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UNITED NATIONS



NATIONS UNIES

VIENNA INTERNATIONAL CENTRE

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TELEPHONE: 26 310 TELEGRAPHIC ADDRESS: UNATIONS VIENNA TELEX: 135612

REFERENCE: NAR/CL.9/1986  
DND 411/1(2) WHO/ECDD 24

The Secretary-General of the United Nations presents his compliments to the Secretary of State of the United States of America and has the honour to inform the Government that pursuant to article 2, paragraph 1, of the Convention on Psychotropic Substances, the Government of the United States of America has informed him that it is of the opinion that 5-allyl-5-(1-methylbutyl) barbituric acid (hereinafter referred to as secobarbital), which is presently in Schedule III of the Convention, should be transferred from that schedule to Schedule II of the same Convention.

In accordance with the provisions of article 2, paragraph 2, of the ..... Convention, the Secretary-General hereby transmits the notification in question as annex I to the present note. The information submitted by the Government of the United States in support of that notification is reproduced as annex II.

The present notification has also been transmitted to the World Health Organization pursuant to article 2, paragraph 2, of the Convention, for consideration by the 24th WHO Expert Committee on Drug Dependence which is expected to examine this proposed amendment in April 1987. Under the new review procedures adopted by WHO, the WHO Expert Committee on Drug Dependence is responsible for making scheduling recommendations to the Director-General of WHO.

Any recommendation made by the World Health Organization will be brought to the attention of the Commission on Narcotic Drugs. Any action or decision taken by the Commission with respect to this notification, pursuant to article 2, paragraphs 5 and 6, of the Convention, will be notified to States Parties in due course. Article 2, paragraphs 5 and 6, read as follows:



"5. The Commission, taking into account the communication from the World Health Organization, whose assessments shall be determinative as to medical and scientific matters, and bearing in mind the economic, social, legal, administrative and other factors it may consider relevant, may add the substance to Schedule I, II, III or IV. The Commission may seek further information from the World Health Organization or from other appropriate sources.

6. If a notification under paragraph 1 relates to a substance already listed in one of the Schedules, the World Health Organization shall communicate to the Commission its new findings, any new assessment of the substance it may make in accordance with paragraph 4 and any new recommendations on control measures it may find appropriate in the light of that assessment. The Commission, taking into account the communication from the World Health Organization as under paragraph 5 and bearing in mind the factors referred to in that paragraph, may decide to transfer the substance from one Schedule to another or to delete it from the Schedules."

In order to assist WHO in the examination of this proposal, WHO would be greatly helped in its task if it had available certain additional data concerning secobarbital. In this connection the Secretary-General would appreciate it if the Government would submit data on secobarbital following the ..... outline contained in the questionnaire attached to the present note as annex III.

In view of the fact that data provided by Governments will be used by WHO in the preparation of a review document in October 1986, it would be very much appreciated if any comments which the Government may wish to make with respect to the proposed amendment could be sent to the Secretary-General at the very earliest possible date. Replies should be addressed to the attention of the Director of the Division of Narcotic Drugs, Vienna International Centre, P.O.Box 500, A-1400 Vienna.

15 August 1986

TMS

ANNEX I

MODEL FORM OF A NOTIFICATION UNDER ARTICLE 2, PARAGRAPH 1,  
OF THE 1971 CONVENTION ON PSYCHOTROPIC SUBSTANCES

Subject: Transfer of a substance from one Schedule to another  
Schedule annexed to the Convention

The Government of the United States of America, being a Party to the 1971 Convention on Psychotropic Substances, refers to the following substance which is at present listed in Schedule III of the 1971 Convention on Psychotropic Substances:

Secobarbital

The Government has information relating to the above substance which, in the Government's opinion, may require the transfer of that substance from the Schedule in which it is at present listed to Schedule II.

The Government of the United States of America transmits this notification to the Secretary-General of the United Nations, in accordance with paragraph 1 of article 2 of the 1971 Convention on Psychotropic Substances, in order to initiate the procedure provided for under that article.

The relevant information in support of this notification is annexed hereto.

Washington, D.C., 29 May 1986

(signed)  
Gene R. Haislip  
Deputy Assistant Administrator

Office of Diversion Control

ANNEX II

UNITED STATES OF AMERICA PROPOSAL TO TRANSFER SECOBARBITAL  
FROM SCHEDULE III TO SCHEDULE II

INTRODUCTION

This document constitutes a proposal by the United States of America to transfer secobarbital from Schedule III to Schedule II of the 1971 Convention on Psychotropic Substances. Contained within this document are the following:

- 1) A completed Model Form II which formally requests a transfer of a substance from one schedule to another schedule.
- 2) A brief discussion of the reasons why the United States of America is proposing such a change, namely the additional controls that Schedule II substances are subject to.
- 3) A consideration of secobarbital pharmacology, a brief history of its abuse prior to placement of secobarbital in Schedule II of the U.S. Controlled Substances Act, and an indication of the current problems that exist in monitoring the international routes of secobarbital commerce.
- 4) Commentary and accompanying data regarding the increasing illicit traffic in secobarbital in selected areas of the world.
- 5) Conclusions

It is hoped that the information contained herein is sufficient to convey the serious nature of the international secobarbital diversion problem.

WHY THE UNITED STATES OF AMERICA IS PROPOSING THAT SECOBARBITAL BE  
MOVED TO SCHEDULE II

The placement of secobarbital into Schedule II of the 1971 Convention on Psychotropic Substances would impose a number of important regulations with respect to international trade. As indicated in Article 12 of the Convention, each Party permitting the export or import of substances in Schedule II shall require a separate import or export authorization. Before issuing an export authorization, the country of export shall require an import authorization issued by the competent authority of the importing country which certifies that the importation of the substance is approved. A copy of the export authorization shall accompany each consignment and the Government issuing the export authorization shall send a copy to the Government of the importing country.

These controls would ensure that only shipments which serve the perceived legitimate needs of the importing country would be issued import authorizations. Without such documentation, shipments are not permitted to leave the country of export and thus the opportunities for international diversion are diminished. Furthermore, since import/export data would be far more thorough, additional sites of diversion would be easier to pinpoint.

At the present time, the United Nations International Narcotics Control Board is collecting and tabulating assessments of the legitimate needs and quarterly trade data for Schedule II psychotropic substances from over 130 countries. If secobarbital were classified as a Schedule II controlled substance, this data could be used by exporting countries as still another source to check the legitimacy and need for a secobarbital order prior to actual shipment. A steadily increasing number of exporting countries regularly use this system in order to verify shipments or discover attempted diversions.

#### SECOBARBITAL PHARMACOLOGY

Secobarbital is a short acting barbiturate that has a rapid onset of effects similar to pentobarbital. The effects of secobarbital are similar in nature to those produced by most other clinically available barbiturates. In general, these types of barbiturates produce hypnotic (sleep-producing) and sedative (quieting) effects by depression of the central nervous system. This depressant action on the central nervous system can range from mild sedation to coma. The degree of depression depends on the type of barbiturate used, the dose, the route of administration, the level of arousal and the extent of drug tolerance. Although drowsiness may persist for only a few hours after a hypnotic dose of barbiturate, a significant residual depression of central nervous system tone (hangover) may be evident during the following 24 hours. Such hangover effects may lead to reductions in fine motor coordination and higher level intellectual functioning.

In addition to these depressant actions, it is apparent that "barbiturates may have euphoriant effects, which, when maximal, are comparable to those of morphine" <sup>1/</sup>. Similar to other types of depressants, barbiturates have a history of abuse, and chemical dependence upon these drugs is common following extended periods of use.

After abrupt withdrawal of barbiturates, a definite abstinence syndrome developed. This syndrome included disappearance of the signs of intoxication, and the appearance of weakness, tremors, convulsions of the grand mal type, and the development of a psychosis resembling alcohol delirium tremens and characterized by anxiety, insomnia, confusion, disorientation, delusions and hallucinations...

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<sup>1/</sup> From Goodman and Gilman's The Pharmacological Basis of  
Sixth Edition, 1980.

One of the more dangerous aspects of barbiturate dependence, and particularly the element of withdrawal, is the ability to transmit the dependence and the attendant withdrawal symptoms to newborn infants. As mentioned previously, the barbiturates can pass through the placental tissue, and once through they are widely distributed in fetal tissue. It has been shown that infants born to mothers who were taking barbiturates throughout pregnancy or during the last trimester manifest symptoms of withdrawal which closely resemble those seen in infants born to mothers who were heroin addicts. 2/

The use of secobarbital in medicine has been largely replaced by the benzodiazepine-type agents. The benzodiazepines have a larger safety margin for use as hypnotics or preanesthetic sedatives, and are more effective as anxiolytics.

#### SECOBARBITAL ABUSE - USA BACKGROUND

In the late 1960's and early 1970's a growing abuse of the three barbituric acid derivatives, amobarbital, pentobarbital and secobarbital was observed. This problem led to the rescheduling of these three substances from Schedule III to the more restrictive Schedule II of the Controlled Substances Act on 11 November 1973. Of these three barbiturates, secobarbital constituted by far the biggest problem. During 1972, there was three times as much secobarbital seized as the combined sum of amobarbital and pentobarbital. Furthermore, the smuggling of illicit secobarbital from Mexico became apparent by the seizure of about 7,000 tablets in 1972. The problem is clearly increasing as indicated in the accompanying trafficking report.

#### SECOBARBITAL COMMERCE

An evaluation of the world commerce in secobarbital can be made using data obtained from the United Nations International Narcotics Control Board. Unfortunately, the United Nations data provide only a part of the picture because a number of the industrialized European nations either; 1) are not parties to the 1971 Convention on Psychotropic Substances and thus do not report their production figures or; 2) do not fully report their trade figures. For instance, examination of the United Nations import and export data reveals a large discrepancy between exports (16,336 kg) and imports (6,030 kg). Data obtained from other sources indicate that at least 75% of the total reported secobarbital exports were shipped to three European countries which did not report these imports to the International Narcotics Control Board. With such large gaps in our knowledge of world trade, it is difficult to localize potential sites of diversion. The imposition of Schedule II import/export controls on secobarbital would help provide further documentation regarding the present routes of trade.

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2/ From "A Study of Current Abuse and Abuse Potential of the Sedative-Hypnotic Derivatives of Barbituric Acid with control Recommendations", Bureau of Narcotics and Dangerous Drugs, 16 November 1972.

SECOBARBITAL TRAFFICKING REPORT  
SEPTEMBER 1985

OVERVIEW

All available information indicates that substantial quantities of secobarbital are being diverted from international commerce for illicit purposes. Secobarbital is now the primary substance found in counterfeit Mandrax tablets believed to be of Mexican origin and seized in the United States. It is believed that illicit manufacturers have turned to secobarbital as a substitute for methaqualone, because of the declining availability of methaqualone powder. Methaqualone is internationally controlled by virtually every major producing and exporting nation.

In addition, international drug control authorities report that large quantities of illicit pharmaceutical products containing secobarbital originating from European sources of supply have been seized by African countries. There are also reports of large seizures of secobarbital preparations in the Middle East.

It is strongly suspected that diversion of commercially produced secobarbital, either in bulk form as a powder or in dosage forms as finished pharmaceutical products, is the source for the trafficked material. No evidence has been obtained that suggests clandestine synthesis as a source of the secobarbital.

INTERNATIONAL DIVERSION AND TRAFFICKING

Past investigations have revealed that between August 1978, and December 1979, a European company shipped 1,000 kgs. of secobarbital to a fictitious firm in Mexico. Follow up law enforcement efforts succeeded in disrupting a major trafficking organization at that time. However, in May 1973, the Mexico City Country Office reported that 30,000 dosage units <sup>3/</sup> of counterfeit Mandrax containing secobarbital sodium (105 mg./tablet) were seized. According to the Mexico City Country Office, this was the first incident since 1978 that secobarbital sodium was substituted for methaqualone. Another seizure in April 1984, resulted in the recovery of several hundred thousand dosage units of secobarbital. A Mexican-based crime ring has been implicated in the manufacture of millions of dosage units of counterfeit Mandrax containing secobarbital. In fact, one apprehended individual has admitted to illegally transporting over 1.5 million dosage units of these tablets in a one year period into the United States. As indicated in Table I, significant amounts of these secobarbital tablets were intercepted in 1983 and 1984.

Since secobarbital is not manufactured by any Mexican companies, Mexico relies upon imports from Europe to satisfy its legitimate domestic needs. However, because the import controls on this Schedule III product are limited to post-shipment declarations, traffickers have been able to order and divert large shipments of secobarbital prior to notification of Mexican authorities. The additional controls imposed by transferring secobarbital to Schedule II would require export and import authorizations to be issued by the competent authorities of the exporting and importing countries prior to shipment.

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<sup>3/</sup> One dosage unit is either one capsule or tablet, or 100 mg. of bulk secobarbital powder.



TABLE I  
SECOBARBITAL SEIZURES (STRIDE DATA SYSTEM)  
COUNTERFEIT MANDRAX 1983-1984

<u>Country/Locale</u>	<u>Dosage Units</u>	<u>Year</u>
Brownsville, Tx.	980	1983
Mexico	1,980	1983
Houston, Tx.	999	1983
Laredo, Tx.	375,530	1983
Laredo, Tx.	30,000	1983
McAllen, Tx.	704	1983
Weslaco, Tx.	387	1984
Falfurrias, Tx.	25,000	1984
Houston, Tx.	48,742	1984
Houston, Tx.	9,976	1984
Mexico	91,500	1984
Houston, Tx.	100	1984
Laredo, Tx.	898	1984
Total	586,796	

#### AFRICA AND MIDDLE EAST

From data provided by Interpol, it is apparent that large quantities of pharmaceutical secobarbital products bearing various brand names, have been found in the illicit traffic in both Africa and the Middle East. The seized capsules and tablets were produced by companies located in some of the same European countries alluded to in the secobarbital commerce section of this report.

The trafficking methods that have been reported are similar to those used for other psychotropics. Diversion occurs primarily through presentation of false documents which appear to represent the purchaser as legitimate. Mislabeling of shipments and accompanying records is another common technique, as well as using one or more countries as transiting areas.

For example, for several years a European secobarbital product had been exported in large quantities to an African country in a fashion which suggested illicit activity. When the exporter was alerted and refused to send any more shipments to the African country, the traffickers simply routed the secobarbital through a third country (transiting country). Although the transiting country was able to delay some shipments, it could not effectively verify the legitimacy of the consignees in the country of destination because no advance documentation is required for importation of a Schedule III substance. Thus, the shipments had to be released.

In 1981, the diversion of a large amount of imported secobarbital was thwarted by alert Pakistani officials. The secobarbital was shipped from England to Pakistan where it was misdelivered to the city of Karachi. When the consignee was unable to present the proper import documents to Karachi officials, the shipment, containing 20,000 dosage units, was seized. Unfortunately it is not known whether the officials were alerted about suspicious shipments or if the seizure was an accident.

As shown in Table II, large amounts of diverted secobarbital-containing preparations have been seized in certain African and Mediterranean countries. Saudi Arabia has also reported significant problems associated with this substance (Table III). It is very likely that these seizures represent only a fraction of the illicit secobarbital traffic in this part of the world.

TABLE II

SECOBARBITAL PRODUCTS SEIZED AND REPORTED TO INTERPOL FROM  
1 JANUARY 1984 THROUGH 21 AUGUST 1985

<u>Country</u>	<u>Dosage Units</u>	<u>Year</u>
Italy	8,000	1984
Italy	23,000	1984
Egypt	28,000	1984
[Côte d'Ivoire]	9,736	1984-1985 (128 exhibits)
[Côte d'Ivoire]	2,760	1984
[Côte d'Ivoire]	4,160	1984
[Côte d'Ivoire]	1,360	1985
[Côte d'Ivoire]	10,440	1985
[Côte d'Ivoire]	3,050,000 (estimate)	1985*
[Côte d'Ivoire]	36,800	1985**
Total	3,174,756	

\* Secobarbital, Amobarbital and Meprobamate mixture

\*\* Secobarbital and Amobarbital mixture

TABLE III

SEIZURES OF SECOBARBITAL\* REPORTED FROM SAUDI ARABIA TO INTERPOL

<u>Dosage Units</u>	<u>Year</u>
1,219,185	1982
1,108,062	1983
1,718,565	1984

\* reported as "Seconal"

Further information derived from USA DEA sources indicates that secobarbital diversion is a large and continuing problem in the [Côte d'Ivoire]. A routine control operation in 1983, reportedly led to the seizure of a large amount of secobarbital tablets (about 1,000,000 dosage units) of presumed French manufacture. Moreover in the first three months of 1985, 300,000 barbiturate tablets have been seized and about 1.7 million secobarbital capsules were falsely declared and diverted.

#### CONCLUSIONS

It is the view of the United States that the present international Schedule III controls on secobarbital are inadequate to address the rapidly rising levels of diversion. As indicated in the preceding trafficking report, a large amount of counterfeit Mandrax made from diverted pharmaceutical secobarbital has been seized by the USA and Mexico. Furthermore, other countries, such as the [Côte d'Ivoire] and Saudi Arabia, have been the recipients of large amounts of diverted secobarbital products. Without the implementation of Schedule II controls, namely the requirement of both import and export authorizations, the countries receiving these products face the difficult task of locating illicitly obtained secobarbital after it has been diverted. With the added controls of Schedule II, governments can scrutinize import requests prior to shipment, and determine whether the products serve legitimate needs.

Secobarbital is a substance with a known abuse potential and a history of being illicitly trafficked. The USA has controlled secobarbital in Schedule II for more than 10 years. The time has come for the international community to consider similar action and vote for the transfer of secobarbital from Schedule III to Schedule II of the 1971 Convention on Psychotropic Substances.

ANNEX III

UNITED NATIONS DIVISION OF NARCOTIC DRUGS  
Vienna International Centre  
A-1400 Vienna, Austria

Questionnaire for data collection for use by the  
World Health Organization and the Commission on Narcotic Drugs  
of the Economic and Social Council

SUBSTANCE REPORTED ON: Secobarbital

1. Availability of the substance (registered, marketed, dispensed, etc.).
2. Extent of abuse of the substance.
3. Degree of seriousness of the public health and social problems \*/ associated with abuse of the substance.
4. Number of seizures of the substance in the illicit traffic during the previous three years and the quantities involved.
5. Identification of the seized substance as of local or foreign manufacture and indication of any commercial markings.
6. Existence of clandestine laboratories manufacturing the substance.

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\*/ Examples of public health and social problems are acute intoxication, accidents, work absenteeism, mortality, behaviour problems, criminality, etc. For a thorough examination of the question please refer to the WHO publication entitled "Assessment of Public Health and Social Problems Associated with the Use of Psychotropic Drugs" (No. 656 in the WHO Technical Report Series) and Chapter 7 of the WHO publication entitled "Guidelines for the Control of Narcotic and Psychotropic Substances".

INTERNATIONAL NARCOTICS CONTROL BOARD

Totals of the estimates modified in July 1986

This is an advance notice of the totals of the estimates modified as a result of supplementary estimates confirmed by the INCB or adjustment to stocks during the indicated month. The details of these modifications will be communicated officially to governments in a supplement to the "Estimated World Requirements of Narcotic Drugs in 1986" as soon as it is printed.

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Andorra:</u>			
Cocaine	12	Belgium:	
Methadone	30	Acetyldihydrocodeine	64 853
Morphine	27	Alfentanil	31 528
Phenoperidine	18	Bezitramide	...
		Cannabis	1 045
		Coca leaves	360 947
		Cocaine	224 205
		Codeine	3 701 000
<u>Australia:</u>		Conc. of poppy straw	11 000 000
Conc. of poppy straw	28 000 000	Dextromoramide	21 950
Morphine	14 606 000	Dextropropoxyphene	226 076
Oxycodone	160 000	Diethylthiambutene	200
Oxymorphone	10 000	Difenoxin	10 105
Pethidine	400 000	Dihydrocodeine	401 076
		Diphenoxylate	350 000 */
<u>Austria:</u>		Dipipanone	193
Cocaine	4 612	Ethylmorphine	581 289
Codeine	386 836	Etorphine	100
Dextropropoxyphene	313 830	Etoxadine	100
Dihydrocodeine	206 971	Fentanyl	35 000 */
Ethylmorphine	3 640	Heroin	8 524
Etorphine	12	Hydrocodone	88 897
Fentanyl	204	Hydromorphone	342
Methadone	6 497	Isomethadone	100
Monoacetylmorphine	21	Levomoramide	151
Morphine	48 785	Levorphanol	100
Nicocodine	7 403	Methadone	21 955
Nicomorphine	19 194	Morphine	5 996 000
Normethadone	15	Normethadone	42 144
Opium	14 016	Opium	1 056 000
Pethidine	194 222	Oxycodone	5 815
Piritramide	3 840	Pethidine	78 063
		Pethidine-intermediate B	660
<u>Bahrain:</u>		Phenazocine	100
Fentanyl	2	Phenoperidine	36 163
		Pholcodine	390 214
<u>Bangladesh:</u>		Piritramide	137 305
Codeine	75 000	Racemethorphan	100
Opium	32 500	Sufentanil	256
Pholcodine	201 500	Thebacon	86 427
		Thebaine	299 071
		Tilidine	912 978

\*/ This total was calculated in accordance with Article 19, paragraph 2(c) of the 1961 Convention amended by the 1972 Protocol.

