursuant to an appeal by the person or a petition for confirmation lodged by the Public Prosecutor; and
- (f) section 313 of the Criminal Procedure Code shall apply in
20 relation to any affirmation of the sentence of death or re-sentencing of a person to death as if the affirmation or re-sentencing were a sentence pronounced by the trial Judge.
- (4) Where on the appointed day, a person has been convicted of
25 and sentenced for a relevant offence and the appeal which has been lodged in relation to that conviction is not yet heard, the following provisions shall apply:
- (a) the appeal by the person against his conviction shall be deemed to be withdrawn;
- (b) the High Court shall, on the application of the person so
30 convicted, determine whether the requirements referred to in section 33B of the principal Act are satisfied after hearing any further arguments or admitting any further evidence, and —
- (i) if the requirements referred to in section 33B of the
35 principal Act are not satisfied, the High Court shall

affirm the sentence of death imposed on the person;
or

- 5 (ii) if the requirements referred to in section 33B of the principal Act are satisfied, the High Court shall re-sentence the person in accordance with that section;
- (c) the decision of the High Court in paragraph (b) shall be deemed to be made in its original jurisdiction and an appeal may lie from such decision;
- 10 (d) the provisions of Division 1 of Part XX of the Criminal Procedure Code relating to appeals shall apply to any appeal against the judgment, sentence or order of the High Court for the offence with which the person has been charged with the modification that any appeal must be lodged by the appellant with the Registrar of the Supreme Court within
15 14 days after the date of the affirmation of the sentence or the re-sentencing by the High Court;
- (e) if the High Court affirms the sentence of death imposed on the person or re-sentences the person to death, the execution
20 of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the person or a petition for confirmation lodged by the Public Prosecutor; and
- (f) section 313 of the Criminal Procedure Code shall apply in
25 relation to any affirmation of the sentence of death or re-sentencing of a person to death as if the affirmation or re-sentencing were a sentence pronounced by the trial Judge.
- (5) Where on the appointed day, a person has been convicted of
30 and sentenced for a relevant offence and the appeal which has been lodged in relation to that conviction has been heard but is not yet determined, the following provisions shall apply:
- (a) the Court of Appeal shall proceed to determine the appeal;

- (b) if the Court of Appeal upholds the person's conviction, the person may apply to the High Court to be re-sentenced in accordance with section 33B of the principal Act;
- (c) the High Court shall determine whether the requirements referred to in section 33B of the principal Act are satisfied after hearing any further arguments or admitting any further evidence, and —
- (i) if the requirements referred to in section 33B of the principal Act are not satisfied, affirm the sentence of death imposed on the person; or
- (ii) if the requirements referred to in section 33B of the principal Act are satisfied, re-sentence the person in accordance with that section;
- (d) the decision of the High Court in paragraph (c) shall be deemed to be made in its original jurisdiction and an appeal may lie from such decision;
- (e) the provisions of Division 1 of Part XX of the Criminal Procedure Code relating to appeals shall apply to any appeal against the decision of the High Court under paragraph (c) with the modification that any appeal must be lodged by the appellant with the Registrar of the Supreme Court within 14 days after the date of the affirmation of the sentence or the re-sentencing by the High Court;
- (f) if the High Court affirms the sentence of death or re-sentences the person to death, the execution of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an appeal by the person or a petition for confirmation lodged by the Public Prosecutor; and
- (g) section 313 of the Criminal Procedure Code shall apply in relation to any affirmation of the sentence of death or re-sentencing of a person to death as if the affirmation or re-sentencing were a sentence pronounced by the trial Judge.