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Belize:</u>		<u>Cameroon (continued):</u>	
Cocaine	60	Dextromoramide	57
Codeine	1 500	Etoprine	2
Dihydrocodeine	300	Fentanyl	40
Morphine	4	Morphine	2 018
Pethidine	2 456	Opium	2 249
		Pethidine	37 244
<u>Botswana:</u>		Phenoperidine	20
Fentanyl	2	Pholcodine	1 000
<u>Brazil:</u>		<u>Canada:</u>	
Codeine	1 554 000	Alfentanil	250
Dextropropoxyphene	6 425 000	Alphaprodine	8 541
Diphenoxylate	356 007	Anileridine	88 254
Ethylmorphine	34 571	Cocaine	64 718
Fentanyl	1 095	Codeine	9 792 000
Hydrocodone	7 500	Dextropropoxyphene	2 899 000
Morphine	4 510 000	Diphenoxylate	28 049
Opium	1 861 000	Ethylmorphine	3 591
Pethidine	405 205	Etorphine	7
		Fentanyl	428
<u>Bulgaria:</u>		Heroin	24 761
Cannabis	1 500 000	Hydrocodone	174 047
Cocaine	35 000	Hydromorphone	15 868
Codeine	5 203 000	Levorphanol	1 598
Dextromoramide	50	Methadone	33 471
Dextropropoxyphene	700	Morphine	350 284
Ethylmorphine	429 202	Normethadone	21 323
Fentanyl	141	Opium	119 275
Methadone	80	Oxycodone	136 176
Morphine	1 533 000	Oxymorphone	698
Opium	13 390 000	Pethidine	851 386
Pethidine	139 558	<u>Cook Islands:</u>	
Piritramide	4 095	Cocaine	22
Tilidine	60 370	Codeine	41
Trimeperidine	1 200	Ethylmorphine	4
		Methadone	4
<u>Burkina Faso:</u>		Morphine	8
Dextromoramide	41	Opium	2 000
Morphine	22	Pethidine	350
		Pholcodine	40
<u>Cameroon:</u>		<u>Cape Verde:</u>	
Acetorphine	2	Cocaine	200
Cocaine	91	Codeine	21
Codeine	1 000	Pethidine	341

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Chile:</u>		<u>Czechoslovakia (continued):</u>	
Codeine	188 154	Fentanyl	64
Hydrocodone	610	Morphine	4 675 000
Methadone	1 550	Opium	120 274
Pethidine	33 312	Oxycodone	1 735
		Pethidine	244 878 */
<u>Colombia:</u>		Pholcodine	149 389
Cocaine	1 330	Piritramide	8 790
Codeine	163 737	Thebaine	334
Dextropropoxyphene	2 098 003	Tiuidine	281 146
Difenoxin	4 140		
Dihydrocodeine	413 487	<u>Denmark:</u>	
Diphenoxylate	116 943	Methadone	63 000
Fentanyl	375	Morphine	203 000
Hydromorphone	1 457	Opium	280 000
Morphine	29 715	Pethidine	370 000
Opium	89 101		
Oxycodone	82 134	<u>Ecuador:</u>	
Pethidine	166 923	Codeine	268 356
		Dextropropoxyphene	809 564
<u>Congo:</u>		Difenoxin	520
Fentanyl	5	Dihydrocodeine	100 323
Morphine	95	Pethidine	1 600
Phenoperidine	295		
		<u>Fiji:</u>	
<u>Côte d'Ivoire:</u>		Cocaine	290
Opium	800	Fentanyl	6
		Methadone	101
<u>Cyprus:</u>		Morphine	500
Cocaine	14	Opium	1 399
Codeine	10 000	Pethidine	1 472
Dextropropoxyphene	190 000		
Dihydrocodeine	6 050	<u>Finland:</u>	
Diphenoxylate	2 768	Alfentanil	358
Fentanyl	3	Anileridine	5
Morphine	670	Cocaine	28 694
Opium	1 650	Codeine	1 306 000
		Dextromoramide	5
<u>Czechoslovakia:</u>		Diethylthiambutene	14
Alfentanil	4 000	Dihydromorphone	3
Bezitramide	267	Diphenoxylate	232 516 */
Cocaine	15 018	Ethylmorphine	179 801
Codeine	2 682 000	Etorphine	9
Ethylmorphine	196 799	Fentanyl	264
Etorphine	3	Levorphanol	15

\*/ This total was calculated in accordance with article 19, paragraph 2(c) of the 1961 Convention amended by the 1972 Protocol.

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Finland (continued):</u>		<u>Germany, Federal Republic of (continued):</u>	
Methadone	6 347	Morphine	3 826 000
Morphine	47 083	Opium	419 222
Normethadone	734	Oxycodone	17 296
Opium	138 397	Pethidine	1 837 000 */
Oxycodone	30 517	Pethidine-intermediate A	3 350 000
Pethidine	98 494	Pethidine-intermediate C	662 740
Pholcodine	31 320	Pholcodine	28 767
		Piritramide	20 195
<u>France (including Monaco):</u>		Propiram	133 030
Alfentanil	957	Thebacon	40 487
Fentanyl	1 100	Thebaine	234 904
Pethidine	195 000	Tilidine	3 500 000 */
		<u>Greece:</u>	
<u>French Polynesia:</u>		Codeine	839 000
Dextromoramide	62	Pethidine	58 558
Morphine	114	<u>Guatemala:</u>	
<u>German Democratic Republic:</u>		Cocaine	1 880
Cocaine	2 205	Codeine	88 254
Codeine	1 653 000	Dextropropoxyphene	500 000
Dihydrocodeine	6 570	Dihydrocodeine	55 932
Fentanyl	119	Diphenoxylate	1 763
Morphine	24 190	Etorphine	2
Normethadone	287 080	Fentanyl	36
Opium	129 500	Hydrocodone	4 000
Pethidine	410 320	Opium	2 682
Piritramide	16 490	Oxycodone	100
<u>Germany, Federal Republic of:</u>		<u>Guyana:</u>	
Alfentanil	2 176	Cocaine	45
Cocaine	128 707	Codeine	516 669
Codeine	15 591 000	Morphine	80
Dextromoramide	2 670	Opium	6 440
Dextropropoxyphene	2 544 000	Pethidine	15 775
Dihydrocodeine	1 819 000	<u>Hong Kong:</u>	
Dihydromorphine	210	Cocaine	9 320
Diphenoxylate	5 397	Codeine	1 079 000
Ethylmorphine	237 402	Dextromoramide	60
Fentanyl	1 296	Dextropropoxyphene	636 951
Hydrocodone	147 306	Difenoxin	12 000
Hydromorphone		Diphenoxylate	16 109
Ketobemidone	959	Dipipanone	6 324
Levorphanol	3		
Methadone	117 222		

\*/ This total was calculated in accordance with Article IV, paragraph 2(c) of the 1961 Convention amended by the 1972 Protocol.



<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Hong Kong (continued):</u>		<u>Israel:</u>	
Ethylmorphine	36 541	Alfentanil	15
Fentanyl	8	Cocaine	1 510
Methadone	108 894	Codeine	520 000
Morphine	3 735	Dextropropoxyphene	368 500
Normethadone	7 981	Diphenoxylate	23 530
Opium	132 420	Dipipanone	10
Pethidine	40 149	Ethylmorphine	2 690
Pholcodine	67 571	Hydromorphone	4
<u>Hungary:</u>		Methadone	35 560
Codeine	3 469 000	Morphine	14 650
Conc. of poppy straw	2 500 000	Opium	45 250
dihydrocodeine	84 496	Pholcodine	2 000
Ethylmorphine	702 000	Thebaine	2 000
Methadone	7 676	<u>Jordan:</u>	
Opium	10 212 000	Cocaine	3 500
Pholcodine	200	Codeine	615 000
Thebaine	59 650	Dextropropoxyphene	772 000
<u>Indonesia:</u>		Diphenoxylate	80 000
Diphenoxylate	4 663	Fentanyl	7
Normethadone	781	Morphine	1 000
Pethidine	46 858	<u>Kuwait:</u>	
<u>Iran (Islamic Republic of):</u>		Codeine	27 466
Codeine	5 056 000	Dextropropoxyphene	6 400
Diphenoxylate	450 000	Fentanyl	10
Pethidine	150 185	Morphine	401
<u>Ireland:</u>		Opium	16 107
Alfentanil	29	<u>Lao People's Democratic Republic:</u>	
Cocaine	6 346	Cocaine	300
Codeine	389 242	Dextromoramide	4
Dextromoramide	4 164	Methadone	2 977
Dextropropoxyphene	1 500	Morphine	2 000
Dihydrocodeine	3 000	Opium	24 000
Dipipanone	3 659	Pethidine	3 998
Etorphine	63	<u>Lesotho:</u>	
Fentanyl	18	Codeine	15 000
Hydrocodone	7 630	Dihydrocodeine	193
Levorphanol	30	Fentanyl	2
Methadone	2 674	Morphine	868
Morphine	28 702	Pethidine	2 139
Opium	3 800	Pethidine	80
Oxycodone	75		
Pethidine	176 505		
Phenoperidine	162		
Pholcodine	37 998		
Sufentanil	8		

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Madagascar:</u>		<u>New Caledonia (continued):</u>	
Codeine	51 000	Opium	393
Ethylmorphine	15 000	Pethidine	1 639
Opium	68 160	Phenoperidine	61
Pethidine	2 090		
Pholcodine	64 080	<u>New Zealand:</u>	
		Codeine	890 000
<u>Macao:</u>		<u>Niger:</u>	
Pethidine	144	Cocaine	46
		Codeine	1 661
<u>Malta:</u>		Dextromoramide	4
Cocaine	280	Morphine	38
Codeine	6 092	Pethidine	1 057
Morphine	272		
Opium	435	<u>Norway:</u>	
Pethidine	3 069	Alfentanil	40
		Cocaine	2 615
<u>Mauritius:</u>		Codeine	3 251 000
Dextromoramide	210	Conc. of poppy straw	10 381 000
Dihydrocodeine	450	Dextromoramide	40
Fentanyl	4	Dextropropoxyphene	981 741
Heroin	79	Dihydrocodeine	93 226
Methadone	42	Diphenoxylate	20
Morphine	192	Ethylmorphine	67 709
Pethidine	11 163	Etorphine	10
Phenoperidine	24	Fentanyl	295
Pholcodine	2 880	Heroin	300
		Hydrocodone	2 141
<u>Mexico:</u>		Hydromorphone	150
Diphenoxylate	215 539	Ketobemidone	10 825
Oxycodone	3 700	Methadone	8 099
Pethidine	25 332	Morphine	2 061 000
		Opium	63 796
<u>Mozambique:</u>		Oxycodone	10
Codeine	7 925	Pethidine	68 797
Morphine	9 426	Phenoperidine	300
Pethidine	12 365	Pholcodine	264 521
		Piritramide	300
<u>New Caledonia:</u>		Sufentanil	20
Cocaine	262	Thebaine	93 045
Codeine	487		
Dextromoramide	151	<u>Paraguay:</u>	
Fentanyl	5	Dextropropoxyphene	92 100
Morphine	402		

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Philippines:</u>		<u>Singapore:</u>	
Codeine	79 953	Codeine	468 862
Fentanyl	9	Dextropropoxyphene	3 010
Morphine	2 730	Methadone	364
Pethidine	52 002	Opium	2 092
<u>Republic of Korea:</u>		<u>Spain (including non-metropolitan territories):</u>	
Codeine	218 120	Alfentanil	140
Dextropropoxyphene	120 000	Codeine	4 832 000
Dihydrocodeine	1 021 300	Conc. of poppy straw	2 449 000
Diphenoxylate	4 660	Ethylmorphine	61 086
Fentanyl	4	Methadone	72 079 */
Morphine	40 440	Morphine	3 915 000
Pethidine	61 200	Opium	704 182
<u>St. Helena:</u>		Pethidine	241 382 */
Methadone	3	Pholcodine	144 336
Pethidine	72	Thebaine	193 434
<u>Samoa:</u>		<u>Suriname:</u>	
Cocaine	6	Codeine	6 800
Codeine	56	Ethylmorphine	151
Morphine	417	Fentanyl	8
Opium	1 500	Hydrocodone	8
Pethidine	883	Methadone	4
Pholcodine	1 386	Morphine	37
<u>Sao Tome and Principe:</u>		Nicomorphine	29
Cocaine	232	<u>Swaziland:</u>	
Codeine	227	Fentanyl	2
Morphine	100	Pethidine	2 162
Opium	356	Tilidine	45
Pethidine	200	<u>Sweden:</u>	
<u>Senegal:</u>		Codeine	1 821 000
Codeine	388 289	Dextropropoxyphene	3 335 000
Ethylmorphine	23 569	Diphenoxylate	12 111
Fentanyl	2	Ethylmorphine	228 155
Opium	220 525	Fentanyl	571
Pethidine	735	Hydromorphone	457
Phenoperidine	16	Ketobemidone	23 386
		Opium	93 634
		Pethidine	200 961
		Phenoperidine	1 952
		Piritramide	1 946

\*/ This total was calculated in accordance with article 19, paragraph 2(c) of the 1961 Convention amended by the 1972 Protocol.

<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>	<u>COUNTRY/TERRITORY</u> <u>NARCOTIC DRUGS</u>	<u>MODIFIED TOTALS</u> <u>OF THE ESTIMATES</u> <u>GRAMS</u>
<u>Thailand:</u>		<u>United States of America (continued):</u>	
Cocaine	2 763	Morphine	61 500 000
Codeine	128 000	Oxycodone	2 205 200
Difenoxin	6	Pethidine	11 000 000
Diphenoxylate	11 000	Sufentanil	360 */
Fentanyl	10		
Methadone	23 739	<u>Yugoslavia:</u>	
Morphine	6 013	Cocaine	9 000
Opium	3 169 635	Codeine	2 388 000
		Ethylmorphine	3 000
<u>Tunisia:</u>		Fentanyl	157
Codeine	618 031	Methadone	42 000
Dextromoramide	1 356	Morphine	65 000
Fentanyl	49	Pethidine	40 000
Opium	72 509	Pholcodine	498 000
Pethidine	23 720	Piritramide	450
Phenoperidine	433	Tilidine	245 000
<u>Turkey:</u>		<u>Zimbabwe:</u>	
Pethidine	104 150	Dipipanone	555
		Ethylmorphine	60
<u>United Kingdom of Great Britain</u> <u>and Northern Ireland:</u>		Etorphine	6
Ketobemidone	5	Fentanyl	9
		Methadone	15
<u>United Republic of Tanzania:</u>		Morphine	12 149
Codeine	75 000	Opium	205 000
Methadone	100	Pethidine	24 688
Morphine	150	Tilidine	3 030
Pethidine	25 000		
<u>United States of America:</u>			
Alfentanil	7 500 */		
Cocaine	400 000		
Codeine	55 220 000		
Dextropropoxyphene	77 726 000		
Diphenoxylate	700 000		
Fentanyl	6 800 */		
Hydrocodone	1 800 000		
Hydromorphone	190 000		
Levorphanol	17 100 */		
Methadone	1 459 000 */		
Methadone-intermediate	2 000 000		

\*/ This total was calculated in accordance with article 19, paragraph 2(c) of the 1961 Convention amended by the 1972 Protocol.

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Item 3 of the provisional agenda

IMPLEMENTATION AND DEVELOPMENT OF INTERNATIONAL INSTRUMENTS  
ON THE CONTROL OF NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

Preparation of a draft convention against illicit traffic  
in narcotic drugs and psychotropic substances

Report of the Secretary-General

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## I. INTRODUCTION

1. In paragraph 2 of its resolution 39/141 of 14 December 1984 entitled "Draft Convention against Traffic in Narcotic Drugs and Psychotropic Substances and Related Activities", the General Assembly requested

"the Economic and Social Council, taking into consideration Article 62, paragraph 3, and Article 66, paragraph 2, of the Charter of the United Nations and Council resolution 9 (I) of 16 February 1946, to request the Commission on Narcotic Drugs to initiate at its thirty-first session, to be held in February 1985, as a matter of priority, the preparation of a draft convention against illicit traffic in narcotic drugs which considers the various aspects of the problem as a whole and, in particular, those not envisaged in existing international instruments."

The Economic and Social Council formally requested the Commission on Narcotic Drugs to initiate the preparation of the draft convention by its decision 1985/104 of 8 February 1985.

2. At its thirty-first session (11-20 February 1985), the Commission responded to the request of the General Assembly and adopted resolution 1(XXXI) of 20 February 1985 entitled "Initiation of the Preparation of a Draft Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances".

3. In paragraph 1 of that resolution, the Commission requested the Secretary-General

"to seek from Member States of the United Nations and States Parties to the Single Convention on Narcotic Drugs, 1961, that Convention as amended by the 1972 Protocol amending the Single Convention on Narcotic Drugs, 1961, and the 1971 Convention on Psychotropic Substances, by 1 July 1985, comments and proposals on the elements they would like to have incorporated in a draft Convention in fulfilment of the mandate established in General Assembly resolution 39/141."

For this purpose, the Secretary-General was also requested to circulate 18 relevant documents specified in the same operative paragraph of the Commission resolution. This was done under cover of a note dated 15 March 1985.

4. In paragraph 2 of its resolution 1(XXXI), the Commission requested the Secretary-General

"to compile and consolidate, within available resources, the comments received from Governments, as well as other relevant studies, and to prepare a report, to be circulated to Member States of the United Nations and other States not later than 1 November 1985, which will identify elements to be considered for inclusion in a draft Convention, in compliance with the mandate set out in General Assembly resolution 39/141."

5. At its ninth special session (10-14 February 1986), the Commission on Narcotic Drugs had before it the report of the Secretary-General entitled "Comments and Proposals received from Governments concerning a Draft Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances" (E/CN.7/1986/2 and Corr.1 and 2 and Add.1-3). The report of the Secretary-General, which contained a systematic analysis of the replies from 46 Governments and of other relevant material, identified the elements which many Governments considered worthy of inclusion in the draft convention, as well as other elements which seemed to require further consideration before reaching a decision as to their inclusion.

6. Following the discussion of the item 1/ in the light of the report of the Secretary-General, the Commission adopted on 14 February 1986 resolution 1(S-IX), entitled "Guidance on the drafting of an international convention to combat drug trafficking". In paragraph 3 of that resolution the Commission recommended 14 elements for inclusion in an initial draft convention. Those elements are as follows:

- "(a) Definitions, as required for the purpose of the convention,
- (b) Identification, tracing, freezing and forfeiture of proceeds of drug trafficking,
- (c) Strengthening of the obligations concerning extradition for offences relating to drug trafficking,
- (d) Measures to monitor or control specific chemicals, solvents and precursors used in the illegal processing or manufacture of controlled drugs,
- (e) Measures to ensure that commercial carriers are not used to transport illicit narcotic drugs and psychotropic substances, including the development of a system of sanctions,
- (f) Means of co-operation among countries, particularly among law enforcement agencies, for the exchange of information as well as the establishment of joint communications links, training assistance and the exchange of expertise, including the posting of drug liaison officers as needed, taking into consideration the special problems of transit States,
- (g) Strengthening co-operation among countries to provide mutual legal and judicial assistance in cases relating to drug trafficking, and promotion of mutual assistance in investigative and prosecutorial matters,
- (h) Controlled delivery,
- (i) Adequacy of sanctions for offences relating to drug trafficking,

1/ See Report, ninth special session, E/1986/23, paragraphs 5-32.

- (j) Strengthening mutual co operation among States in the suppression of illicit drug trafficking on the high seas,
- (k) Measures to curtail the illicit and uncontrolled cultivation of narcotic plants, including prevention, crop substitution and eradication,
- (l) Extension of controls in free trade zones and free ports,
- (m) Prevention of receipt, possession and transfer of equipment for the purpose of illegal manufacturing, compounding or processing of narcotic drugs and psychotropic substances,
- (n) Prevention of the use of the mails for the illegal transport of narcotic drugs and psychotropic substances."

7. In paragraph 4 of resolution 1(S-IX) the Commission requested the Secretary-General "to prepare a preliminary draft of a convention containing the elements specified in paragraph 3, and to circulate that draft to Members of the Commission and other interested Governments by 15 August 1986". The preliminary draft by the Secretary-General, reflecting the 14 elements identified by the Commission for inclusion in the draft convention, is contained in chapter II of the present document.