(6) Where on the appointed day, the Court of Appeal has dismissed an appeal brought by a person for a relevant offence, the following provisions shall apply:

- 5 (a) the person may apply to the High Court to be re-sentenced in accordance with section 33B of the principal Act;
- (b) the High Court shall determine whether the requirements referred to in section 33B of the principal Act are satisfied after hearing any further arguments or admitting any further evidence, and —
- 10 (i) if the requirements referred to in section 33B of the principal Act are not satisfied, affirm the sentence of death imposed on the person; or
- (ii) if the requirements referred to in section 33B of the principal Act are satisfied, re-sentence the person in
- 15 accordance with that section;
- (c) the decision of the High Court in paragraph (b) shall be deemed to be made in its original jurisdiction and an appeal may lie from such decision;
- (d) the provisions of Division 1 of Part XX of the Criminal
- 20 Procedure Code relating to appeals shall apply to any appeal against the decision of the High Court under paragraph (b) with the modification that any appeal must be lodged by the appellant with the Registrar of the Supreme Court within
- 14 days after the date of the affirmation of the sentence or
- 25 the re-sentencing by the High Court;
- (e) if the High Court affirms the sentence of death or re-sentences the person to death, the execution of the sentence of death must not be carried out until after the sentence is confirmed by the Court of Appeal pursuant to an
- 30 appeal by the person or a petition for confirmation lodged by the Public Prosecutor; and
- (f) section 313 of the Criminal Procedure Code shall apply in relation to any affirmation of the sentence of death or re-sentencing of a person to death as if the affirmation or

re-sentencing were a sentence pronounced by the trial Judge.

(7) If any Judge of the High Court, having heard the trial relating to a relevant offence, is unable for any reason to sentence, affirm the sentence or re-sentence a person under subsection (2), (3), (4), (5) or (6), as the case may be, any other Judge of the High Court may do so.

(8) The Minister may, in relation to any provision of this Act, for a period of 2 years after the date of commencement of that provision, prescribe by regulations published in the *Gazette* such provisions of a savings or transitional nature consequent on the enactment of that provision as he considers necessary or expedient.

(9) In this section —

“appointed day” means the date of commencement of this section;

“relevant offence” means an offence under section 5(1) or 7 of the principal Act, or an attempt to commit an offence under section 5(1) or 7 of the principal Act, and which offence is punishable by death under the sixth column of the Second Schedule to the principal Act.

Related amendment to Criminal Procedure Code

28. Section 258(3) of the Criminal Procedure Code (Cap. 68, 2012 Ed.) is amended by inserting, immediately after paragraph (a) of Explanation 2, the following paragraph:

“(aa) where the accused is informed in writing by a person in authority of the circumstances in section 33B of the Misuse of Drugs Act (Cap. 185) under which life imprisonment may be imposed in lieu of death;”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Misuse of Drugs Act (Cap. 185) for the following main purposes:

- (a) to empower the courts, provided that certain requirements are met, to impose a life sentence instead of the death sentence;
- (b) to allow for the temporary listing of new psychoactive substances and to empower the Central Narcotics Bureau (the Bureau) to seize such substances;
- (c) to introduce hair analysis as a supplementary tool to enhance detection of drug consumption and to empower law enforcement officers to procure specimens of hair;
- (d) to strengthen the current punishment regime by enhancing the punishment for repeat drug traffickers and drug traffickers who target young persons or vulnerable persons;
- (e) to provide for the offence of arranging or planning gatherings where controlled drugs are, or are to be, consumed or trafficked;
- (f) to provide for the offence of causing or procuring a young person or a vulnerable person to commit certain offences; and
- (g) to create a regime whereby drug abusers may be detained in a community rehabilitation centre and to provide for matters connected therewith.

The Bill also makes a related amendment to the Criminal Procedure Code (Cap. 68).

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by inserting new definitions of terms and expressions used in the Bill.

Clause 3 amends section 3 by empowering any Deputy Director, or Divisional Director of the Bureau duly authorised by the Director of the Bureau (the Director), to exercise and discharge the powers, functions and duties of the Director. The Director may also issue General Orders not inconsistent with the provisions of the Act.

Clause 4 inserts a new section 11A. It is an offence for any person who arranges or plans any gathering (comprising 2 or more persons) with the knowledge that any controlled drug is, or is to be, consumed or trafficked at the gathering. The gathering must take place before the offence is constituted. For example, if a person sends out an invite (whether by electronic mail or by any other means) to one or more persons to meet at a place to consume controlled drugs, an offence under new section 11A will be constituted as long as the

gathering takes place and the person who arranges or plans the gathering has knowledge that controlled drugs will be consumed at the gathering. The actual drug consumption may not yet have taken place. It is also irrelevant whether that person who arranges or plans the gathering actually supplied the controlled drugs to be consumed at the gathering.

Clause 5 inserts a new section 12A. It is an offence for any person of or above the age of 21 years to cause or procure any young person or vulnerable person to commit an offence under section 5(1) or 7.

Clause 6 amends section 13 by making it an offence for any person to aid, abet, counsel or procure the commission of any offence under the Act within Singapore, notwithstanding that all or any of the acts constituting the aiding, abetment, counselling or procurement were done outside Singapore.

Clause 7 amends section 24 by conferring on certain law enforcement officers the powers of entry and search of any place if they reasonably suspect that there is to be found any drug specified in the Fifth Schedule or any substance containing any such drug. Such drug or substance may be seized. However, if the use of any drug specified in the Fifth Schedule or any substance containing such drug at the place searched is authorised by the Director, any such drug or substance, which may be found as a result of any search, will not be liable to seizure.

Clause 8 amends section 26 by conferring on certain law enforcement officers the powers to stop, board and search any conveyance if they have reason to suspect that the conveyance contains any drug specified in the Fifth Schedule or any substance containing any such drug. Such drug or substance may be seized. However, if the use of any drug specified in the Fifth Schedule or any substance containing such drug on board the conveyance searched or by any person searched is authorised by the Director, any such drug or substance, which may be found as a result of any search, will not be liable to seizure.

Clause 9 amends section 27 by providing that any drug specified in the Fifth Schedule or any substance containing such drug is deemed to be forfeited at the expiration of one month from the date of the seizure unless a claim has been made before that date.

Clause 10 amends section 31 to empower certain law enforcement officers to discard the remaining 2 parts of a urine specimen collected from a person if the preliminary urine test shows that one part of the same urine specimen has tested negative for controlled drugs. Before the amendment, the remaining 2 parts of a urine specimen collected from a person must be marked and sealed and sent to the Health Sciences Authority for analysis. With this amendment, the law enforcement officers will have the discretion to discard the remaining 2 parts of the urine specimen collected. Alternatively, even though the preliminary test is negative, the law enforcement officers may choose to still send the remaining 2 parts of the urine specimen to the Health Sciences Authority for analysis. The

certificate stating the result of the urine test may be signed by an analyst or appointed person notwithstanding that the analyst or appointed person did not personally conduct the test to analyse the urine specimen as long as the test was conducted by any person acting under the direction of the analyst or appointed person. The urine specimen may be collected from a person at different times if the urine specimen collected on the first occasion is insufficient.

Clause 11 inserts a new section 31A relating to hair tests. A law enforcement officer, that is, an officer of the Bureau, immigration officer or police officer not below the rank of sergeant, may require a person (whom the officer reasonably suspects to have committed a consumption offence under the Act) to provide specimens of his hair for a hair test to be conducted. It is an offence for a person who fails, without reasonable excuse, to provide specimens of his hair of such type and quantity as may be required by a law enforcement officer. The certificate stating the result of the hair test may be signed by an analyst or appointed person notwithstanding that the analyst or appointed person did not personally conduct the hair test to analyse the specimens of hair as long as the test was conducted by any person acting under the direction of the analyst or appointed person.

Clause 12 amends section 32 by conferring certain powers on an officer of the Bureau when exercising his search powers under section 24 or 26. The officer of the Bureau may examine orally any person found within the place searched and section 22 of the Criminal Procedure Code relating to the recording of statements will apply.

Clause 13 amends section 33 by providing enhanced punishments for a person who commits a subsequent offence under section 5(1) or 7 or who targets young persons or vulnerable persons in relation to certain offences. The new section 33(4D) provides that if an offence may be punished in accordance with the sixth column of the Second Schedule (which provides for the heavier punishments as compared to the punishments under new section 33(4A) or (4B)), the heavier punishments will apply and not the punishments provided in section 33(4A) or (4B).