8. Paragraph 5 of resolution 1(S-IX) invites "Members of the Commission and other interested Governments to submit their comments on and/or proposed textual changes in the draft to the Secretary-General by 30 October 1986". In the note by which he circulated the present document to Member States of the United Nations and non-member States, the Secretary-General requested that comments on and/or proposed textual changes in the draft should reach him by the date indicated in the Commission resolution.

9. In paragraph 6 of resolution 1(S-IX), the Secretary-General was requested "to compile these comments and/or proposed textual changes and to circulate them for consideration at the thirty-second session of the Commission, so that the Commission may give direction on the further development of the draft convention". Following receipt of replies from Governments the Secretary-General will compile the comments and proposed textual changes received from Governments and circulate them in an addendum to the present document for consideration at the thirty-second session of the Commission.

10. The draft presented in chapter II consists of 14 articles corresponding to the elements recommended for inclusion by the Commission and elaborating their substantive contents. The sequence of articles has been determined by conceptual considerations aimed at ensuring an orderly arrangement of legally related provisions but it is understood that other sequential arrangements are possible. The correlation between the respective articles and the elements identified by the Commission is indicated under each article.

11. At this preliminary stage, and pending appropriate guidance from the Commission, it was considered premature to attempt drafting preambular provisions and articles dealing with implementation measures and mechanisms.



Suggestions and concrete proposals which Governments may wish to include in their comments on the present draft will be duly reflected in the addendum to this report and taken into account at the next stage of drafting as directed by the Commission at its thirty-second session.

12. As regards the final clauses of the Convention, they will be prepared in due course on the basis of standard relevant provisions which exist in recently adopted United Nations instruments and in accordance with the specific directions which the Commission may give for this particular Convention.

## II. DRAFT CONVENTION AGAINST ILLICIT TRAFFIC IN NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

### Article 1 \*

#### USE OF TERMS

Except where otherwise expressly indicated, or where the context otherwise requires, the following terms in this Convention have the meanings given below:

- (a) "Board" means the International Narcotics Control Board;
- (b) "Commercial carrier" means a public or private entity engaged in transporting persons or goods for hire;
- (c) "Commission" means the Commission on Narcotic Drugs of the Council;
- (d) "Controlled delivery" means the passage through the territory of one or more Parties, with the knowledge and under the surveillance of their law enforcement agencies, of illicit consignments of controlled substances, for the purpose of monitoring their movement and identifying and bringing to justice the individuals, corporations or other legal entities involved in their shipment, transportation, delivery, concealment or receipt;
- (e) "Controlled substances" means any of the drugs in Schedules I and II of the Single Convention on Narcotic Drugs, 1953, and of that Convention as amended by the 1955 Protocol amending the Single Convention on Narcotic Drugs, 1953, all parts of the cannabis plant not included in Schedule I of those Conventions, any of the substances in Schedules I, II, III, and IV of the 1971 Convention on Psychotropic Substances, and the specific chemicals in List A and List B of this Convention;

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\* Refers to element (a)

- (f) "Council" means the Economic and Social Council of the United Nations;
- (g) "Forfeiture" means the deprivation of proceeds by court order;
- (h) "Freezing" means prohibiting the transfer, conversion, disposition or movement of proceeds by order of a court or other appropriate authority;
- (i) "Illicit traffic" means the cultivation, production, manufacture, extraction, preparation, offering, offering for sale, distribution, possession with the intent to distribute, purchase, sale, delivery on any terms whatsoever, brokerage, dispatch, dispatch through the mails, dispatch in transit, transport, importation and exportation of any controlled substance contrary to the provisions of this Convention. The organization, management, financing or facilitating of the aforementioned operations or activities are also considered as illicit traffic for the purposes of this Convention.
- (j) "Laundering" means the concealment or disguise of the true nature, source, disposition, movement or ownership of proceeds and includes the movement or conversion of proceeds by electronic transmission;
- (k) "Legitimate third party" means any person, corporation or other legal entity who, acting bona fide and without knowledge of incriminating circumstances, has lawfully acquired the right to own, use, control or possess proceeds;
- (l) "List A" and "List B" mean the correspondingly designated lists of specific chemicals annexed to this Convention, as amended from time to time in accordance with article 8 of this Convention;
- (m) "Party" means a State that has consented to be bound by this Convention and for which this Convention is in force.
- (n) "Proceeds" means property of every description, whether corporeal or incorporeal, movable or immovable, tangible or intangible, and deeds and instruments evidencing title to, or interest in, such property;
- (o) "Secretary-General" means the Secretary-General of the United Nations;
- (p) "Seizure" means assuming custody or control of proceeds as directed by order of a court or other appropriate authority;
- (q) "Specific chemical" means a substance in List A or List B of this Convention used in the illicit processing or manufacture of narcotic drugs or psychotropic substances;
- (r) "Tracing" means determining the true nature, source, disposition, movement or ownership of proceeds;
- (s) "Transit State" means a State which, while not being a major producer, manufacturer or consumer of narcotic drugs or psychotropic substances, is nevertheless adversely affected by the illicit traffic in transit through its territory.

Article 2 \*

PENAL PROVISIONS - ADEQUACY OF SANCTIONS

1. Subject to its constitutional limitations, legal system and domestic law, each Party shall adopt such measures as may be necessary to establish as serious offences under its criminal law:

- (a) Illicit traffic;
- (b) Manufacture, distribution or possession of materials or equipment intended for use in the illicit production or manufacture of narcotic drugs or psychotropic substances;
- (c) Acquisition, possession, transfer or laundering of proceeds derived from or used in the illicit traffic;
- (d) Intentional participation in, conspiracy to commit, attempts to commit, and aiding, abetting and counselling the commission of any offences under subparagraphs (a), (b), and (c).

2. Offences enumerated in paragraph 1 of this article shall be made liable to adequate punishment, including in particular:

- (a) Imprisonment or other forms of deprivation of liberty for a substantial period of time;
- (b) Pecuniary penalties or fines commensurate to the nature and gravity of the offence;
- (c) Forfeiture of all goods or property involved in the perpetration of the offence;
- (d) Forfeiture of proceeds as provided in article 3 of this Convention;

3. The Parties shall take into consideration, where possible, as constituting aggravating circumstances for offences enumerated in paragraph 1 of this article:

- (a) The involvement of organized criminal groups;
- (b) The use of firearms or violence;
- (c) The fact that the offender holds a public office;
- (d) The victimization of minors.

4. Each of the offences enumerated in paragraph 1 of this article, if committed in different countries, shall be considered a distinct offence.

5. Foreign convictions for the offences enumerated in paragraph 1 of this article shall be taken into account for the purpose of establishing recidivism.

6. Offences enumerated in paragraph 1 of this article committed either by nationals or by non-nationals shall be prosecuted either by the Party in whose territory the offence was committed or by the Party in whose territory the offender is found.

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\* Refers to element (i)

7. The Parties shall bear in mind the serious nature of offences enumerated in paragraph 1 of this article when considering the eventuality of early release or parole of persons convicted of such offences, and shall endeavour to establish adequate provisions governing the statute of limitations applicable to offences related to the illicit traffic so as to deter potential criminals from engaging in this type of criminal activity.

8. The Parties shall take appropriate measures, consistent with their legal systems, to ensure that a person charged with an offence specified in paragraph 1 of this article, or whose extradition is sought under article 4 of this Convention, is present at the necessary proceedings. In this regard the Parties shall bear in mind the large sums of money available to traffickers when setting bail.

### Article 3 \*

#### IDENTIFICATION, TRACING, FREEZING, SEIZURE AND FORFEITURE OF THE PROCEEDS OF ILLICIT TRAFFIC

1. The Parties undertake to prevent and repress the acquisition, possession, transfer or laundering of the proceeds derived from or used in the illicit traffic. To that end, they shall:

(a) Adopt national legislative and administrative measures to facilitate the identification, tracing, freezing, seizure and forfeiture of proceeds;

(b) Facilitate effective co-ordinated action at the national level;

(c) Provide each other with appropriate assistance.

2. Subject to its constitutional limitations, each Party shall treat as a punishable offence the acquisition, possession, transfer or laundering of proceeds with the knowledge that such proceeds were obtained or derived directly or indirectly from the illicit traffic, irrespective of where such traffic occurred.

3. Having due regard to its constitutional, legal and administrative systems, each Party shall:

(a) Authorize a court of criminal or civil jurisdiction or other appropriate authority, upon application on its own behalf or on behalf of another Party, to issue an order to freeze and seize proceeds if the court or appropriate authority is satisfied that a punishable offence referred to in paragraph 2 of this article has been committed in any jurisdiction, and when the proceeds are within its own jurisdiction. Freezing or seizing orders:

(i) Shall prohibit the transfer, conversion, disposition or movement of the proceeds;

(ii) May be made prior to the institution of formal charges but subject to a reasonable time limit;

\* Refers to element (b)

- (iii) May be modified where circumstances so require upon motion brought by any person having an interest in the proceeds;
  - (iv) May provide for the appointment of an administrator or trustee authorized to sell, control or manage the proceeds;
  - (v) May be issued notwithstanding that the proceeds may be intermingled with other property or assets acquired from other legitimate sources;
- (b) Authorize a court of criminal or civil jurisdiction to order the forfeiture of proceeds whether or not such proceeds are already the subject of a freezing or seizing order:
- (i) When a person has been convicted in any jurisdiction of an offence referred to in paragraph 2 of this article and the court finds the proceeds in question to be the direct or indirect result of illicit traffic;
  - (ii) Notwithstanding the absence of any prosecution or conviction, when the court, upon application on behalf of the Party or on behalf of another Party, is satisfied that the owner had knowledge that the proceeds were derived directly or indirectly from the illicit traffic in any jurisdiction or used for such traffic in any jurisdiction.
- (c) Ensure that in any criminal or civil proceeding concerning offences referred to in paragraph 2 of this article, or for a freezing or seizing order referred to in paragraph 3(a) of this article, or for an order of forfeiture referred to in paragraph 3(b) of this article, the court, in seeking to establish that the proceeds were knowingly derived directly or indirectly from the illicit traffic, shall take into consideration evidence establishing:
- (i) That a person, association of persons, corporation or other legal entity was connected with an offence referred to in paragraph 2 of this article;
  - (ii) That at or about the same time, the person, association of persons, corporation or other legal entity acquired any proceeds;
  - (iii) That in relation to the value of the proceeds the person, association of persons, corporation or other legal entity had no apparent legitimate source of income to justify their acquisition;
- (d) Ensure that any criminal or civil proceedings concerning offences referred to in paragraph 2 of this article, or for a freezing or seizing order referred to in paragraph 3(a) of this article, or for an order of forfeiture referred to in paragraph 3(b) of this article, will not be adversely affected by the fact that proceeds derived from or used in the illicit traffic are intermingled with property or assets acquired from legitimate sources. Forfeiture may be related to only that portion of the proceeds derived from or used in the illicit traffic.
4. The provisions of this article shall not be construed as prejudicing the rights or interests of legitimate third parties.

Article 4 \*

EXTRADITION

1. This article shall apply to the offences enumerated in paragraph 1 of article 2 of this Convention.
2. Each of the offences to which this article applies shall be deemed to be included as an extraditable offence in any extradition treaty existing between Parties. Parties undertake to include such offences as extraditable offences in every extradition treaty to be concluded between them.
3. If a Party which makes extradition conditional on the existence of a treaty receives a request for extradition from another Party with which it has no extradition treaty, it may consider this Convention as the legal basis for extradition in respect of any offence to which this article applies.
4. Parties which do not make extradition conditional on the existence of a treaty shall recognize offences to which this article applies as extraditable offences between themselves, subject to the conditions provided for by the law of the requested Party.
5. A request for extradition with respect to any of the offences to which this article applies shall not be refused:
  - (a) On the ground that the person sought is a national of the requested Party, unless such refusal is required by the constitution of the requested Party;
  - (b) On the ground that the offence was committed outside the territory of the requesting Party if the offence was intended to have or had effects within the territory of the requesting Party;
  - (c) On the ground that the offence was political in character or was politically motivated.
6. If extradition is refused, the requested Party shall have jurisdiction over the offence and shall without undue delay try the person whose extradition was refused in the same manner as in the case of an offence committed in its territory.
7. The Party in whose territory the offender is found shall also have jurisdiction over the offences committed outside its territory, if the Party in whose territory the offence was committed does not request extradition, provided that the offence is, in principle, extraditable and that the latter Party has full knowledge of the whereabouts of the offender, or if extradition was, without effect, offered to that Party.

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\* Refers to element (c)

8. The Parties agree that the existence of evidence providing reasonable grounds to believe that the person whose extradition is sought committed any of the offences to which this article applies shall be considered sufficient to support a request for extradition.

9. In cases of concurrent jurisdiction of the requesting and requested Parties over an offence to which this article applies, extradition shall not be refused if the requesting Party is in a better position to establish relevant facts and bring the offender to justice.

10. The Parties shall consider entering into bilateral and regional agreements to carry out or to enhance the effectiveness of extradition as a means of bringing to justice persons accused of offences to which this article applies.

#### Article 5 \*

#### MUTUAL LEGAL ASSISTANCE

1. Having due regard to their constitutional, legal and administrative systems, the Parties shall afford one another, upon request and in accordance with the provisions of this article, the widest measure of mutual legal assistance in all investigations, prosecutions and other judicial proceedings relating to offences enumerated in paragraph 1 of article 2 of this Convention which fall within the jurisdiction of the requesting Party.

2. The Parties undertake to adopt legislative and administrative measures as may be necessary within their domestic legal systems to ensure that effective assistance as envisaged in this article may be rendered to other Parties at their request.

3. Mutual legal assistance shall include, but not necessarily be limited to:

- (a) Taking evidence;
- (b) Effecting service of judicial documents and records;
- (c) Executing requests for searches and seizures;
- (d) Examining objects and sites;
- (e) Locating or identifying witnesses, suspects or other persons;
- (f) Exchanging information and objects;
- (g) Providing relevant documents and records, including bank, financial, corporate and business records.

4. The Parties shall give favourable consideration to the possibility of:

- (a) Transferring to one another proceedings for criminal prosecution in cases where such transfer may help to ensure that all persons who commit offences punishable under this Convention are brought to justice;
- (b) Transferring persons in custody whose evidence is material to a prosecution or other judicial proceeding for testimonial purposes.

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\* Refers to element (g)

5. Each Party shall designate an appropriate authority to facilitate or execute requests for mutual legal assistance. The authority designated by each Party for this purpose shall be notified through the Secretary-General to all other Parties.
6. The designated authorities shall communicate directly with each other for the execution of requests made under the provisions of this article. The designated authority shall, when necessary, appoint an agency to execute such requests.
7. Requests for mutual legal assistance shall be made in writing by the authority or by the agency of the requesting Party to the authority of the requested Party.
8. Requests for mutual legal assistance shall contain such information as the requested Party may require, including:
  - (a) The title of the authority making the request;
  - (b) The object of, and the reason for, the request;
  - (c) An outline of any procedural requirements essential to the requesting Party;
  - (d) Requirements for confidentiality, where necessary.
9. A request shall be executed in accordance with the law of the requested Party and, to the extent not precluded by the law of the requested Party, in accordance with the procedural requirements specified in the request.
10. The requesting Party shall not disclose or use information or evidence furnished by the requested Party for purposes other than those stated in the request without the prior consent of the requested Party. The requesting Party may require that the requested Party keep confidential the substance of the request except to the extent necessary to execute the request.
11. Mutual legal assistance may be refused:
  - (a) If the request is not made in conformity with the provisions of this article; or
  - (b) If the requested Party considers that execution of the request is likely to prejudice its sovereignty, security or other essential interests.
12. Mutual legal assistance may be postponed on the ground that it interferes with an ongoing investigation or prosecution. In such a case, the requested Party shall consult with the requesting Party to determine if the assistance can be given subject to such terms and conditions as the requested Party deems necessary.
13. The Parties shall carry out their obligations under the provisions of this article in conformity with any treaties of mutual legal assistance that may exist between them and consider, as may be necessary, the possibility of concluding bilateral or regional agreements that would serve the purposes, and give practical effect to the provisions of, this article.



Article 6\*

## LAW ENFORCEMENT CO-OPERATION AND TRAINING

1. Having due regard to their constitutional, legal and administrative systems, the Parties shall co-operate closely with each other with a view to enhancing the effectiveness of law enforcement action to suppress the illicit traffic. They shall, in particular:

(a) Establish and maintain channels of communication between law enforcement agencies, including customs services, to facilitate the secure and rapid exchange of information concerning, inter alia:

- (i) The identity, whereabouts and activities of known or suspected traffickers;
- (ii) The methods employed by traffickers;
- (iii) The movement of proceeds that may be derived from or used in the illicit traffic;
- (iv) The ownership and the utilization of means of transport suspected of being used in the illicit traffic;

(b) Assist each other in conducting inquiries or obtaining evidence with respect to investigations concerning cases of illicit traffic. The transfer, in an expeditious manner, of samples of controlled substances for evidentiary or analytical purposes, shall be considered in appropriate cases.

2. The Parties shall, to the extent necessary, initiate, develop or improve training programmes for their law enforcement, customs and other personnel charged with the suppression of the illicit traffic. Such programmes shall deal, in particular, with the following:

- (a) Methods used in the detection of the illicit traffic;
- (b) New routes and techniques used by traffickers, particularly in transit States, and appropriate countermeasures;
- (c) Monitoring of the import and export of controlled substances;
- (d) Detection and monitoring of the flow of proceeds derived from or used in the illicit traffic;
- (e) Methods used in laundering such proceeds;
- (f) Collection of evidence.

3. The Parties shall assist each other to plan and implement training programmes designed to share expertise, in particular, on:

- (a) The methodology of illicit traffic;
- (b) Methods used in laundering proceeds derived from or used in the illicit traffic;
- (c) Law enforcement techniques such as controlled delivery, search techniques, forensic accounting, electronic surveillance and chemical analysis.

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\* Refers to element (f)

4. The Parties shall facilitate effective co-ordination between their respective law enforcement agencies and, in that context, shall consider allowing the posting of liaison officers from other Parties within their borders and promoting the exchange of personnel and other experts on the illicit traffic.

5. The Parties shall endeavour, directly or through competent international organizations, to establish programmes of technical co-operation for the benefit of all Parties, with due regard to the special needs of those which are transit States, to improve channels of communication and to provide technical aids when requested.

6. The Parties shall consider entering into bilateral and regional agreements to promote co-operation aimed at the suppression of the illicit traffic.

7. The Parties shall envisage the organization of regular regional and international conferences and seminars for law enforcement, customs and other personnel designed to stimulate co-operation, allow discussion on problems of mutual concern, including the special problems of transit States, and exchange information on new trends in the illicit traffic and methods used to suppress it.

Article 7 \*

CONTROLLED DELIVERY

1. Having due regard to their constitutional, legal and administrative systems, the Parties shall take the necessary measures to allow for the appropriate use of controlled delivery in order to identify and bring to justice the individuals, corporations or other legal entities involved in the shipment, transportation, delivery, concealment or receipt of illicit consignments of controlled substances.

2. With a view to ensuring that the use of controlled delivery may be effectively co-ordinated at the national and international levels, the Parties shall consider designating an appropriate authority for such co-ordination. The authority designated by each Party for this purpose shall be notified through the Secretary-General to all other Parties.

3. Decisions to use controlled delivery shall be made on a case-by-case basis.

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\* Refers to element (h)

4. In order to ensure that appropriate security is maintained throughout the controlled delivery, the Parties shall provide:

- (a) That the consignment be under continuous surveillance;
- (b) That the Party in whose territory any immediate risk of loss arises intervenes as necessary;
- (c) That any action by law enforcement agencies of the requesting Party be subject to the prior authorization of the Party having jurisdiction over the territory in which the controlled delivery takes place;
- (d) That all or part of the controlled substances in the illicit consignment be replaced whenever possible with innocuous substances.

5. The Parties agree that the appropriate authorities of the country of origin and any transit country shall suspend the prosecution of offences arising from the illicit consignment committed within their jurisdiction, provided that the country of destination undertakes to initiate prosecution for offences committed within its jurisdiction within a reasonable period of time upon completion of the controlled delivery. The country of destination shall provide such evidence as is available and is necessary for prosecution in the country of origin, or in any transit country, for offences committed within the jurisdiction of such countries.

Article 8 \*

MEASURES TO MONITOR OR CONTROL SPECIFIC CHEMICALS  
USED IN THE ILLICIT PROCESSING OR MANUFACTURE  
OF NARCOTIC DRUGS OR PSYCHOTROPIC SUBSTANCES

1. The Parties shall take all necessary measures within their respective territories to prevent the diversion of specific chemicals used in the illicit processing or manufacture of narcotic drugs or psychotropic substances and shall co-operate with each other in conformity with the provisions of this article.
2. Where a Party has information which, in its opinion, may require the inclusion of a substance in List A or List B as a specific chemical used in the illicit processing or manufacture of narcotic drugs or psychotropic substances, it shall notify the Secretary-General and furnish him with the information in support of that notification.
3. The Secretary-General shall transmit such notification, and any information which he considers relevant, to the Parties and to the Commission. The Parties shall communicate their comments concerning the notification to the Secretary-General and all supplementary information which may assist the Commission in taking a decision.

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\* Refers to element (d)

4. The Commission, taking into account the comments submitted by Parties and bearing in mind all the factors it may consider relevant, may decide by a vote of two-thirds majority of its members to include a substance in List A or List B.

5. Any decision of the Commission taken pursuant to this article shall be communicated by the Secretary-General to all States Members of the United Nations, to all non-member States which are Parties to this Convention, and to the Board. Such decision shall become fully effective with respect to each Party 180 days after the date of such communication.

6. (a) The decisions of the Commission taken under this article shall be subject to review by the Council upon the request of any Party filed within 180 days after the date of notification of the decision. The request for review shall be sent to the Secretary-General together with all relevant information upon which the request for review is based;

(b) The Secretary-General shall transmit copies of the request for review and all the relevant information to the Commission and to all the Parties, inviting them to submit comments within 90 days. All comments received shall be submitted to the Council for consideration;

(c) The Council may confirm, alter or reverse the decision of the Commission. Notification of the Council's decision shall be transmitted to all Member States of the United Nations, to non-member States which are Parties to this Convention, to the Commission and to the Board.

7. The procedure described in paragraphs 2-6 of this article shall also apply, *mutatis mutandis*, when a Party has information supporting the deletion of a specific chemical from List A or List B.

8. The Parties shall consider taking measures, consistent with their domestic laws, to license or otherwise control domestic manufacture and use of specific chemicals, including prohibiting such manufacture or use where there is no licit need for it.

9. With respect to specific chemicals in List A, each Party shall:

(a) Limit import and export to licit needs;

(b) Require that import and export be licensed by appropriate authorities;

(c) Inform in advance other Parties to whom exports are destined of the nature, quantities and consignees of such exports;

(d) Require that records of imports and exports be maintained by importers and exporters for at least five years and be available for inspection by appropriate authorities;

(e) Require correct labelling of shipments;

(f) Encourage producers, importers, exporters and end-users to inform authorities of suspicious imports or exports;

(g) Notify the Party of destination of a shipment when there are grounds to suspect that the shipment will be used for illicit processing or manufacture of narcotic drugs or psychotropic substances;

(h) Seize illicit imports and exports.

10. With respect to specific chemicals in List B, each Party shall:
- (a) Require that imports and exports be properly labelled and documented. Documentation shall include the non-proprietary name of the specific chemicals being imported or exported, the quantity being imported or exported, the name and address of the importer, exporter and ultimate consignee, and the period during which the import or export is to take place;
  - (b) Require that records of imports and exports referred to under subparagraph (a) be maintained at least five years and be made available for inspection by appropriate authorities ;
  - (c) Encourage producers, importers, exporters and end-users to inform authorities of suspicious imports or exports;
  - (d) Monitor trade in order to identify suspicious transactions;
  - (e) Notify the Party of destination of a shipment when there are grounds to suspect that the shipment will be used for the illicit processing or manufacture of narcotic drugs or psychotropic substances;
  - (f) Seize any such specific chemicals if there is sufficient evidence that they are intended for illicit use.

11. The Parties shall notify the Board of all detected cases of actual or intended illicit manufacture of narcotic drugs or psychotropic substances, including information on the types and quantities of specific chemicals seized or used, their origin, if known, and the manufacturing process involved.

#### Article 9 \*

#### MATERIALS AND EQUIPMENT

1. The Parties shall co-operate to suppress trade in materials and equipment intended for use in the manufacture of narcotic drugs and psychotropic substances.
2. The Parties shall require that the intention to export a tableting or encapsulating machine be reported in advance to an appropriate authority. If such a machine is to be exported to another Party, the authority of the Party of origin shall notify the Party of destination of the particulars of the transaction.
3. The Parties shall consider requiring:
  - (a) The registration with the appropriate authority of tableting and encapsulating machines;
  - (b) The notification to said authority of the domestic sale or other disposition of such machines.

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\* Refers to element (m)

\* Refers to element (k)  
\*\* Refers to element (a)

Article 10 \*

MEASURES TO ERADICATE NARCOTIC PLANTS CULTIVATED ILLICITLY

1. The Parties shall adopt appropriate measures to prevent the illicit cultivation of and to take effective action to eradicate any opium poppy, coca bush and cannabis plants that may be cultivated illicitly in their territories. Due regard shall be given to biological and ecological considerations.
2. The Parties shall co-operate to increase the effectiveness of eradication efforts, including the techniques of crop substitution and integrated rural development, taking into account the various types and extent of resources available to them as well as the socio-economic conditions prevailing in the areas of illicit cultivation. Parties with common frontiers shall seek to co-operate in eradication programmes in areas along those frontiers.

Article 11 \*\*

COMMERCIAL CARRIERS

1. The Parties shall undertake to increase security at international ports and to ensure by appropriate measures that means of transport operated by commercial carriers are not used in the illicit traffic. Such measures shall include thorough searches of all means of transport suspected of containing evidence of illicit traffic.
2. The Parties shall require commercial carriers to take reasonable precautions to prevent the use of their means of transport for illicit traffic and shall impose adequate penalties for failure to do so. Penalties shall include the possible forfeiture of the means of transport if it is established that the commercial carrier had knowledge that it was used for illicit traffic. Nevertheless, provided all reasonable precautions have been taken, the commercial carrier shall not be held responsible if the illicit nature of the shipment has been misrepresented by the consignor.
3. The Parties shall seek to ensure that commercial carriers:
  - (a) Train their personnel to identify suspicious shipments or persons;
  - (b) Limit access to means of transport and cargo at international ports;
  - (c) Promote employee integrity;
  - (d) Provide cargo manifests in advance of arrival in port, when possible;
  - (e) Schedule, when possible, the arrival of means of transport so as to facilitate effective customs processing;
  - (f) Use tamper-proof individually verifiable seals on containers.

\* Refers to element (k)

\*\* Refers to element (e)

4. The Parties agree that it shall not be considered unreasonable to delay the departure of a commercial aircraft in order to undertake a thorough search for evidence of illicit traffic. Searches shall be conducted with the assistance of qualified maintenance personnel when necessary in order to maintain air worthiness.

5. Nothing in this article shall be construed so as to preclude a commercial carrier from concluding special arrangements with a customs or law enforcement agency to prevent or suppress the illicit traffic.

Article 12 \*

ILLICIT TRAFFIC BY SEA

1. The Parties shall co-operate to the fullest extent possible to suppress the illicit traffic in controlled substances by sea.

2. A Party which has reasonable grounds to suspect that a vessel registered under its laws is being used for the illicit traffic in controlled substances may request the assistance of other Parties in suppressing its use for that purpose. Parties so requested shall render such assistance, within the means available to them.

3. A Party which has reasonable grounds to believe that a vessel is engaged in illicit traffic and is on the high seas as defined in Part VII of the United Nations Convention on the Law of the Sea may board, search and seize such a vessel if:

- (a) The vessel is registered under its laws; or
- (b) That Party seeks and receives permission from the Party of registry; or
- (c) The vessel is not displaying a flag or markings of registry.

4. A Party shall respond in an expeditious manner to requests from another Party to determine, for the purposes of paragraph 3 of this article, whether a vessel is registered under its laws, and to requests for permission made pursuant to the provisions in that paragraph. Each Party shall designate an authority to receive and act upon such requests. The authority designated by each Party for this purpose shall be notified through the Secretary-General to all other Parties.

5. Where evidence of illicit traffic is found, the Party having custody of the vessel shall take appropriate action with respect to the vessel and persons on board, in accordance with:

- (a) Its own judicial requirements if the vessel is registered under its laws; or
- (b) Existing bilateral treaties, where applicable, or any agreement or arrangement otherwise reached at the time of seizure with the Party of registry.

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\* Refers to element (j)

6. The right to challenge the nature or effect of the agreement or arrangement referred to in paragraph 5(b) of this article shall rest exclusively with the Party of registry.

7. The Parties shall consider entering into bilateral and regional agreements to carry out, or to enhance the effectiveness of, the provisions of this article.

Article 13 \*

FREE TRADE ZONES AND FREE PORTS

1. The Parties shall apply measures to suppress the illicit traffic in controlled substances in free trade zones and in free ports substantially equivalent to or more stringent than those applied in other parts of their territories.

2. The Parties shall endeavour:

(a) To monitor the movement and transshipment of goods in free trade zones and free ports, and, to that end, empower appropriate authorities to search incoming and outgoing vessels, including pleasure craft and fishing vessels, as well as aircraft and vehicles;

(b) To establish a detection system to identify suspicious substances passing in or out of those areas.

(c) To maintain patrols in harbour and dock areas and at airports and border control points in those areas;

(d) To provide for special training of the officials in charge of control in those areas;

Article 14 \*\*

PREVENTION OF THE USE OF THE MAILS FOR ILLICIT TRAFFIC

1. In conformity with their obligations under the Conventions of the Universal Postal Union, and having due regard for their constitutional, legal and administrative systems, the Parties shall adopt measures to suppress the use of the mails for illicit traffic and shall co-operate with each other to that end.

\* Refers to element (l)

\*\* Refers to element (n)



2. Measures referred to in paragraph 1 of this article shall include, but may not be limited to:

(a) A co-ordinated preventive and repressive action to discourage the use of the mails for illicit traffic;

(b) Introducing and maintaining investigative techniques designed to detect controlled substances in the mails;

(c) Legislative measures designed to enable the use of appropriate means to secure evidence required for judicial proceedings.





# LAWS AND REGULATIONS

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

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

IRELAND

Communicated by the Government of Ireland

### NOTE BY THE SECRETARIAT

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

Number 18 of 1984

### MISUSE OF DRUGS ACT, 1984

#### ARRANGEMENT OF SECTIONS

##### Section

1. Definition.
2. New definitions of "cannabis" and "opium poppy" and other amendments of section 1 (1) of Principal Act.
3. Investigation of case where Minister considers there are grounds for special direction.
4. Temporary direction pending investigation under section 8.
5. Printing etc. of certain books etc., communication of certain information and possession of certain documents an offence.
6. Penalties.
7. Penalties for offences under Customs Acts relating to controlled drugs.
8. Power of court to remand person convicted of offence to which section 7 applies and to obtain a report and in certain cases to arrange for the medical or other treatment or for the care of such person.
9. Offences to which section 7 applies; presumption, defences, etc.
10. Evidential value of certain certificates.
11. Amendment of sections 17 and 19 of Principal Act.
12. Amendment of section 23 of Principal Act.
13. Amendment of section 26 of Principal Act.
14. Miscellaneous amendments of Principal Act.
15. Repeals.
16. Short title, commencement, collective citation and construction.

\*) Note by the Secretariat: The present document is a direct reproduction of the text received by the Secretariat.

Number 18 of 1984

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MISUSE OF DRUGS ACT, 1984

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AN ACT TO AMEND AND EXTEND THE LAW RELATING  
TO THE MISUSE OF CERTAIN DANGEROUS OR  
OTHERWISE HARMFUL DRUGS. [18th July, 1984]

BE IT ENACTED BY THE OIREACHTAS AS FOLLOWS:

Definition.

1.—In this Act “the Principal Act” means the Misuse of Drugs Act, 1977. 1/

New definition of  
“cannabis” and  
“opium poppy” and  
other amendments  
of section 1 (1) of  
Principal Act.

2.—Section 1 (1) of the Principal Act is hereby amended by—

(a) the substitution of the following definition for the definition of “cannabis”:

“ ‘cannabis’ (except in ‘cannabis resin’) means any plant of the genus *Cannabis* or any part of any such plant (by whatever name designated) but includes neither cannabis resin nor any of the following products after separation from the rest of any such plant, namely—

- (a) mature stalk of any such plant,
- (b) fibre produced from such mature stalk, or
- (c) seed of any such plant;”;

(b) the substitution of the following definition for the definition of “opium poppy”:

“ ‘opium poppy’ means a plant of the species *Papaver somniferum L* or *Papaver bracteatum Lindl.*”;

(c) the substitution of the following definition for the definition of “temporary direction”:

“ ‘temporary direction’ means a direction under section 9 of this Act;”;

(d) the insertion before the definition of “the Veterinary Council” of the following definition:

“ ‘vessel’ includes a hovercraft;”.

**3.—The following section is hereby substituted for section 8 of the Principal Act:**

Investigation of case where Minister considers there are grounds for special direction.

**“8.—(1) If the Minister considers that there may be grounds for giving a special direction, he shall forthwith establish a committee of inquiry, constituted in accordance with any regulations under section 12 of this Act which apply to it, and as soon as may be after such committee is established he shall refer the matter in question to the committee for investigation and when making the reference send to the committee a statement of such grounds, and it shall be the duty of the committee in accordance with this section to investigate the matter referred to it and to report on it to the Minister.**

**(2) Where the Minister sends a statement of grounds to a committee of inquiry established pursuant to this section, he shall at the same time send to the respondent a copy of the statement and invite him to submit to the committee in writing, within the period of twenty-one days commencing on the date on which the statement is sent to the committee, any representations relating to the matter to be investigated which he may then wish to make.**

**(3) (a) Where a committee of inquiry is established under this section, a meeting of the committee of inquiry shall be convened by the Minister who shall at the same time fix a day for the meeting, being a day which is neither earlier than the seventh day after the expiration of the period referred to in subsection (2) of this section nor later than the twenty-first day after such expiration.**

**(b) Where the Minister convenes a meeting under this subsection, he shall at the same time send to the respondent not less than seven days' notice in writing of the date, place and time fixed by the Minister for the meeting and the notice shall also notify the respondent that he may make representations to, and if he so wishes appear in person before, the committee of inquiry concerned, be assisted by another person (whether so appearing or not) in making such representations or have such representations made by another person (whether so appearing or not) acting on his behalf.**

**(4) A committee of inquiry established under this section shall report to the Minister on its investigation as soon as may be and shall state in the report whether or not they recommend the giving of a special direction as regards the matter being investigated, and in case the committee recommends the giving of such a direction they shall indicate in their report either the controlled drugs which the committee considers should be specified in the relevant special direction or that the committee considers that such direction should apply to all controlled drugs.**

(5) Having considered the report of the committee of inquiry established under this section, the Minister may—

- (a) decide to give in respect of the respondent a special direction specifying all or any of the controlled drugs indicated in a recommendation of the committee, or
- (b) decide not to give a special direction,

and in case the Minister pursuant to this section decides not to give a special direction, he shall notify the respondent accordingly.

(6) Where the Minister gives a special direction, he shall, as soon as may be, cause a copy of the special direction to be served on the respondent and shall cause a copy of the direction to be published in the *Iris Oifigiúil* and in such other manner (if any) as the Minister may consider appropriate.

(7) Where the Minister gives a special direction, he shall send a copy of the report received by him from the relevant committee of inquiry and the special direction to the respondent and also to—

- (a) in case the respondent is a registered dentist, the Dental Board,
- (b) in case the respondent is a registered medical practitioner, the Medical Council,
- (c) in case the respondent is a registered veterinary surgeon, the Veterinary Council.”.

Temporary  
direction pending  
investigation under  
section 8.

4.—The following section is hereby substituted for section 9 of the Principal Act:

“9.—(1) Where the Minister refers a matter for investigation to a committee of inquiry established under section 8 of this Act, he may give a direction under this section in respect of the respondent prohibiting his prescribing, administering or supplying or authorising the administration or supply of such controlled drugs as may be specified in the direction, and such direction shall come into force on the expiration of the period of seven days beginning on the day on which a copy of the direction is sent by the Minister to the respondent unless, not later than the seventh day following the day on which such copy is so sent, the respondent satisfies the Minister that the direction should not come into force.

(2) In case a copy of a temporary direction is sent by the Minister, the Minister shall at the same time send to the respondent a notice in writing stating that the respondent may, within the time limit specified in subsection (1) of this section, make representations to the Minister stating why the temporary direction should not come into force.

(3) A temporary direction shall remain in force until the expiration of the period of twenty-eight days beginning on the day on which it is given or until the Minister makes a decision under section 8 (5) of this Act as regards the relevant case, whichever first occurs.

(4) The Minister may extend or further extend, in either case for a period not exceeding twenty-eight days, the period during which a particular temporary direction is to remain in force.

(5) Where a temporary direction is given, extended or further extended, the Minister shall, as soon as may be, cause a notice of the temporary direction, its extension or further extension, as may be appropriate, to be published in the *Iris Oifigiúil* and in such other manner (if any) as the Minister may consider appropriate."

5.—(1) (a) A person shall not print, publish, cause or procure to be printed or published, sell or expose or offer or keep for sale, distribute or offer or keep for distribution, any book, periodical or other publication which either—

Printing etc. of certain books etc., communication of certain information and possession of certain documents an offence.

(i) advocates or encourages, or might reasonably be supposed to advocate or encourage, whether expressly or by implication, the use of any controlled drug prescribed for the purposes of this section, or any product or preparation containing any such controlled drug, otherwise than in the course of professional treatment by a practitioner, or

(ii) contains any advertisement advertising any use of a pipe, utensil or other thing for use by persons, for or in connection with the use of a controlled drug so prescribed or such a product or preparation, which is a use other than a use described in *paragraph (b)* of this subsection.

(b) The use lastly referred to in *paragraph (a)* of this subsection is a use (being the use of a pipe, utensil or other thing)—

(i) which is described in the relevant advertisement, and

(ii) which any person reading the relevant advertisement would—

(I) take to be a use relating to a controlled drug prescribed for the purposes of this section or a product or preparation containing such a controlled drug, and

(II) take to be, and only to be, a use to be availed of in the course of professional treatment by a practitioner.

(2) A person who contravenes *subsection (1)* of this section shall be guilty of an offence under this subsection.

40 (3) If any person, for the purpose of enabling or assisting another person to obtain, otherwise than on foot of a prescription issued by a practitioner, a controlled drug prescribed for the purposes of this section or a product or preparation containing such a drug communicates to that person any information, he shall be guilty of an offence under this subsection.

45 (4) If a person, with intent to commit or to aid, abet, cause or procure the commission of an offence under *subsection (3)* of this section, has in his possession or under his control any document of such a nature that the dissemination of copies thereof would constitute such an offence, he shall be guilty of an offence under this subsection.

50 (5) In any proceedings for an offence under *subsection (2)* of this section it shall be a defence for the defendant to prove that—

- (a) at the time of the alleged offence he carried on the business of selling or distributing books, periodicals or other publications, and
- (b) the act alleged to constitute such offence was committed by him in the ordinary course of his said business, and
- (c) he could not by the exercise of reasonable care have known or ascertained the contents of the book, periodical or other publication in respect of which such act was committed.

(6) Where in proceedings for an offence under *subsection (4)* of this section it is proved that the defendant had at the time of the alleged offence in his possession or under his control a document described in the said *subsection (4)*, then, unless there is sufficient other evidence to raise an issue as to whether the defendant so had the document with the intent referred to in the said *subsection (4)*, he shall be treated as having had at such time the document in his possession or under his control with such intent.

Penalties.

6.—Section 27 of the Principal Act is hereby amended by the substitution of the following subsections for subsections (1) to (11):

“(1) Subject to section 28 of this Act, every person guilty of an offence under section 3 of this Act shall be liable—

- (a) where the relevant controlled drug is cannabis or cannabis resin and the court is satisfied that the person was in possession of such drug for his personal use:
  - (i) in the case of a first offence,



- (I) on summary conviction, to a fine not exceeding £300, or
  - (II) on conviction on indictment, to a fine not exceeding £500,
  - (ii) in the case of a second offence,
    - (I) on summary conviction, to a fine not exceeding £400, or
    - (II) on conviction on indictment, to a fine not exceeding £1,000,
  - (iii) in the case of a third or subsequent offence,
    - (I) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
    - (II) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment;
  - (b) in any other case—
    - (i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
    - (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding seven years, or to both the fine and the imprisonment.
- (2) Subject to section 28 of this Act, every person guilty of an offence under section 6, 7, 16, 17, 19 or 20 of this Act shall be liable—
- (a) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
  - (b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment.
- (3) Subject to section 28 of this Act, every person guilty of an offence under section 15 of this Act shall be liable—

- (a) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
- (b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for life or such lesser period as the court shall determine, or, at such discretion, to both such fine and such lesser period of imprisonment.

(4) Subject to section 28 of this Act, every person guilty of an offence under section 18 of this Act shall be liable—

- (a) on summary conviction, to a fine not exceeding £400 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment, or
- (b) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment.

(5) Every person guilty of an offence under section 21 (1) of this Act shall be liable to be punished on summary conviction as if he were guilty of the substantive offence and in case a penalty on conviction on indictment is provided by this Act in relation to the substantive offence, he shall be liable to be proceeded against on indictment and, if convicted, punished as if he were convicted on indictment of the substantive offence.

(6) Every person guilty of an offence under section 21 (2) of this Act shall be liable—

- (a) in case the regulation in relation to which the offence was committed is a regulation made pursuant to section 5 (1) (a) of this Act, other than a regulation regulating the transportation of controlled drugs,
  - (i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
  - (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding fourteen years, or to both the fine and the imprisonment, and
- (b) in case the regulation in relation to which the offence was committed is a regulation made otherwise than under the said section 5 (1) (a) or is a regulation regulating the transportation of controlled drugs—

- (i) on summary conviction, to a fine not exceeding £500 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment, or
- (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate, or at the discretion of the court, to imprisonment for a term not exceeding two years, or to both the fine and the imprisonment.

(7) Every person guilty of an offence under section 21 of this Act, other than an offence mentioned in subsection (1) or subsection (2) of that section, shall be liable on summary conviction to a fine not exceeding £400 or, at the discretion of the court, to imprisonment for a term not exceeding six months, or to both the fine and the imprisonment.

(8) Every person guilty of an offence under *paragraph (a) or (b) of subsection (1D) of section 23 of this Act, as amended by section 12 of the Misuse of Drugs Act, 1984*, shall be liable on summary conviction to a fine not exceeding £200.

(9) Every person guilty of an offence under *section 5 of the Misuse of Drugs Act, 1984*, shall on summary conviction be liable—

- (a) in case the offence is an offence under *subsection (2) of that section*, to a fine not exceeding £1,000,
- (b) in any other case, to a fine not exceeding £500.”.

7.—(1) Where a person is convicted of an offence to which this section applies, subject to *section 8 of this Act*, the person shall, in lieu of the penalties specified in the enactments relating to the customs which are for the time being in force, be liable to—

Penalties for offences under Customs Acts relating to controlled drugs.

- (a) where the court is satisfied that the relevant controlled drug was imported by the person for the purpose of selling or otherwise supplying it to another in contravention of regulations under section 5 of the Principal Act which are for the time being in force—
  - (i) on summary conviction, the penalty specified in paragraph (a) of subsection (3) (inserted by *section 6 of this Act*) of section 27 of the Principal Act,
  - (ii) on conviction on indictment, the penalty specified in paragraph (b) of the said subsection (3),
- (b) where the relevant controlled drug is cannabis or cannabis resin and the court is satisfied that the person imported such drug for his personal use:

- (i) in the case of a first offence,
    - (I) on summary conviction, to a fine not exceeding £300, or
    - (II) on conviction on indictment, to a fine not exceeding £500,
  - (ii) in the case of a second offence,
    - (I) on summary conviction, to a fine not exceeding £400, or
    - (II) on conviction on indictment, to a fine not exceeding £1,000,
  - (iii) in the case of a third or subsequent offence,
    - (I) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
    - (II) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding three years, or to both the fine and the imprisonment,
- (c) in any other case—
- (i) on summary conviction, to a fine not exceeding £1,000 or, at the discretion of the court, to imprisonment for a term not exceeding twelve months, or to both the fine and the imprisonment, or
  - (ii) on conviction on indictment, to a fine of such amount as the court considers appropriate or, at the discretion of the court, to imprisonment for a term not exceeding seven years, or to both the fine and the imprisonment.

(2) This section applies to an offence against the Customs Acts in relation to the importation or exportation of a controlled drug.

Power of court to remand person convicted of offence to which section 7 applies and to obtain a report and in certain cases to arrange for the medical or other treatment or for the care of such person.

8.—(1) Where a person is convicted of an offence to which *section 7* of this Act applies, if, having regard to the circumstances of the case, the court considers it appropriate so to do, the court may remand the person for such period as it considers necessary for the purposes of this section (being a period not exceeding eight days in the case of a remand in custody) and request a health board, probation and welfare officer employed in the probation and welfare service of the Department of Justice or such other person or body, considered by the court to be appropriate to furnish to the court—

- (a) a medical report described in subparagraph (i), as amended by *section 14* of this Act, of *section 28 (1) (a)* of the Principal Act, and
- (b) a report described in subparagraph (ii), as so amended, of the said *section 28 (1) (a)*.

(2) Where the court makes a request under *subsection (1)* of this section, *subsections (2) to (9)* of *section 28*, as amended by *section 14* of this Act, of the Principal Act, shall with the necessary modifications apply as regards the relevant case, and without prejudice to the generality of the foregoing—

- (a) each of the references in the said *subsections (2) to (9)* to *section 27* of the Principal Act shall be construed as a reference to that section as applied by this subsection,
- (b) the references to a report in *subsections (3) and (4)* of the said *section 28* shall each be construed as including a reference to a report furnished under *subsection (1)* of this section,
- (c) the reference in *subsection (6)* of the said *section 28* to a person's being detained under the Principal Act shall be construed as a reference to detention imposed by virtue of this subsection,
- (d) references in *subsection (6) or (7)* of the said *section 28* to a decision or order under *subsection (2)* of that section shall be construed as including references to a decision or order under the said *subsection (2)* as applied by this subsection.

9.—(1) Subject to *subsection (4)* of this section, in any proceedings for an offence to which *section 7* of this Act applies, where it is proved that a person imported a controlled drug and the court, having regard to the quantity of the controlled drug which the person imported and to such other matter as the court considers relevant, is satisfied that it is reasonable to assume that the controlled drug was not intended for the immediate personal use of the person, then for the purposes of *section 7 (1) (a)* of this Act, he shall be regarded by the court, until the court is satisfied to the contrary, as having imported the controlled drug for the purpose of selling or otherwise supplying it to another in contravention of regulations referred to in that section.

Offences to which  
*section 7* applies;  
presumption,  
defences, etc.

(2) In any proceedings for an offence to which *section 7* of this Act applies, the defendant shall not be acquitted of the offence charged by reason only of proving that he neither knew nor suspected nor had reason to suspect that the substance, product or preparation in question was the particular controlled drug alleged.

(3) In proceedings for an offence to which *section 7* of this Act applies in which it is proved that the defendant imported or exported the relevant controlled drug in contravention of the Customs Acts, it shall be a defence to prove that—

- (a) he did not know and had no reasonable ground for suspecting that what he so imported or exported, as may be appropriate, was a controlled drug, or
- (b) he believed the relevant substance, product or preparation to be a controlled drug, or a controlled drug of a particular class or description, and that, if the substance, product or preparation had in fact been that controlled drug or a controlled drug of that class or description, he would not at the material time have been committing an offence against the Customs Acts.

(4) In any proceedings for an offence to which *section 7* of this Act applies a defendant may rebut the presumption raised by *subsection (1)* of this section by showing that at the time of the alleged offence he was by virtue of regulations made under *section 4* of the Principal Act lawfully in possession of the controlled drug to which the proceedings relate.

(5) In any proceedings for an attempt to commit an offence to which *section 7* of this Act applies the defences mentioned in *subsection (3)* of this section shall, with the necessary modifications, be open to the defendant.

(6) Subject to *subsection (2)* of this section, nothing in this section shall prevent a person raising a defence which, apart from this section, would be open to him to raise in proceedings for an offence to which *section 7* of this Act applies.

Evidential value of certain certificates.

10.—In any proceedings for an offence under the Principal Act or *section 5* of this Act, the production of a certificate purporting to be signed by an officer of the Forensic Science Laboratory of the Department of Justice and relating to an examination, inspection, test or analysis, as the case may be, specified in the certificate of a controlled drug or other substance, product or preparation so specified shall, until the contrary is proved, be evidence of any fact thereby certified without proof of any signature thereon or that any such signature is that of such an officer.

Amendment of sections 17 and 19 of Principal Act.

11.—(1) The following subsections are hereby substituted for subsections (1) and (2) of *section 17* of the Principal Act:

“(1) A person shall not cultivate opium poppy, any plant of the genus *Cannabis* or any plant of the genus *Erythroxylon* except under and in accordance with a licence issued in that behalf by the Minister.

(2) Every person who cultivates opium poppy, a plant of the genus *Cannabis* or a plant of the genus *Erythroxylon* in contravention of subsection (1) of this section shall be guilty of an offence.”.

(2) *Section 19* of the Principal Act shall be construed and have effect as if the reference in subsection (1) (a) thereof to the cultivation contrary to *section 17* of that Act of opium poppy included a reference to the cultivation contrary to the said *section 17*, as amended by *subsection (1)* of this section, of any plant of the genus *Erythroxylon*.

12.—Section 23 of the Principal Act is hereby amended by—

Amendment of  
section 23 of  
Principal Act.

- (a) the insertion of “(and any substance, article or other thing on or in the vehicle, vessel or aircraft)” before “and for the purpose” in paragraph (b) of subsection (1);
- (b) the insertion of “examine (by opening or otherwise) and” before “seize” in paragraph (c) of subsection (1);
- (c) the insertion of the following subsections after subsection (1):

“(1A) Where a member of the Garda Síochána decides to search a person under this section, he may require the person to accompany him to a Garda Station for the purpose of being so searched at that station.

(1B) Where a member of the Garda Síochána decides to search a vehicle, vessel or aircraft under this section he may as regards the person who appears to him to be the owner or in control or charge for the time being of the vehicle, vessel or aircraft make any one or more or all of the following requirements:

- (a) require such person, pending the commencement of the search, not to remove from the vehicle, vessel or aircraft, as may be appropriate, any substance, article or other thing,
- (b) in case the decision relates to a vehicle and the place at which he finds the vehicle is in his reasonable opinion unsuitable for such search, require such person forthwith to take the vehicle or cause it to be taken to a place which he considers suitable for such search and which is specified by him,
- (c) require the person to be in or on or to accompany the vehicle, vessel or aircraft, as may be appropriate, for so long as the requirement under this paragraph remains in force.

(1C) Where there is a failure to comply with a requirement made under this section the following provisions shall apply—

- (a) in case the requirement was made under *subsection (1A)* of this section, the member of the Garda Síochána concerned may arrest without warrant the person of whom the requirement was made, and
- (b) in case the requirement is a requirement mentioned in *paragraph (b) of subsection (1B)* of this section, such member may take the vehicle concerned, or cause it to be taken, to a place which he considers suitable for a search under this section.

(1D) Where a requirement is made of a person under this section—

(a) in case the requirement is a requirement mentioned in *paragraph (c) of subsection (1B)* of this section, if at any time while the requirement is in force the person of whom it was made is neither in nor on nor accompanying the vehicle, vessel or aircraft, as may be appropriate, in relation to which the requirement was made, he shall be guilty of an offence,

(b) in case of any other requirement under this section the person who fails to comply with the requirement shall be guilty of an offence.

(1E) A requirement mentioned in *paragraph (c) of subsection (1B)* of this section shall remain in force until the search in relation to which it is made is completed.

(1F) Where a requirement described in *paragraph (a) of subsection (1B)* of this section is made of a person, the search in relation to which the requirement is made shall be carried out as soon as is practicable.”,

and the said paragraphs (b) and (c), as so amended, are set out in paragraphs 1 and 2, respectively, of the Table to this section.

#### TABLE

1. (b) search any vehicle, vessel or aircraft in which he suspects that such drug may be found (and any substance, article or other thing on or in the vehicle, vessel or aircraft) and for the purpose of carrying out the search may, if he thinks fit, require the person who for the time being is in control of such vehicle, vessel or aircraft to bring it to a stop and when stopped to refrain from moving it, or in case such vehicle, vessel or aircraft is already stationary, to refrain from moving it, or

2. (c) examine (by opening or otherwise) and seize and detain anything found in the course of a search under this section which with such cause appears to him to be something which might be required as evidence in proceedings for an offence under this Act.

13.—Section 26 of the Principal Act is hereby amended by—

Amendment of  
section 26 of  
Principal Act.

(a) the insertion of “or other land” after “premises” in paragraph (a);

(b) the insertion of the following paragraph after paragraph (a):

“(aa) opium poppy, a plant of the genus *Cannabis* or a plant of the genus *Erythroxylon* is being cultivated contrary to section 17 of this Act on or in any premises or other land, or”;

(c) the substitution of the following subsections for subsection (2):



"(2) A search warrant issued under this section shall be expressed and operate to authorise a named member of the Garda Síochána, accompanied by such other members of the Garda Síochána and such other persons as may be necessary, at any time or times within one month of the date of issue of the warrant, to enter (if need be by force) the premises or other land named in the warrant, to search such premises or other land and any persons found therein, to examine any substance, article or other thing found thereon or therein, to inspect any book, record or other document found thereon and, if there is reasonable ground for suspecting that an offence is being or has been committed under this Act in relation to a substance, article or other thing found on such premises or other land or that a document so found is a document mentioned in subsection (1) (b) of this section or is a record or other document which the member has reasonable cause to believe to be a document which may be required as evidence in proceedings for an offence under this Act, to seize and detain the substance, article, document or other thing, as the case may be.

(3) Where any premises or other land is entered pursuant to a warrant issued under this section, the member of the Garda Síochána named in the warrant may do either or both of the following:

(a) arrest without warrant any person or persons found on such premises or other land for the purpose of searching him or them,

(b) so arrest any such person or persons and keep him or them, as may be appropriate, under arrest until such time as such of the powers of search or examination as he wishes to exercise pursuant to the warrant have been exercised by him.

(4) In this section—

'land' includes any structure on land;

'structure' means building, structure or any other thing constructed, erected, placed or made on, in or under any land."

and the said paragraph (a), as so amended, is set out in the Table to this section.

#### TABLE

(a) a person is in possession in contravention of this Act on any premises or other land of a controlled drug, a forged prescription or a duly issued prescription which has been wrongfully altered and that such drug or prescription is on a particular premises or other land, or

Miscellaneous  
amendments of  
Principal Act.

**14.—The Principal Act is hereby amended by—**

- (a) the insertion of “or 3” after “section 2” in paragraph (a) of section 22 (1);
- (b) the substitution of “if, having regard to the circumstances of the case, the court considers it appropriate so to do, the court may” for “the court shall” in paragraph (a) of section 28 (1);
- (c) the insertion of “, arising because of his being dependent on drugs,” after “needs” in both subparagraph (i) of section 28 (1) (a) and subparagraph (i) of section 28 (1) (b);
- (d) the substitution of “probation and welfare” for “court welfare” in section 28 (1) (a);
- (e) the substitution of “on bail or, unless a penalty falls to be imposed on the person under paragraph (a) of section 27 (1) of this Act, in custody” and “probation and welfare” for “on bail” and “court welfare”, respectively, in section 28 (1) (b);
- (f) the insertion in section 28 (2) (a) of the following subparagraph after subparagraph (i):
  - “(ia) in case the person concerned is placed under such supervision, a condition requiring such person, at the place at which he normally resides or at such other place as may be specified in the order and during such period and at such intervals as shall be so specified, to receive visits from and permit visits by—
    - (I) in case such person is placed under the supervision of a body, an officer of that body,
    - (II) in case such person is placed under the supervision of a person, that person,”;
- (g) the insertion of “or other” before “treatment” in subparagraph (ii) of section 28 (2) (a);
- (h) the insertion of “or the person who is for the time being in charge of such centre” after “medical practitioner” in subsection (6) of section 28;
- (i) the substitution in subsection (8) of section 28 of “medical or other treatment” for “medical treatment” and “the medical practitioner or other person” for “the medical practitioner” in each place where it occurs; and
- (j) the insertion in section 28 (11) of the following definition after the definition of “authorised medical practitioner”:
  - “‘probation and welfare officer’ means an officer employed in the probation and welfare service of the Department of Justice;”,

and the said paragraph (a) of the said section 22 (1), the said section 28 (1), the said subparagraph (ii), the said subsection (6) and the said subsection (8), as amended by this section, are set out in paragraphs 1, 2, 3, 4 and 5, respectively, of the Table to this section.

**TABLE**

1. (a) order made under section 2 or 3 of this Act.

2. (1) (a) Where a person is convicted of an offence under section 3 of this Act, other than a first or second offence in relation to which a penalty may be imposed under section 27 (1) (a) of this Act, or an offence under section 15 or 16 of this Act, or of attempting to commit any such offence, if, having regard to the circumstances of the case, the court considers it appropriate so to do, the court may remand the person for such period as it considers necessary for the purposes of this section (being a period not exceeding eight days in the case of a remand in custody), and request a health board, probation and welfare officer or other body or person, considered by the court to be appropriate, to—

(i) cause to be furnished to the court a medical report in writing on the convicted person together with such recommendations (if any) as to medical treatment which the person making the report considers appropriate to the needs, arising because of his being dependent on drugs, of the convicted person, and

(ii) furnish to the court a report in writing as to the vocational and educational circumstances and social background of the convicted person together with such recommendations (if any) as to care which the body or person making the report considers appropriate to the said needs.

(b) Where a person is convicted of a first or second offence under section 3 of this Act in relation to which a penalty may be imposed under the said section 27 (1) (a) or an offence under section 17 or 18 of this Act, or of attempting to commit any such offence, and the court, having regard to the circumstances of the case, considers it appropriate so to do, the court may remand the person on bail or, unless a penalty falls to be imposed on the person under paragraph (a) of section 27 (1) of this Act, in custody for such period as it considers necessary for the purposes of this section, and request a health board, probation and welfare officer or other body or person, considered by the court to be appropriate, to—

(i) cause to be furnished to the court a medical report in writing on the convicted person together with such recommendations (if any) as to medical treatment which the person making the report considers appropriate to the needs, arising because of his being dependent on drugs, of the convicted person, and

(ii) furnish to the court a report in writing as to the vocational and educational circumstances and social background of the convicted person together with such recommendations (if any) as to care which the body or person making the report considers appropriate to the said needs.

3. (ii) a condition requiring such person to undergo medical or other treatment recommended in the report,

4. (6) If at any time during a period of detention in a designated custodial treatment centre it appears to the court, on an application made by or on behalf either of the prosecutor or the person who is being detained, or on receipt of a message, in a form approved of by the Minister, from an authorised medical practitioner or the person who is for the time being in charge of such centre, that the person being detained under this Act is not then, or may not then be, in further need of the treatment or care of which the court formerly considered him to be in need, or that his continued detention in custody in the designated custodial treatment centre is not then, or may not then be, in his best interests or in the best interests of other persons in that centre, the court, notwithstanding its decision under subsection (2) of this section, may order the person to be brought before the court.

5. (8) The court shall not under this section either,
- (a) permit a person to enter into a recognisance containing a condition requiring him for medical or other treatment to remain in a specified hospital, clinic or other place, or
  - (b) order a person to be detained in a custodial treatment centre, unless, after consultation with, or consideration of a report of, either the medical practitioner or other person in charge of the hospital, clinic, custodial treatment centre or other place concerned or a medical practitioner or other person nominated by the medical practitioner or other person so in charge, the court is satisfied that the giving or making of the permission or order would be an appropriate course having regard to the needs of the person and would not prejudicially affect the ability of such hospital, clinic, custodial treatment centre or other place to provide for the treatment or care of persons.

Repeals.

15.—The following provisions of the Principal Act are hereby repealed—

- (a) the words “import, export, transport,” in section 5 (2) (b);
- (b) the words “, after consultation with the registration authority concerned,” in both subsection (3) and subsection (4) of section 7;
- (c) section 10;
- (d) the words “, advisory committees or advisory panels” and “or 9” in section 12 (1);and
- (e) the words “or advisory panel” in section 12 (2).

Short title,  
commencement,  
collective citation  
and construction.

16.—(1) This Act may be cited as the Misuse of Drugs Act, 1984.

(2) This Act shall come into operation on such day or days as may be fixed therefor by order or orders of the Minister, either generally or with reference to any particular purpose or provision of this Act, and different days may be so fixed for different such purposes or provisions.

(3) The Principal Act and this Act may be cited together as the Misuse of Drugs Acts, 1977 and 1984, and shall be construed together as one Act.



# LAWS AND REGULATIONS

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

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

HONG KONG

Communicated by the Government of the United Kingdom of Great Britain  
and Northern Ireland

### NOTE BY THE SECRETARIAT

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

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\* / Note by the Secretariat: The present document is a direct reproduction of the texts received by the Secretariat.

**CHAPTER 138**

**PHARMACY AND POISONS ORDINANCE**

**ARRANGEMENT OF SECTIONS**

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**CHAPTER 138**  
**PHARMACY AND POISONS**

*To consolidate and amend the law relating to pharmacy and poisons.*

Originally  
46 of 1969.  
L.N. 177/70.  
31 of 1972.  
L.N. 156/72.  
L.N. 166/73.  
45 of 1975.  
L.N. 160/75.  
38 of 1977.  
50 of 1977.  
50 of 1980.

L.N. 186/69.

[1 January 1970.]

1. This Ordinance may be cited as the Pharmacy and Poisons Ordinance.

Short title.

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

Interpretation.

“authorized seller of poisons” means a registered pharmacist carrying on business on his own account or a body corporate or an unincorporated body of persons authorized to sell poisons under section 11;

“Board” means the Pharmacy and Poisons Board established under section 3;

“dispensing” in relation to a medicine or poison includes the compounding or mixing of substances (including poisons) and the supplying of the same;

“duly qualified veterinary surgeon” means a member of the Royal College of Veterinary Surgeons of Great Britain, or a person holding a diploma or certificate from a veterinary training institution or examining body prescribed by regulations made under section 29(n);

“institution” means—

- (a) any hospital or maternity home within the meaning of the Hospitals, Nursing Homes and Maternity Homes Registration Ordinance;
- (b) any clinic within the meaning of the Medical Clinics Ordinance; and
- (c) any such hospital, maternity home or clinic maintained by the Crown;

(Cap. 165.)

(Cap. 343.)

“labelled” means any statement forming part of or affixed to a container in which pharmaceutical products are sold, which statement may, subject to any regulations made under this Ordinance, be printed in English or Chinese;

“listed seller of poisons” means a person whose name is entered on the list kept under section 25 of persons entitled to conduct the retail sale of poisons included in Part II of the Poisons List;

“manufacture” means the preparation of pharmaceutical products for sale or distribution but shall not include the individual dispensing on a prescription or otherwise of any pharmaceutical product, and “manufacturer” has a corresponding meaning;

"pharmaceutical product" and "medicine" mean any substance or mixture of substances manufactured, sold, supplied or offered for sale or supply for use in—

- (a) the diagnosis, treatment, mitigation, alleviation or prevention of disease or any symptom thereof;
- (b) the diagnosis, treatment, mitigation, alleviation of any abnormal physical or physiological state or any symptom thereof;
- (c) altering, modifying, correcting or restoring any organic function,

in human beings or in animals; (*Replaced, 50 of 1977, s. 2*)

"poison" means a substance which is specified in the Poisons List;

"Poisons List" means the Poisons List prescribed by regulations;

"practising certificate" means a certificate issued under section 10A; (*Added, 50 of 1977, s. 2*)

"registered means—

- (a) in relation to a pharmacist, a person whose name has been entered on the register of pharmacists under section 5;
- (b) in relation to premises, such premises as are entered on the register of premises under section 13;
- (c) in relation to a medical practitioner, a person duly registered or deemed to be registered under the Medical Registration Ordinance; (Cap. 161.)
- (d) in relation to a dentist, a person duly registered or deemed to be registered under the Dentists Registration Ordinance; (Cap. 156.)

"sale by way of wholesale dealing" means the sale of goods to a person who is authorized by this Ordinance to resell such goods;

"Secretary" means the secretary to the Board;

"sell" includes offer or expose for sale, and "seller" has the corresponding meaning: (*Added, 50 of 1980, s. 2*)

"Tribunal" has the meaning assigned to it by section 30. (*Added, 50 of 1980, s. 2*)

(*Amended, 38 of 1977, s. 24*)

(2) It shall be a sufficient compliance with any requirement in this Ordinance that premises be under the personal control of a registered pharmacist if for not less than two-thirds of the hours of each day the premises are open for business a registered pharmacist is present at the premises and exercises control and supervision over the persons employed therein.

(3) Where in this Ordinance any document is required to be signed by any person, that person shall write his name or make his mark on the document but the affixing of a chop shall not be an adequate signature.

The Pharmacy  
and Poisons  
Board.

3. (1) There shall be for the purposes of this Ordinance a Board to be called the Pharmacy and Poisons Board.

(2) The Board shall consist of—

- (a) the Director of Medical and Health Services;



- (b) the Professor of Pharmacology at the University of Hong Kong;
- (c) the Government Chemist;
- (d) the Chief Pharmacist of the Medical and Health Department;
- (e) 1 medical officer in the Medical and Health Department appointed by the Governor;
- (f) 1 legally qualified person appointed by the Governor to act as the legal adviser to the Board;
- (g) 3 registered pharmacists (not being public officers) nominated by the Pharmaceutical Society of Hong Kong and appointed by the Governor;
- (h) 1 registered medical practitioner (not being a public officer) nominated by the Hong Kong Medical Association and appointed by the Governor; and
- (i) 1 registered medical practitioner (not being a public officer) nominated by the Hong Kong Branch of the British Medical Association and appointed by the Governor.

(3) The members of the Board appointed by the Governor shall hold office for a period of 3 years from the date of their appointment or for such lesser period as the Governor may appoint.

(4) There shall be a Secretary to the Board who shall be appointed by the Governor. (*Added, 31 of 1972, s. 2*)

4. (1) The Director of Medical and Health Services shall be the Chairman of the Board and as Chairman shall have both a deliberative and a casting vote.

Chairman of Board and meetings.

(2) If the Chairman of the Board is absent from any meeting of the Board, the members present at such meeting shall elect from among their number a member to act as chairman and the person so elected shall have all the powers of the Chairman for the purposes of that meeting.

(3) The Board shall meet at such times and at such places as the Chairman shall from time to time direct.

(4) 5 members of the Board shall constitute a quorum at meetings.

(5) A vacancy among the members of the Board or any defect in their appointment shall not affect the validity of any proceedings of the Board.

(6) At meetings of the Board all questions shall be decided by the votes of a majority of the members of the Board present.

(7) The Board may make standing orders for regulating the procedure and the conduct of its meetings.

4A. (1) The Board may establish such number of executive committees as it may deem fit for the purpose of performing such functions relating to—

Power of Board to establish executive committees.

- (a) the registration, licensing or certification under this Ordinance of persons, poisons or pharmaceutical products; or

- (b) the entering of the names of persons on the list kept under section 25 of persons entitled to conduct the retail sale of poisons included in Part II of the Poisons List,

as may be prescribed in respect of any such committee by regulations made under section 29.

(2) A committee established under this section shall consist of—

- (a) such member of the Board as the Board may appoint to be chairman of the committee; and

- (b) such other persons, whether members of the Board or not, as the Board may appoint to be members thereof,

and any person so appointed shall hold office on such terms and for such period as the Board may determine.

(3) A member of a committee established under this section may resign his office at any time by notice in writing addressed to the Chairman of the Board.

(4) The procedure of every committee established under this section shall be such as the Board may determine.

(5) The establishment of a committee under this section shall be notified by the Board in the *Gazette*, and such notice shall specify the purpose for which the committee has been established.

(6) The Board may at any time vary, modify or extend the purpose for which any committee has been established under this section and shall notify any such variation, modification or extension in the *Gazette*; and references in this Ordinance to the purpose for which any such committee has been so established shall be construed as references to such purpose as so varied, modified or extended.

(7) A committee established under this section may be dissolved by the Board at any time and, without prejudice to anything already done by the committee, such dissolution shall be notified by the Board by notice in the *Gazette* and shall take effect on the date of publication of the notice.

(8) Where any regulations made under section 29 provide for the performance by a committee established under this section of any functions referred to in subsection (1) and such committee has not been so established at the commencement of the regulations or is dissolved under this section, the regulations shall have effect, until such committee has been so established or, as the case may be, such functions are vested under this Ordinance in another committee established under this section, as if for references to such committee there were substituted references to the Board.

(9) A committee existing at the commencement\* of the Pharmacy and Poisons (Amendment) Ordinance 1980 which was established prior to the commencement of that Ordinance by regulations made under section 29 for the purpose of performing any functions referred to in subsection (1) shall be deemed to be a committee established by the Board under this section, and this section shall apply accordingly in relation to such committee.

(Added, 50 of 1980, s. 3)

[\*1.1.81.]  
(50 of 1980.)

5. (1) The Board shall cause the Secretary to enter in a register (in this Ordinance referred to as the register of pharmacists), the names and addresses of all persons qualified to be registered as pharmacists under this Ordinance.

The register of pharmacists.  
[cf. 1954 c. 61, s. 2.]

(2) The register of pharmacists shall be kept at the headquarters of the Medical and Health Department in the office of the Secretary and shall be open for inspection by any person during the usual hours of business without payment of fee.

(3) The Board shall cause a copy of the register of pharmacists to be published in the *Gazette* once every 12 months.

(4) The register kept in accordance with the provisions of the repealed Pharmacy and Poisons Ordinance shall be deemed to be, for the purposes of this Ordinance, the register under this section and every person whose name appears therein shall be deemed to be a pharmacist registered in accordance with this Ordinance.

(Cap. 138, 1964 Ed.)

6. A certificate purporting to be under the seal of the Board and signed by the Chairman or the Secretary, or a copy of the *Gazette* containing a copy of the register of pharmacists printed within the preceding 12 months, shall, until the contrary is proved, be evidence in any court that the persons whose names are set out in such certificate or copy of the *Gazette* were registered as pharmacists at the date shown on such certificate or *Gazette*.

Evidence of registration.  
[cf. 1954 c. 61, s. 6.]

7. (1) The Secretary may amend the register of pharmacists as to the address or any other particulars relating to a pharmacist whose name appears therein, if satisfied that such amendment is necessary for the purposes of preserving the accuracy of the register.

Correction of register.  
[cf. 1954 c. 61, s. 13.]

(2) The Secretary shall make such entries in the register of pharmacists as the Board in the exercise of its powers under this Ordinance may direct.

(3) The Board may direct the deletion of any entry in the register of pharmacists relating to a pharmacist who—

- (a) requests in writing that his name be so deleted;
- (b) has died;
- (c) has been absent from the Colony for a period of not less than 2 years without giving to the Secretary or the Board notice of his intention to return;
- (d) the Board is satisfied obtained registration by fraudulent means;
- (e) being a person required to be the holder of a practising certificate, has practised as a pharmacist in Hong Kong for a period exceeding 6 months without having obtained such a certificate; (*Added, 50 of 1977, s. 3*)
- (f) is no longer practising as a pharmacist in Hong Kong. (*Added, 50 of 1977, s. 3*)

8. (1) Subject to the provisions of this Ordinance, there may be registered as a pharmacist any person who—

- (a) holds a diploma in pharmacy of the University of Hong Kong;
- (b) is duly registered as a pharmaceutical chemist or chemist and druggist with the Pharmaceutical Society of Great Britain;

Qualifications for registration as pharmacists.  
[cf. 1954 c. 61, ss. 3 & 4.]

- (c) holds a certificate of a Commonwealth pharmaceutical institution which has entered into an agreement for reciprocity of registration with the Pharmaceutical Society of Great Britain;
- (d) has successfully completed a course of training and study and who has passed any examinations thereon that may have been prescribed by the Board; and
- (e) holds any diploma or certificate, other than a certificate to which paragraph (c) refers, and who has satisfied the Board by examination or otherwise that he has the skill and experience in pharmacy equivalent to that possessed by a person to whom paragraphs (a) to (d) relate.

(2) Notwithstanding anything contained in subsection (1), the Board may require any applicant for registration to pass such examinations as it may determine or to undergo such period of training as the Board may specify. (*Replaced, 50 of 1977, s. 4*)

(3) For the purposes of conducting examinations on behalf of the Board, there shall be a committee of examiners consisting of the following persons—

- (a) the Professor of Pharmacology at the University of Hong Kong;
- (b) the Government Chemist;
- (c) the Chief Pharmacist of the Medical and Health Department;
- (d) 1 medical officer in the Medical and Health Department appointed by the Board; and
- (e) 1 registered pharmacist (not being a public officer) appointed by the Board.

Certificate of registration as a pharmacist.  
*(cf. 1954 c. 61, s. 5.)*

9. (1) Upon the registration of a person as a pharmacist the Secretary shall issue to him a certificate of registration as a pharmacist in the prescribed form. (*Amended, 31 of 1972, s. 3*)

(2) If a certificate issued under subsection (1) is lost or destroyed, or if for any other reason a registered pharmacist requires a duplicate certificate to be issued, the Secretary shall, on being satisfied that the original certificate of registration has been lost or destroyed or that a duplicate certificate is required for good reason, and upon payment of a prescribed fee (if any), issue to the pharmacist a certified duplicate of the certificate of registration.

(3) If the name of any pharmacist is removed from the register of pharmacists in accordance with a direction of a Disciplinary Committee under section 16, that pharmacist shall forthwith return to the Secretary the certificate of registration and any certified duplicate thereof (if any), or if the said certificate or duplicate has been lost or destroyed the pharmacist shall deliver to the Secretary a signed statement to that effect.

Misuse of certificates of registration.  
*(cf. 1954 c. 61, s. 20.)*

10. (1) Any person who, with intent to deceive—

- (a) forges, or uses, or lends to or allows to be used by any other person a certificate of registration as a pharmacist or any other certificate issued under any enactment, whether of this Colony or elsewhere, relating to pharmacy; or
- (b) makes or has in his possession a document so closely resembling any such certificate as aforesaid as to be calculated to deceive,

shall be guilty of an offence and shall be liable on conviction to a fine of \$2,000.

(2) In this section, the expression "forges" has the same meaning as in Part IX (Forgery) of the Crimes Ordinance.

**10A.** (1) Subject to this section, a registered pharmacist shall not practise as a pharmacist in Hong Kong, unless he is the holder of a practising certificate which is then in force.

Registered pharmacist not to practise without practising certificate.

(2) Subject to the payment of the prescribed fee for the issue of a practising certificate, the Secretary, on application made to him for that purpose by a registered pharmacist, shall issue to him a certificate to the effect that he is, subject to any conditions and restrictions specified in the certificate, entitled to practice as a pharmacist in Hong Kong.

(3) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of that year, the certificate shall, subject to subsection (5), be in force from the time of its issue until the end of that year.

(4) Where a practising certificate is issued pursuant to an application made during the course of a year in respect of the following year, the certificate shall, subject to subsection (5), be in force for a period of 12 months commencing on 1 January in that following year.

(5) If at any time during the currency of a practising certificate issued under this section, the holder of the certificate ceases to be registered under this Ordinance, the certificate shall thereupon be deemed to be cancelled.

(6) Any person who is required under this section to be the holder of a practising certificate under this section shall be deemed to have obtained the certificate when he has duly applied to the Secretary and paid the prescribed fee for the issue of the practising certificate.

(7) A person who is required under this section to be the holder of a practising certificate shall not be entitled to recover any fees, costs or other remuneration on any cause of action unless he was, at the time when the cause of action arose, the holder of a valid practising certificate.

(8) This section applies to any person whose name has been entered on the register of pharmacists.

*(Added, 50 of 1977, s. 5)*

**10B.** (1) If any registered pharmacist contravenes subsection (1) of section 10A, the amount of the prescribed fee payable by him under subsection (2) of that section shall be recoverable as a civil debt.

Recovery of practising fees.

(2) In any proceedings under this section a certificate purporting to be under the hand of the Secretary to the effect that the registered pharmacist concerned had not paid the prescribed fee for the issue of a practising certificate shall, until the contrary is proved, be evidence of non-payment of the fee.

(3) On recovery from a registered pharmacist of a prescribed fee under this section the Secretary shall, if the registered pharmacist's name appears on the register of pharmacists, issue the registered pharmacist with the appropriate practising certificate.

*(Added, 50 of 1977, s. 5)*

**11.** (1) A business comprising the retail sale of poisons carried on by a registered pharmacist or by a body corporate or an unincorporated body of persons shall be an authorized seller of poisons if the actual sale of poisons is conducted on premises duly registered under this Ordinance by a registered pharmacist or in his presence and under his supervision.

Authorized sellers of poisons.  
[cf. 1933 c. 25, ss. 8 & 9.]

(2) The name, the certificate of registration and a notice setting out the hours of attendance of each registered pharmacist engaged in, or employed by an authorized seller of poisons in, the business shall be displayed in a conspicuous place in the premises where he is so engaged or employed.

(3) No registered pharmacist employed by an authorized seller of poisons shall at the same time engage in the retail sale of poisons on his own account and in employment with any other authorized seller of poisons without first obtaining the written authority of the Board.

(4) The Board may grant a registered pharmacist written authority under subsection (3) on such conditions as it thinks fit.

12. Each set of premises of an authorized seller of poisons where poisons are kept for the purposes of retail sale shall be under the personal control of a registered pharmacist.

Premises  
required to be  
under the  
control of a  
registered  
pharmacist.  
[cf. 1933 c. 25,  
ss. 8 & 9.]

Registration  
of premises.  
[cf. 1933 c. 25,  
s. 12.]

13. (1) An authorized seller of poisons shall register each set of premises where the retail sale of poisons is conducted.

(2) The Board shall cause a register to be kept (in this Ordinance referred to as the register of premises) in which shall be entered the address of each set of premises where poisons are sold and the name of the authorized seller of poisons who is the proprietor of the business carried on at such premises.

(3) An authorized seller of poisons, who applies to register any set of premises under this section, shall pay such fee in respect of the application as may be prescribed, and for each year subsequent to the first year of registration he shall pay such fee as may be prescribed for the retention of such premises on the register of premises.

(4) The registration of any premises registered under this section shall lapse at the expiration of 28 days after—

(a) a change of the ownership of the business conducted therein, unless application is made for the retention of such premises on the register and the fee prescribed in that behalf paid; or

(b) the end of the registration year, if the fees prescribed for the retention of the registration of such premises have not been paid.

Annual return.  
[cf. 1933 c. 25,  
s. 13.]

14. (1) An authorized seller of poisons shall in the month of January in each year send to the Secretary a list showing the addresses of all sets of premises where he conducts the retail sale of poisons and showing the name of the registered pharmacist having personal control of each such set of premises.

(2) Where any change occurs in the address of the business of an authorized seller of poisons or where any registered pharmacist whose name is displayed in any premises registered under this Ordinance ceases to be employed or engaged in such premises, the authorized seller of poisons shall, within 28 days, give the Secretary notice in writing setting out particulars of such change.

(3) An authorized seller of poisons who fails to comply with the provisions of this section shall be guilty of an offence.

Appointment of  
Disciplinary  
Committee.

15. (1) When a complaint is received by the Board regarding the conduct of a registered pharmacist, an employee of a registered pharmacist, a body which is an authorized seller of

poisons or an officer or employee of or partner in such body, or when any such person or body is convicted of an offence under this Ordinance or when it otherwise appears necessary or desirable to the Board that the conduct of any such person or body should be inquired into, the Board shall, for the purpose of such inquiry, appoint a Disciplinary Committee consisting of—

- (a) the medical officer in the Medical and Health Department appointed by the Governor under section 3(2)(e) who shall be the chairman of the Disciplinary Committee; and
- (b) 2 registered pharmacists (not being public officers) nominated by the Pharmaceutical Society of Hong Kong.

(2) The Governor shall appoint a legally qualified person to act as the legal adviser to a Disciplinary Committee.

16. (1) A Disciplinary Committee appointed under section 15 shall hold an inquiry into the conduct of any person or body in respect of whom or which it is appointed and shall cause notice thereof to be served on the person or body concerned at least 28 days before the date of such inquiry.

Powers of a  
Disciplinary  
Committee.  
*(cf. 1954 c. 61,  
ss. 8, 10 & 11.)*

(1A) A Disciplinary Committee shall conduct an inquiry in accordance with the prescribed procedure. *(Added, 31 of 1972, s. 4)*

(2) A Disciplinary Committee may, if it thinks fit, at the conclusion of an inquiry under this section—

(a) where the inquiry is in respect of a registered pharmacist or an employee of a registered pharmacist, direct the Secretary either—

(i) to censure the registered pharmacist; or

(ii) subject to subsection (5), to remove his name from the register of pharmacists and not to re-enter it thereon for such period as the Disciplinary Committee directs;

(b) where the inquiry is in respect of a body which is an authorized seller of poisons or in respect of an officer or employee of or partner in such body, direct that—

(i) that body be disqualified, for such period as may be specified in the direction, from being an authorized seller of poisons; or

(ii) subject to subsection (5), any or all of the premises of that body shall be removed from the register of premises and be disqualified, for such period as may be specified in the direction, from being registered therein.

(3) (a) A person or body in respect of whom or which a direction has been made under subsection (2) may, within 28 days after receipt of notice under section 19(1), appeal to the High Court.

(b) On any such appeal, the High Court may affirm, reverse or vary the direction of the Disciplinary Committee and the decision of the High Court on such appeal shall be final.

(4) The Disciplinary Committee may, subject to subsection (5), cause its decision in any inquiry held under this section to be published in the *Gazette*, with or without an account of the proceedings.

(5) No direction under subsection (2)(a)(ii) or (b)(ii) shall be given effect to and no publication under subsection (4) shall be made—

- (a) until after the expiry of the time limited for an appeal under subsection (3)(a); or
  - (b) where there is an appeal to the High Court, until such appeal has been determined or withdrawn.
- (6) The Disciplinary Committee may, of its own motion or on the application of the person or body concerned,—
- (a) without fee or on payment of such fee not exceeding the amount of the fee payable on registration as a pharmacist as the Disciplinary Committee determines, direct the Secretary to restore to the register of pharmacists the name of any person which has been removed therefrom;
  - (b) direct that a disqualification from being an authorized seller of poisons shall cease;
  - (c) without fee or on payment of such fee not exceeding the amount of the fee payable on registration of premises as the Disciplinary Committee determines, direct that any premises removed from the register of premises be restored thereto.

Powers of  
Disciplinary  
Committee  
at inquiries.

**16A.** (1) For the purpose of an inquiry under section 16 the Disciplinary Committee may, subject to subsection (4)—

- (a) hear and examine witnesses on oath;
  - (b) summon any person to attend the inquiry to give evidence or produce any document or other thing in his possession and examine him as a witness or require him to produce any document or other thing in his possession.
- (2) A summons under subsection (1) shall be in the prescribed form and shall be signed by the chairman.
- (3) Subject to subsection (4), any person who—
- (a) being summoned under subsection (1) to attend any inquiry to give evidence or to produce any document or other thing in his possession, refuses or neglects to do so; or
  - (b) being examined under subsection (1) as a witness by or before the Disciplinary Committee, refuses or neglects to answer any question put to him by or with the concurrence of the Disciplinary Committee, or to produce any document or other thing in his possession when required to do so,

shall be guilty of an offence and shall be liable on conviction to a fine of \$500 and to imprisonment for 3 months.

(4) Any person who appears as a witness before the Disciplinary Committee shall be entitled to the same privileges in respect of the giving of evidence and the production of any document and other thing as he would be entitled to if appearing as a witness in civil proceedings before the High Court.

(5) Any person who—

- (a) behaves in an insulting manner or uses any threatening or insulting expression to or in the presence of the Disciplinary Committee; or
- (b) wilfully disrupts the proceedings of the Disciplinary Committee,

shall be guilty of an offence and shall be liable on conviction to a fine of \$500 and to imprisonment for 3 months.

*(Added, 31 of 1972, s. 5)*



17. (1) In any case under section 16, where the person convicted of an offence or guilty of misconduct is an employee of the authorized seller of poisons, the Disciplinary Committee shall not give any direction unless proof is given to its satisfaction of some one or more of the facts specified in subsection (2), and it is of the opinion that having regard to the facts so proved the authorized seller of poisons ought to be regarded as responsible for the offence or misconduct.

Liability of authorized sellers of poisons for acts of employees.  
[cf. 1954 c. 61, s. 9.]

(2) The facts as to some one or more of which the Disciplinary Committee must be satisfied before giving any such direction as is mentioned in subsection (1) are—

- (a) that the offence or misconduct in question was instigated or connived at by the authorized seller of poisons or in the case of a body corporate, by an officer of that body corporate or in the case of an unincorporated body of persons, by any member of such body;
- (b) that the authorized seller of poisons or any person employed by him, or, in the case of a body corporate or an unincorporated body of persons, any officer or member of such body, as the case may be, had been guilty, at some time within 12 months before the date upon which the offence or misconduct in question took place, of a similar offence or misconduct and that the authorized seller of poisons had, or ought reasonably to have had, knowledge of that previous offence or misconduct;
- (c) if the offence or misconduct in question was a continuing offence or continuing misconduct, that the authorized seller of poisons had, or reasonably ought to have had, knowledge of the continuance thereof;
- (d) in the case of an offence under this Ordinance, that the authorized seller of poisons had not used due diligence to enforce the execution of this Ordinance.

(3) In this section references to the responsibility, knowledge or diligence of an authorized seller of poisons shall, in the case of a body corporate or an unincorporated body of persons, be construed as references to the responsibility, knowledge or diligence of that body as a whole.

18. In any inquiry conducted by the Disciplinary Committee the decision of the committee shall be taken on the vote of a majority of the members.

Voting of Disciplinary Committee.

19. (1) The Secretary shall cause notice of any direction given by the Disciplinary Committee to be given to the registered pharmacist or authorized seller of poisons, as the case may be, to whom the direction relates, and, where the Disciplinary Committee refuses an application for a direction the Secretary shall cause notice of the refusal to be given to the applicant. A notice required by this subsection to be given to any person shall be sent to him by registered letter to his address shown in the register of pharmacists or the register of premises, as the case may be, and if more than one address is shown in such register to any of his addresses shown therein.

Provisions as to directions given by Disciplinary Committee.  
[cf. 1933 c. 25, s. 14.]

(2) A direction given by the Disciplinary Committee, other than a direction given on the application of the person to whom it relates, shall take effect at the expiration of such period, not exceeding 3 months, as the Committee may, having regard to all the circumstances of the case, think fit to direct.

(3) Where a direction given by the Disciplinary Committee has taken effect the Secretary shall make such alterations in the register of premises as are necessary to give effect to the direction.

Restriction on  
use of certain  
titles, etc.  
[cf. 1954, c. 61,  
s. 19.]

20. (1) Any person, other than a registered pharmacist or an authorized seller of poisons, who takes or uses in connexion with any business engaged in the retail sale of poisons, or in the dispensing, compounding, or manufacturing of drugs, poisons or pharmaceutical products, any title, emblem or description which might reasonably be taken to suggest that he or any person employed by him is a registered pharmacist or that he is an authorized seller of poisons or that he or any person employed by him possesses any academic qualification other than the academic qualifications that he or his employee in fact possesses shall be guilty of an offence.

(2) For the purposes of this section the terms "chemist", "druggist", "pharmacist", "pharmaceutical chemist", "pharmaceuticalist", "member of the Pharmaceutical Society", or the Chinese terms "化學師" (*Fa hok sz*), "藥師" (*Yeuk sz*), "藥劑師" (*Yeuk tsai sz*), "藥劑化學師" (*Yeuk tsai fa hok sz*), "藥劑學家" (*Yeuk tsai hok ka*), "藥學會會員" (*Yeuk hok wui wui yuen*), or any combination of such terms in any language shall be deemed to be calculated to suggest that the person having control of the business is a registered pharmacist or that a registered pharmacist is employed in that business.

(3) For the purposes of this section the terms "pharmacy", "dispensary", "drug-store" or the Chinese term "藥房" (*Yeuk fong*) used in connexion with premises shall be deemed to be calculated to suggest that such premises are premises registered under this

Ordinance as premises of an authorized seller of poisons and are under the control of a registered pharmacist.

Conditions of  
sale of Part I  
poisons.  
[cf. 1933 c. 25,  
s. 18(1)(a).]

21. Subject to sections 28 and 32, no poison included in Part I of the Poisons List shall be sold except on premises duly registered under this Ordinance as premises of an authorized seller of poisons by a registered pharmacist or in his presence and under his supervision.

Limitations on  
sale of Part I  
poisons.  
[cf. 1933 c. 25,  
s. 18(2).]

22. (1) Subject to this Ordinance, no authorized seller of poisons shall sell any poison included in Part I of the Poisons List to any person unless that person is a fit and proper person to whom the poison may be sold and is either—

- (a) so certified in writing in the manner prescribed by regulations by a person authorized by regulations to give a certificate for the purposes of this section; or
- (b) known by the seller or by some registered pharmacist in the employment of the seller at the premises where the sale is affected.

(2) Every authorized seller of poisons shall keep in each set of registered premises at which poisons included in Part I of the Poisons List are sold a poisons book.

(3) The seller of any poison included in Part I of the Poisons List shall not deliver it until—

- (a) he has made or caused to be made an entry in the poisons book stating the date of the sale, the name and address of the purchaser and of the person by whom any certificate under subsection (1)(a) was given, the name and quantity of the article sold, and the purpose for which it was stated by the purchaser to be required; and

(b) the purchaser has affixed his signature to the entry in the poisons book and the registered pharmacist by or in the presence of whom the sale was made has immediately thereafter countersigned such entry.

(4) Any authorized seller of poisons who fails to comply with this section shall be guilty of an offence and shall be liable on conviction to a fine of \$1,000.

23. No person shall have in his possession any poison included in Part I of the Poisons List otherwise than in accordance with the provisions of this Ordinance, the proof whereof shall lie upon him.

Possession of Part I poisons prohibited.

24. Every person other than an authorized seller of poisons or a listed seller of poisons carrying on a retail business in premises at which poisons are found shall until the contrary is proved be presumed to have such poisons in his possession for the purposes of sale.

Possession of poisons by retailers.

25. (1) The Board shall cause to be kept for the purposes of this Ordinance a list of persons who, not being authorized sellers of poisons within the meaning of this Ordinance are, subject to the provisions of this Ordinance, to be entitled to conduct the retail sale of a class or classes of poisons included in Part II of the Poisons List, and shall cause to be entered on that list of persons the name of any person who being the occupier of any premises makes an application to be entitled to conduct the retail sale of that class or those classes of poisons on those premises and whose application is granted in accordance with this Ordinance. (*Amended, 50 of 1980, s. 4*)

Listed sellers of poisons. (*cf. 1933 c. 25, s. 21.*)

(2) For the purposes of subsection (1) the Board shall cause to be issued to each listed seller of poisons a licence which shall set out the class or classes of poisons which that listed seller is entitled to sell.

(3) The Board may direct the Secretary not to enter in, or to remove from, the list the name of any person who fails to pay the fees prescribed or who in the opinion of the Board is, for any sufficient reason relating to him personally or to his premises, not fit to be on the list. In the case of a direction to remove the name of any person from the list, the Board shall serve a notice on that person stating its grounds for such removal and advising him of his right to appeal under subsection (5).

(4) Without prejudice to subsection (3), an application by any person under subsection (1) may be refused if it appears that there are in the neighbourhood of the premises of which such person is the occupier sufficient facilities for the sale of such poisons. (*Amended, 50 of 1980, s. 4*)

(5) Any person aggrieved by a direction of the Board under subsection (3) may, in the prescribed manner, appeal against such decision to the Tribunal. (*Replaced, 50 of 1980, s. 4*)

(6) Any listed seller of poisons shall be guilty of an offence if he uses in connexion with his business any title, emblem or description reasonably calculated to suggest that he is entitled to sell any poison other than a poison which he is under this Ordinance entitled to sell.

Conditions of  
sale of Part II  
poisons.  
[cf. 1933 c. 25,  
s. 18(1)(b).]

26. Subject to sections 28 and 32, no poison included in Part II of the Poisons List shall be sold except by authorized sellers of poisons on premises duly registered under this Ordinance or by listed sellers of poisons.

Poisons to be  
labelled, etc.  
[cf. 1933 c. 25,  
s. 18(1)(c).]

27. No person who is authorized to sell poisons included in either Part I or Part II of the Poisons List shall sell any such poison unless the container of the poison is labelled in accordance with regulations and displays—

- (a) the name of the poison;
- (b) in the case of a preparation of which one or more of the ingredients is a poison, particulars as to the proportion each poison bears to the total of the ingredients in the preparation;
- (c) the word "poison" or such other statement as may be prescribed in respect of that substance or class of substance;
- (d) the name of the seller of the poison and the address of the premises in which it was sold.

Exemption with  
regard to  
medicines.  
[cf. 1933 c. 25,  
s. 19.]

28. (1) Except as provided by regulations, nothing in sections 21, 22, 26 and 27 shall apply to— (*Amended, 50 of 1980, s. 5*) 1/

- (a) a medicine which is supplied by a registered medical practitioner for the purposes of medical treatment, by a registered dentist for the purposes of dental treatment or by a duly qualified veterinary surgeon for the purposes of animal treatment; or
- (b) a medicine which, for the purpose of medical treatment, is supplied by a person who, although not a registered medical practitioner, practises medicine in a clinic in such circumstances that, by virtue of section 8(8) of the Medical Clinics Ordinance, he is not by reason solely of such practice guilty of an offence under section 28 of the Medical Registration Ordinance, if, but only if, the medicine is supplied by him in the course of his practice in that clinic; or
- (c) a medicine which is dispensed by an authorized seller of poisons on premises duly registered under this Ordinance; or
- (d) a poison forming part of the ingredients of a medicine which is supplied by an authorized seller of poisons on premises duly registered under this Ordinance,

(Cap. 343.)

(Cap. 161.)

if the provisions of this section are satisfied in relation thereto.

(2) The medicine shall be distinctly labelled with the name and address of the person by whom it is supplied or dispensed.

(3) On the day on which the medicine is supplied or dispensed, or, if that is not reasonably practicable, on the day next following that day, there shall be entered in a book which is used regularly for the purpose, the following particulars—

- (a) the date on which the medicine was supplied or dispensed;
- (b) the ingredients of the medicine and the quantity of the medicine supplied;
- (c) if the medicine was dispensed by an authorized seller of poisons, the name or initials of the person by whom, and the name, and if it is known, the address of the person to whom, and the date on which, the prescription was given.

(4) The provisions of subsection (3) shall, in the case of a medicine supplied on a prescription on which the medicine has been supplied by the seller on a previous occasion, be deemed to be complied with if, when the medicine is supplied, the date and the quantity supplied are entered in the book on that day or, if that is not reasonably practicable, on the day next following that day, together with a sufficient reference to an entry in the book duly recording the dispensing of the medicine on the previous occasion.

(5) In the case of a medicine which is supplied or dispensed by a person who is an authorized seller of poisons and is compounded by the person supplying or dispensing it or by a person in his employment, the medicine shall have been compounded by or in the presence of and under the supervision of a registered pharmacist.

**28A.** (1) No person shall carry on business as an importer or exporter of pharmaceutical products unless he is registered under this section.

Restriction on import and export of pharmaceutical products.

(2) Applications for registration or renewal of registration under this section shall be made in the prescribed manner and shall be accompanied by the prescribed fee.

(3) The Board shall cause a register to be kept in which shall be entered such particulars as the Board may direct in respect of any person whose application for registration under this section is granted or renewed.

(4) An application by any person for registration or renewal of registration under this section may be refused if it appears that, by reason of the inadequacy of the storage facilities used by such person for the storage of pharmaceutical products to be imported or exported by him, it would not be in the public interest to grant the application.

(5) Registration under this section shall be valid for the period beginning on the date of registration and expiring on 30 June next thereafter, and may be renewed within 1 month prior to the expiry of that period.

(6) Any person who contravenes subsection (1) shall be guilty of an offence.

(7) Nothing in this section shall—

(a) apply to any person licensed under this Ordinance as a wholesale dealer in poisons;

(b) operate so as to prohibit any person who was carrying on business as an importer or exporter of pharmaceutical products prior to the commencement\* of the Pharmacy and Poisons (Amendment) Ordinance 1980 from continuing to carry on such business until the expiration of a period of 6 months after the commencement of that Ordinance.

[\*1.1.81.]  
(50 of 1980.)

(Added, 50 of 1980, s. 6)

**29** (1) Subject to the approval of the Legislative Council and to section 31, the Board may make regulations—2/

Power to make regulations.  
Icf. 1933 c. 25.  
s. 23.1

(a) prescribing the nature and scope of courses of training and study, and examinations to be completed by persons to qualify for registration as pharmacists, and the fees payable in respect of such courses and examinations;

- (aa) prescribing the form of practising certificate for a registered pharmacist and the fees to be paid on the issue of such certificate; (*Added, 50 of 1977, s. 6*)
- (ab) the disposal of any fee paid or recovered under this Ordinance; (*Added, 50 of 1977, s. 6*)
- (b) prescribing the form of certificate of registration as a pharmacist and the fees to be paid on the issue of such certificate and for the issue of duplicates of certificates of registration;
- (ba) prescribing the procedure to be followed in inquiries held by the Disciplinary Committee under the provisions of section 16; (*Added, 31 of 1972, s. 6*)
- (c) prescribing fees for the registration of premises where the retail sale of poisons is conducted and for the retention of premises on the register of premises in each year subsequent to the year of first registration and upon a change of ownership of the business or of address of the premises at which the business is conducted;
- (d) dispensing with or relaxing all or any of the provisions of sections 22, 27 and 28;
- (e) dispensing with or relaxing with respect to poisons any of the provisions of this Ordinance relating to the sale of poisons;
- (ea) exempting any article or substance from the provisions of this Ordinance; (*Added, 45 of 1975, s. 2*)
- (f) prescribing the form of certificates to be given to persons to whom a poison included in Part I of the Poisons List may be sold, and specifying the class of persons authorized to make such certificates;
- (g) prescribing the form of a book to be kept for the recording of the sales of poisons in Part I of the Poisons List;
- (ga) regulating the making and determination of applications under section 25(1) in respect of the entering of names on the list kept under that section and providing for appeals against refusals of such applications; (*Added, 50 of 1980, s. 7*)
- (h) providing for the licensing of wholesale dealers in poisons and for appeals against any refusal, revocation or suspension of a licence for wholesale dealers in poisons under such regulations; (*Replaced, 50 of 1980, s. 7*)
- (ha) providing for the keeping of such registers or records by wholesale dealers in poison as may be prescribed; (*Added, 45 of 1975, s. 2*)
- (i) regulating and controlling the sale of poisons included in Part II of the Poisons List by listed sellers of poisons, prescribing fees for the making of entries in and alterations to the list of listed sellers of poisons, for the retention of the name of any person on that list for any year subsequent to that of the first entry, and for a change of ownership or address of the business;
- (j) providing for the licensing of manufacturers and for appeals against any refusal, revocation or suspension of a licence for manufacturers under such regulations; (*Replaced, 50 of 1980, s. 7*)
- (ja) providing for the control of the manufacture of pharmaceutical products and poisons; (*Added, 45 of 1975, s. 2*)

- (k) providing for the regulation of the type of containers in which various poisons or classes of poisons may be stored or sold and for the labelling of containers in which such poisons are sold;
- (l) providing for the regulating of the storage and transport of medicines and poisons;
- (m) prescribing fees for the licensing of wholesale dealers in poisons and of manufacturers;
- (n) prescribing, for the purposes of this Ordinance, the veterinary training institutions or examining bodies the certificates or diplomas of which shall entitle the holders of the same to be recognized as duly qualified veterinary surgeons;
- (o) generally providing for the regulating and controlling of the selling, purchasing, compounding and dispensing of poisons and medicines; (*Amended, 31 of 1972, s. 6*)
- (p) providing for the licensing of retail sellers of pharmaceutical products who are not authorized sellers of poisons or listed sellers of poisons;
- (q) providing for the registration of pharmaceutical products manufactured in or imported into Hong Kong and for the payment of fees in respect thereof, and for appeals against any refusal, revocation or suspension of such registration under such regulations; (*Replaced, 50 of 1980, s. 7*)
- (qa) providing for the provisional registration of pharmaceutical products and the conduct of clinical trials on human beings and medicinal tests on animals, and for the issue of certificates and duplicate certificates and the payment of fees in respect thereof; (*Added, 50 of 1980, s. 7*)
- (qb) providing for the registration of persons carrying on business as importers or exporters of pharmaceutical products and for the payment of fees in respect thereof, and for appeals against any refusal, revocation or suspension of such registration under such regulations; (*Added, 50 of 1980, s. 7*)
- (r) prescribing a list of poisons, to be called the Poisons List, which list shall have 2 divisions to be known as Part I and Part II respectively.

(1A) Any regulations made under subsection (1)(aa) may prescribe different fees to be payable by different categories of pharmacists. (*Added, 50 of 1977, s. 6*)

(2) A regulation made under this section may provide that a contravention thereof shall be an offence and may prescribe penalties for such offence not exceeding the penalties specified in section 34. (*Added, 45 of 1975, s. 2*)

**30.** (1) There shall be a Pharmacy and Poisons Appeal Tribunal (in this Ordinance referred to as "the Tribunal") with jurisdiction to hear and determine—

- (a) any appeal against a direction of the Board under section 25(3);
- (b) any appeal against—
  - (i) a decision of a committee of the Board in respect of which provision authorizing such appeal is made in regulations under section 29; or

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Poisons Appeal  
Tribunal.

(ii) a decision of the Board in the performance by the Board under section 4A(8) of any function of a committee of the Board which, if made by the committee in exercise of such functions, would be a decision to which subparagraph (i) applies.

(2) The Tribunal shall consist of—

(a) the following persons appointed by the Governor to be members thereof—

(i) a legally qualified person who shall be the chairman of the Tribunal;

(ii) a registered medical practitioner;

(iii) a registered pharmacist;

(iv) a person qualified in pharmacology;

(b) such person from the panel referred to in subsection (3)(a) as the Director may nominate from time to time to act as a member representing pharmacists' associations;

(c) such person from the panel referred to in subsection (3)(b) as the Director may nominate from time to time to act as a member representing the pharmaceutical industry; and

(d) such person from the panel referred to in subsection (3)(c) as the Director may nominate from time to time to act as a member representing the retail pharmaceutical trade.

(3) For the purposes of subsection (2)(b), (c) and (d), the Governor may appoint—

(a) a panel consisting of persons nominated by pharmacists' associations;

(b) a panel consisting of persons nominated by pharmaceutical industry associations; and

(c) a panel consisting of persons nominated by the retail pharmaceutical trade associations,

and may at any time terminate any such appointment or make any alternative or additional appointment as he may deem fit.

(4) A person appointed to be a member of the Tribunal under subsection (2)(a) shall hold office for such period not exceeding 3 years as the Governor may determine, and may resign at any time by notice in writing addressed to the Governor.

(5) A person nominated by the Director to act as a member of the Tribunal under subsection (2)(b), (c) or (d) shall hold such office during any period for which he is so nominated to act, and such person may resign from the panel of which he is a member at any time by notice in writing addressed to the Governor.

(6) If the chairman of the Tribunal is unable to attend at the hearing of any appeal, such other member of the Tribunal appointed under subsection (2)(a) as the Director may designate to act as chairman shall preside at the hearing.

(7) The Tribunal may act notwithstanding any vacancy in its membership and, for the purpose of hearing and determining any appeal under this section, the Tribunal shall be duly constituted if it consists of the chairman (or the member designated under subsection (6) to act as chairman) and not less than 2 other members sitting together throughout the hearing and determination.

(8) The Tribunal may examine any person as a witness on oath or otherwise, and may summon any person to attend and give evidence or to produce any document relating to any appeal before the Tribunal, as the Tribunal may deem necessary for the determination of the appeal.



(9) In determining any appeal under this section, the Tribunal may dismiss the appeal or allow the appeal wholly or in part, and may, subject to regulations made under subsection (10), in either case give such reasons for its decision as it may deem fit.

(10) The Governor may make regulations—

- (a) regulating appeals under this section and the practice and procedure of the Tribunal;
- (b) prescribing fees in respect of such appeals and matters connected therewith.

(11) In this section "the Director" means the Director of Medical and Health Services.

*(Added, 50 of 1980, s. 8)*

**30A.** Any person whose appeal is dismissed or allowed in part only by the Tribunal under section 30 may, not later than 28 days after the decision of the Tribunal, appeal to the High Court against that decision, and the decision of the High Court shall be final.

Right of appeal  
to High Court.

*(Added, 50 of 1980, s. 8)*

**31.** (1) For the purposes of advising the Board on the classification and distribution of poisons in Part I and Part II of the Poisons List and matters relating to the control of the manufacture and distribution of poisons and pharmaceutical products, there shall be a Poisons Committee consisting of—

Poisons  
Committee.  
*[cf. 1933 c. 25,  
ss. 16 & 17.]*

- (a) the registered medical practitioners appointed under section 3(2)(h) and (i); and
- (b) 5 other members of the Board appointed by the Board, including 2 of the members appointed under section 3(2)(g).

(2) In determining the distribution of poisons in Part I and Part II of the Poisons List the Board shall, after considering the advice of the Poisons Committee, have regard to the desirability of restricting to Part II substances which are in common use, or are likely to come into common use, and which it is reasonably necessary to include in the said Part II if the public are to have adequate facilities for obtaining them.

**32.** Except as provided by regulations, nothing in this Ordinance shall extend to or interfere with—

Exemption with  
respect to sales  
wholesale and  
sales to certain  
persons.  
*[cf. 1933 c. 25,  
s. 20.]*

- (a) the sale of poisons by way of wholesale dealing; or
- (b) the sale of poisons to be exported by a person registered as an exporter of pharmaceutical products under section 28A or licensed under this Ordinance as a wholesale dealer in poisons to purchasers outside the Colony; or  
*(Amended, 50 of 1980, s. 9)*
- (c) the sale of a substance to a registered medical practitioner, registered dentist or duly qualified veterinary surgeon for the purpose of his profession; or
- (d) the sale or supply of a substance for use in or in connexion with an institution; or
- (e) the sale of a substance by a person carrying on a business, in the course of which poisons are regularly sold to either—
  - (i) a person who requires the substance for the purpose of his trade or business; or

(ii) a Government department or an officer of the Crown requiring the substance for the purpose of the public service; or

(iii) a person or institution concerned with education or scientific research, if the substance is required for the purposes of that education or research.

Offences.  
[cf. 1933 c. 25,  
s. 24.]

33. (1) Any person who contravenes section 21, 23, 26, 27 or 28 shall be guilty of an offence.

(2) In the case of proceedings against a person under this Ordinance for or in connexion with the sale, exposure for sale or supply of a poison effected by an employee—

(a) it shall not be a defence that the employee acted without the authority of the employer; and

(b) any material fact known to the employee shall be deemed to have been known to the employer.

(3) Notwithstanding any provision in any Ordinance prescribing the period within which summary proceedings may be commenced, proceedings for an offence under this Ordinance may be commenced at any time within the period of 12 months next after the date of the commission of the offence.

Penalties.  
[cf. 1933 c. 25,  
s. 24.]

34. Any person who is guilty of an offence under this Ordinance shall, unless a penalty is otherwise expressly provided, be liable on conviction to a fine of \$10,000 and to imprisonment for 12 months, and to a further fine of \$1,000 for every day during which the offence continues subsequent to the day on which he was convicted of such offence.

*(Amended, 31 of 1972, s. 7)*

Inspection and  
enforcement of  
Ordinance.  
[cf. 1933 c. 25,  
s. 25.]

35. (1) The Chairman may authorize in writing any public officer to be an inspector for the purposes of this Ordinance.

(2) An inspector authorized under this section shall, for the purpose of enforcing the provisions of this Ordinance, have power— *(Amended, 45 of 1975, s. 3)*

(a) at all reasonable times to enter—

(i) any premises which are on the register of premises; and

(ii) any premises at which any listed seller of poisons carries on business; and

(iii) the premises of a person licensed to sell or supply poisons wholesale on such premises in accordance with regulations made under section 29; and

(iv) any premises where the dispensing or manufacturing of pharmaceutical products is carried on;

(b) upon the production of his authority as an inspector, at any time to enter and search any place and to stop, board and search any vessel, vehicle, train or aircraft in which he has reason to suspect that an offence under this Ordinance is being or has been committed;

- (c) in any premises entered pursuant to paragraph (b), to seize and detain any article, document or thing which appears to him to be or to contain evidence of an offence against this Ordinance;
- (d) to make such examination and inquiry and to do such other things, including the taking, on payment therefor, of samples, as may be necessary for the purposes of the inspection;
- (e) to seize and detain any substance or article consisting of or containing any poison which he has reasonable cause to suspect is in the possession of any person in contravention of section 23.

(3) Any person who wilfully delays or obstructs an inspector in the exercise of any powers under this section, or refuses to allow any sample to be taken in accordance with this section, or fails without reasonable excuse to give any information which he is duly required under this section to give shall be guilty of an offence.

(4) Any person appearing to an inspector to be in charge of premises where a business which includes the sale of poisons is conducted shall be guilty of an offence if, without reasonable excuse, he fails to disclose particulars sufficient to identify the owner of the business upon being required so to do by the inspector.

(5) Nothing in this section shall authorize an inspector appointed under this Ordinance to enter or inspect the premises of a registered medical practitioner, a registered dentist or a duly qualified veterinary surgeon, other than those premises where the dispensing, manufacturing or compounding of pharmaceutical products is carried on.

36. (1) Any magistrate may, on application by the Crown, order to be forfeited any substance or article consisting of or containing any poison with respect to which any offence under this Ordinance has been committed, whether any person has been convicted of such offence or not, and upon the making of any order of forfeiture such substance or article shall be deemed to be the property of the Crown free from all rights of any person.

Forfeiture.

(2) In any proceedings on application under subsection (1), any statement or other indication of the nature of any substance or article written upon or attached to any substance, article or container shall, until the contrary is proved, be deemed to be a true description of the substance or article or of the contents of the container, as the case may be.

37. Nothing in this Ordinance shall apply to the sale, manufacturing, dispensing or compounding of traditional Chinese medicines as listed in the Chinese Herbal Materia Medica (本草綱目) or which are made from herbs customarily used by the Chinese people.

Ordinance not to apply to traditional Chinese medicines.

**PHARMACISTS (DISCIPLINARY PROCEDURE)  
REGULATIONS**

(Cap. 138, section 29)

[20th October, 1972.]

- Citation.           1. These regulations may be cited as the Pharmacists (Disciplinary Procedure) Regulations.
- Interpretation.       2. In these regulations, unless the context otherwise requires—  
“inquiry” means an inquiry held under section 16 of the Ordinance;  
“chairman” means the chairman of a Disciplinary Committee.
- Representation.       3. A party to an inquiry may be represented by a solicitor or by a solicitor and counsel.
- Record of proceedings.   4. (1) A shorthand writer may be appointed by a Disciplinary Committee to prepare a verbatim record of an inquiry.  
  
(2) If a verbatim record of an inquiry, or any part thereof, has been prepared, the chairman, on application to him by any party and on payment to him of a fee of seventy-five cents for each folio of seventy-two words or part thereof, shall furnish such party with a copy of such record.
- Opening of inquiry.     5. (1) At the opening of an inquiry the Secretary shall read the notice of inquiry.  
  
(2) If the defendant is neither present nor represented by a solicitor or counsel at the opening of the inquiry, the Secretary shall furnish to the Disciplinary Committee such evidence as the Disciplinary Committee may require that the notice of inquiry was served on the defendant and the Disciplinary Committee, if satisfied as to such service, may proceed with the inquiry in the absence of the defendant.  
  
(3) If the defendant is present at the inquiry the chairman, immediately after the charge has been read, shall inform him of his right to cross-examine witnesses, to give evidence and to call witnesses on his behalf.
- Order of procedure.    6. (1) Subject to regulation 5, the procedure specified in this regulation shall be observed.  
  
(2) The complainant, or his solicitor or counsel, or, in their absence or if there is no complainant, the Secretary, may open the case against the defendant and call evidence in support thereof.  
  
(3) When the case against the defendant is closed, the defendant, or his solicitor or counsel, may submit that insufficient evidence has been adduced upon which the Disciplinary Committee can find that the charge has been proved.  
  
(4) If a submission is made under paragraph (3)—  
(a) a reply thereto may be made by the complainant, or by his solicitor or counsel, or in their absence by the Secretary, and the defendant may answer such reply; and  
(b) the Disciplinary Committee shall uphold or reject the submission.

(5) If the Disciplinary Committee upholds a submission made under paragraph (3) in respect of any charge, the finding shall be recorded that the defendant is not guilty on that charge, and if the Disciplinary Committee rejects the submission, the chairman shall call upon the defendant to make his defence.

(6) The defendant, or his solicitor or counsel, may open his case, call evidence and address the Disciplinary Committee:

Provided that only one address may be made by the defendant, or his counsel or solicitor, which may be made either before or after evidence has been called by him.

(7) At the conclusion of the defendant's case, the complainant, or his solicitor or counsel, or in their absence the Secretary, may address the Disciplinary Committee in reply, if evidence has been called by the defendant other than his own evidence.

(8) A legal officer, within the meaning of the Legal Officers Ordinance, may carry out the duties of the Secretary in an inquiry, in the absence of the complainant and his solicitor or counsel. (Cap. 87.)

7. (1) At the conclusion of the proceedings under regulation 6, the Disciplinary Committee may reach and announce its decision, or postpone its decision to such future date as it may think fit. Postponement of judgment.

(2) The decision of the Disciplinary Committee shall be announced by the chairman in such terms as the Disciplinary Committee may approve.

8. (1) If the decision of the Disciplinary Committee is postponed under regulation 7 the Secretary shall, not less than one week before the date fixed for the announcement, serve on the defendant and any complainant a notice specifying the date, time and place at which the decision will be announced, inviting him to appear at such meeting. Notice of determination of judgment.

(2) If there is a complainant, a copy of the notice shall be sent to him.

9. If a Disciplinary Committee finds a defendant guilty of a charge, the chairman shall pass sentence on the defendant in such terms as the Disciplinary Committee may approve. Passing sentence.

10. (1) Before passing sentence, the chairman shall ask the defendant whether he wishes to address the Disciplinary Committee, and the defendant, or his solicitor or counsel, may address the Disciplinary Committee in mitigation and call evidence as to the character and antecedents of the defendant. Address in mitigation.

(2) Before sentence is passed—

(a) the person presenting the case to the Disciplinary Committee may produce to the Disciplinary Committee the record of any direction made against the defendant pursuant to section 16 of the Ordinance; and

(b) the defendant, or his solicitor or counsel, may address the Disciplinary Committee in mitigation.



[Subsidiary]

**PHARMACY AND POISONS (PHARMACY AND POISONS  
APPEAL TRIBUNAL) REGULATIONS**

L.N. 372/80.

(Cap. 138, section 30)

[1 January 1981.]

- 1. These regulations may be cited as the Pharmacy and Poisons (Pharmacy and Poisons Appeal Tribunal) Regulations. Citation.
- 2. In these regulations, unless the context otherwise requires— Interpretation.
- “appeal” means an appeal to the Tribunal under section 30 of the Ordinance;
- “chairman” means the member of the Tribunal appointed under section 30(2)(a)(i), or for the time being designated to act as chairman under section 30(6), of the Ordinance;
- “Director” means the Director of Medical and Health Services or his authorized representative;
- “parties”, in relation to an appeal, means the appellant and the Director;
- “Tribunal” means the Pharmacy and Poisons Appeal Tribunal established by section 30 of the Ordinance.
- 3. (1) Any person who appeals to the Tribunal shall give notice of the appeal in writing under paragraph (2), stating the grounds of the appeal and any related matters on which the appellant intends to rely in support of the appeal, and he shall at the same time send a copy of such notice to the Director. Notice of appeal.
- (2) Notice of an appeal shall be given not later than 28 days after the date of the decision appealed against and shall be delivered to the chairman at the following address—
- “The Chairman,  
Pharmacy and Poisons Appeal Tribunal,  
Boards and Councils Branch Office,  
Medical and Health Department,  
Hong Kong.”.
- 4. There shall be payable in respect of each appeal a fee of \$500. Fee.
- 5. (1) For the purpose of hearing an appeal, the Tribunal shall sit on such day and at such place and time as the chairman shall appoint. Sittings of Tribunal.
- (2) The chairman shall give not less than 14 days’ notice in writing to the parties of the date, place and time of the hearing of the appeal.
- 6. The place where the Tribunal sits shall be open to the public and, so far as circumstances permit, any person wishing to hear the proceedings therein shall be admitted to that place: Hearing to be open.
- Provided that the chairman of the Tribunal may prevent the entry or order the removal of any person whose conduct or presence is such as to interrupt or disturb the proceedings.
- 7. (1) The parties may appear before the Tribunal and be heard in person or by counsel (whether a barrister or a solicitor) or by any other person who is allowed by leave of the chairman to appear on behalf of any of the parties. Appearance of parties at appeal.

(2) If at the time fixed for the hearing of an appeal the appellant fails to appear, the Tribunal may adjourn the hearing of the appeal to a later date or dismiss the appeal.

Procedure at hearing.

8. At the hearing of an appeal, the appellant shall present his case to the Tribunal first and the Director may follow thereafter, and either party may make such submissions in respect of the appeal as he may deem necessary or desirable.

Evidence.

9. (1) The parties may call witnesses to give evidence at the hearing of the appeal and the Tribunal may hear such evidence on oath, and for that purpose the chairman shall have full power and authority to administer oaths.

(2) Evidence given orally at the hearing of an appeal shall be recorded in such manner as the chairman may determine.

(3) If the parties consent, the chairman may accept evidence by affidavit, but in such event the chairman may direct that the person whose evidence is given by such affidavit shall attend for examination by the Tribunal or the parties on any matter referred to in the affidavit.

Examination of witnesses.

10. Any person who gives evidence before the Tribunal on the hearing of an appeal may be cross-examined.

Adjournment.

11. The chairman may at any stage of the hearing of an appeal adjourn the hearing to a later time or date.

View of premises etc.

12. The Tribunal may, if the chairman is satisfied that it is desirable for the purposes of an appeal to do so, visit any premises or place in order to determine any question arising on the hearing of the appeal relating to the character, location, dimensions, suitability or other relevant aspect of such premises or place.

Decision.

13. (1) The decision of the Tribunal on an appeal shall be given in writing as a single decision together with a brief statement of the reasons therefor, and shall be signed by the chairman.

(2) In the event of a difference between the members of the Tribunal in deciding the appeal, the decision of the Tribunal shall be that of the majority of the members; but if the members are equally divided, the appeal shall be dismissed.

(3) In respect of every appeal, the decision of the Tribunal shall be notified to the parties and the appellant shall, upon application to the chairman, be furnished with a copy thereof.





# LAWS AND REGULATIONS

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

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

### HONG KONG

Communicated by the Government of the United Kingdom of  
Great Britain and Northern Ireland

#### NOTE BY THE SECRETARIAT

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

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\* Note by the Secretariat: The present document is a direct reproduction of the text received by the Secretariat.

**L.N. 166 of 1983**

**DRUG ADDICTION TREATMENT CENTRES ORDINANCE**  
(Chapter 244)

**DRUG ADDICTION TREATMENT CENTRES (AMENDMENT)  
REGULATIONS 1983**

Made by the Governor in Council under section 10

Citation.

1. These regulations may be cited as the Drug Addiction Treatment Centres (Amendment) Regulations 1983.

Amendment of regulation 15. (Cap. 244, sub. leg.)

2. Regulation 15(1) of the principal regulations is amended by deleting sub-paragraph (a).

COUNCIL CHAMBER,  
17 May 1983.

R. I. W. UPTON,  
Clerk of Councils.

*Explanatory Note*

These regulations amend the Drug Addiction Treatment Centres Regulations to remove dietary restrictions as a punishment for a disciplinary offence.

L. S. NO. 2 TO GAZETTE NO. 22/1983

L.N. 185/83

**L.N. 185 of 1983**

**DANGEROUS DRUGS ORDINANCE**  
(Chapter 134)

**DANGEROUS DRUGS (AMENDMENT OF FIRST SCHEDULE)  
ORDER 1983**

Made by the Governor under section 50

1. This order may be cited as the Dangerous Drugs (Amendment of First Schedule) Order 1983.

2. The First Schedule to the principal Ordinance is amended—  
(a) in paragraph 1 of Part I—

Amendment of First Schedule. (Cap. 134.)

- (i) by inserting after "Betaprodine" the following—  
"Bezitramide";
- (ii) by inserting after "Codeine" the following—  
"Codoxime";
- (iii) by inserting after "Dextromoramide" the following—  
"Dextropropoxyphene";
- (iv) by inserting after "Dipipanone" the following—  
"Drotebanol";
- (v) by inserting after "Etonitazene" the following—  
"Etorphine";
- (vi) by deleting "Norleverphanol" and substituting the following—  
"Norlevorphanol";
- (vii) by inserting after "Piminodine" the following—  
"Piritramide";
- (viii) by inserting after "Propiridine (J-methyl-4-phenyl-piperidine-4-carboxylic acid isopropyl ester)" the following—  
"Propiram"; and
- (ix) by inserting after "Thebaine" the following—  
"Tilidate";

(b) in Part II by inserting after paragraph 16A the following—  
"16B. A preparation for oral use containing not more than 135 milligrammes of dextropropoxyphene base per dosage unit or with a concentration of not more than 2.5 per cent in undivided preparations:

Provided that such preparations do not contain any substance specified in the Third Schedule to the Pharmacy and Poisons Regulations.

(Cap. 138,  
sub. leg.)

16C. A preparation of Propiram containing not more than 100 milligrammes of propiram per dosage unit and compounded with at least the same amount of methylcellulose.”; and

- (c) in paragraph 19 of Part III—
  - (i) by inserting after “Codeine” the following—  
“Dextropropoxyphene”; and
  - (ii) by inserting after “Pholcodine” the following—  
“Propiram”.

By Command,

Christine CHOW,  
*Principal Assistant Secretary  
for Health and Welfare.*

31 May 1983.

*Explanatory Note*

Hong Kong is required under the Single Convention on Narcotic Drugs 1961 to introduce legislative control on drugs recommended by the United Nations Commission on Narcotic Drugs. The purpose of these amendments is to update the Schedule of dangerous drugs to the Ordinance to include the latest additions to the list of narcotic drugs controlled under the Single Convention. The amendments, by bringing the First Schedule to the principal Ordinance more into line with the Schedules to the Single Convention, will facilitate the enforcement of the Ordinance.

E/NL.1984/11

**Ord. No. 32/83      DRUG ADDICTION TREATMENT CENTRES  
(AMENDMENT)**

**HONG KONG**

No. 32 OF 1983



I assent.

Edward YOUDE,  
*Governor.*  
9 June 1983

An Ordinance to amend the Drug Addiction Treatment Centres Ordinance.

[10 June 1983]

Enacted by the Governor of Hong Kong, with the advice and consent of the Legislative Council thereof.

Short title.

1. This Ordinance may be cited as the Drug Addiction Treatment Centres (Amendment) Ordinance 1983.

Amendment of  
section 5.  
(Cap. 244.)

2. Section 5 of the principal Ordinance is amended by inserting after subsection (2) the following—

“(3) A person who fails to comply with any requirement specified in a supervision order made against him commits an offence and is liable to a fine of \$5,000 and to imprisonment for 12 months.”.

Passed by the Hong Kong Legislative Council this 8th day of June 1983.

Jennie CHOK,  
*Clerk to the Legislative Council.*