Clause 14 inserts a new section 33B to empower the court to impose a life sentence instead of the death sentence in certain circumstances. The mandatory death penalty for drug trafficking will not apply under certain specific conditions.

First, the offender must prove, on a balance of probabilities, that his role in the offence under section 5(1) or 7 is limited to that of a courier (i.e., someone who transports, sends or delivers a controlled drug; or who offers to transport, send or deliver a controlled drug; or who does or offers to do any act preparatory to or for the purpose of transporting, sending or delivering a controlled drug by him).

Secondly, in order for the mandatory death penalty not to apply, either the Public Prosecutor must have certified that the person has substantively assisted the Bureau in disrupting drug trafficking activities within or outside Singapore, or the person must prove, on a balance of probabilities, that he is suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in relation to the offence under section 5(1) or 7.

Substantive assistance to the Bureau in disrupting drug trafficking activities may include, for example, the provision of information leading to the arrest or detention or prosecution of any person involved in any drug trafficking activity. Any information which does not enhance the effective enforcement of the provisions of the Act will not suffice.

The issue of the certificate will be determined by the Public Prosecutor in his sole discretion. No action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

Clause 15 amends section 34 by empowering the Director to make a supervision order requiring a person to be subject to the supervision of an officer of the Bureau for a period not exceeding 2 years if the hair test shows that the person had consumed drugs. The clause further makes some other consequential amendments relating to the combined period of detention in approved institutions and community rehabilitation centres, as well as the extension of the detention period and the period of supervision.

Clause 16 repeals and re-enacts section 35 by empowering the Minister to declare any institution or place to be an approved institution or a community rehabilitation centre.

Clause 17 inserts a new section 36A relating to the administration of community rehabilitation centres.

Clause 18 amends section 37 by empowering the Minister to appoint a Review Committee for any community rehabilitation centre.

Clause 19 repeals and re-enacts section 38 which relates to the review, discharge and transfer of inmates.

Clause 20 amends section 39 by empowering the Magistrate to inquire into any complaint by any person that he is improperly detained in an approved institution or a community rehabilitation centre by reason of any misconduct or breach of duty on the part of any officer in the discharge of his functions under the Act.

Clause 21 repeals and re-enacts section 40 by deeming an inmate to be in the legal custody of the approved institution or community rehabilitation centre in which he is detained. An inmate is deemed to be in legal custody while confined

in, or while being taken to or from an approved institution or a community rehabilitation centre. An inmate is also deemed to be in legal custody while he is outside an approved institution or a community rehabilitation centre in the custody or under the control of an officer of an approved institution or a community rehabilitation centre.

Clause 22 amends section 58 by empowering the Minister to make regulations in relation to community rehabilitation centres which include the management, maintenance, inspection, etc., of community rehabilitation centres.

Clause 23 inserts a new section 58A by allowing the Minister to specify any drug as a temporarily listed drug in the Fifth Schedule if the drug is not listed in Part I, II or III of the First Schedule.

Clause 24 inserts a technical amendment to the Schedule reference of the First Schedule.

Clause 25 amends the Second Schedule by making a technical amendment to the Schedule reference of the Second Schedule and by inserting the punishments for the new offences.

Clause 26 inserts a new Fifth Schedule.

Clause 27 relates to the savings and transitional provisions. A person who had already been convicted of a relevant offence (an offence under section 5(1) or 7 or an attempt to commit an offence under section 5(1) or 7), regardless of whether he had appealed against his conviction, or whether the Court of Appeal had determined the appeal, may avail himself to the new regime under new section 33B.

Clause 28 makes a related amendment to the Criminal Procedure Code (Cap. 68). If a statement is recorded from an accused who has been informed in writing by a person in authority of the circumstances in section 33B of the Misuse of Drugs Act under which life imprisonment may be imposed in lieu of death, such statement (if otherwise admissible) will not be rendered inadmissible merely because the accused was so informed.

EXPENDITURE OF PUBLIC MONEY

This Bill will involve the Government in extra financial expenditure, the exact amount of which cannot at present be ascertained.
