

Misuse of Drugs (Amendment) Bill

Bill No. 40/2005.

Read the first time on 21st November 2005.

A BILL

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An Act to amend the Misuse of Drugs Act (Chapter 185 of the 2001 Revised Edition) and to make consequential amendments to the Criminal Law (Temporary Provisions) Act (Chapter 67 of the 2000 Revised Edition) and the Registration of Criminals Act (Chapter 268 of the 1985 Revised Edition).

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

Short title and commencement

1. This Act may be cited as the Misuse of Drugs (Amendment) Act 2005 and shall come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

5 **Amendment of section 2**

2. Section 2 of the Misuse of Drugs Act (referred to in this Act as the principal Act) is amended by deleting the definition of “officer of the Bureau” and substituting the following definition:

10 ““officer of the Bureau” means the Director or any person appointed under section 3 as a Deputy Director, an Assistant Director or an officer of the Central Narcotics Bureau;”.

Amendment of section 3

3. Section 3 of the principal Act is amended —

15 (a) by deleting subsection (1) and substituting the following subsection:

“(1) The Minister may appoint a Director of the Central Narcotics Bureau and such numbers of Deputy Directors, Assistant Directors and other officers as the Minister may think fit.”; and

20 (b) by deleting the words “the Deputy Director or an Assistant Director” in subsection (3) and substituting the words “any Deputy Director or Assistant Director”.

Repeal and re-enactment of section 16

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 Section 16 of the principal Act is repealed and the following section substituted therefor:

“Certificate of analyst, etc.

16. A certificate purporting —

(a) to be signed by —

30 (i) an analyst employed by the Health Sciences Authority;
or

(ii) such other person as the Minister may, by notification in the *Gazette*, appoint; and

(b) to relate to a controlled drug or controlled substance, shall be admitted in evidence, in any proceedings for an offence under this Act, on its production by the prosecution without proof of signature and, until the contrary is proved, shall be proof of all matters contained therein.”

Amendment of section 17

5. Section 17 of the principal Act is amended —

- (a) by deleting the word “or” at the end of paragraph (h); and
- (b) by inserting, immediately after paragraph (h), the following paragraph:

“(ha) 113 grammes of ketamine; or”.

Amendment of section 31

6. Section 31 of the principal Act is amended —

- (a) by deleting the words “this section” in subsection (3)(b) and substituting the words “subsection (4)(a) or (b)”; and
- (b) by deleting subsections (4) and (5) and substituting the following subsection:

“(4) A specimen of urine provided under this section shall be divided into 3 parts and dealt with, in such manner and in accordance with such procedure as may be prescribed, as follows:

- (a) a preliminary urine test shall be conducted on one part of the urine specimen; and
- (b) each of the remaining 2 parts of the urine specimen shall be marked and sealed and a urine test shall be conducted on each part by a different person, being either an analyst employed by the Health Sciences Authority or any person as the Minister may, by notification in the *Gazette*, appoint for such purpose.”.

New section 32A

7. The principal Act is amended by inserting, immediately after section 32, the following section:

“Officer of Bureau to be armed

32A. Every officer of the Bureau shall be provided with such staves, arms, ammunition and other accoutrements as may be necessary for the effective discharge of his duties.”.

5 **Amendment of section 33A**

8. Section 33A of the principal Act is amended by deleting subsection (5) and substituting the following subsection:

“(5) For the purposes of this section —

10 (a) a conviction under section 8(b) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at —

15 (i) any time on or after 1st October 1992 but before the relevant date for the consumption of a controlled drug which, on the date of any subsequent conviction, is specified in the Fourth Schedule; or

(ii) any time on or after the relevant date for the consumption of a specified drug,

shall be deemed to be a previous conviction for consumption of a specified drug under section 8(b);

20 (b) a conviction under section 31(2) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at any time on or after 1st October 1992 shall be deemed to be a previous conviction for an offence of failure to provide a urine specimen under section 31(2);

25 (c) “admission” means an admission under section 34(2) to an approved institution at —

30 (i) any time on or after 1st October 1992 but before the relevant date for the consumption of a controlled drug which, on the date of any subsequent conviction, is specified in the Fourth Schedule; or

(ii) any time on or after the relevant date for the consumption of a specified drug;

(d) “relevant date” —

- (i) in relation to a conviction or admission for consumption of diamorphine, morphine or opium, means 20th July 1998; and
- 5 (ii) in relation to a conviction or admission for consumption of any drug added to the Fourth Schedule after 20th July 1998, means the date on which the amendment to that Schedule for the inclusion of such drug commences.”.

10 **Amendment of section 34**

9. Section 34 of the principal Act is amended —

(a) by inserting, immediately after subsection (4), the following subsection:

15 “(4A) The Director may, under such circumstances as may be prescribed, extend the period for which a person is subject to supervision under subsection (2)(a) for a period not exceeding 2 years.”; and

(b) by deleting the words “subsection (2)” in subsection (5) and substituting the words “subsection (2)(b)”.

20 **New Part IVA**

10. The principal Act is amended by inserting, immediately after section 40, the following Part:

“PART IVA

25 TAKING OF PHOTOGRAPHS, FINGER IMPRESSIONS,
PARTICULARS AND BODY SAMPLES

Interpretation of this Part

40A.—(1) In this Part, unless the context otherwise requires —

“appropriate consent” means —

- 30 (a) for a person aged 16 years and above, the written consent of that person;

(b) for a person aged 14 years and above but below the age of 16 years, the written consent of both that person and of his parent or guardian; and

(c) for a person below the age of 14 years, the written consent of his parent or guardian,

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given to —

(i) a police officer or an officer of the Bureau in charge of the case; or

(ii) a prison officer,

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after that officer has informed the person concerned, his parent or guardian or both, as the case may be, of the purpose for which a body sample is required from such person and the manner by which such body sample is to be taken from him;

“authorised analyst” means a person appointed by the Commissioner of Police to be an analyst for the purposes of this Part;

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“body sample” means —

(a) a sample of blood;

(b) a sample of head hair, including the roots thereof;

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(c) a swab taken from a person’s mouth; or

(d) such other sample as may be prescribed under subsection (2);

“DNA” means deoxyribonucleic acid;

“DNA information” means genetic information derived from the forensic DNA analysis of a body sample;

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“finger impression” includes thumb impression and palmar impression;

“intimate sample” means any body sample that is obtained by means of any invasive procedure, but does not include any sample described in subsection (3);

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“particulars”, in relation to a person, means any particulars, information or description of that person that may be relevant or useful in the identification of that person;

“photograph”, in relation to a person, includes the photograph of any distinguishing feature or mark on the body of that person;

“registered medical practitioner” has the same meaning as in the Medical Registration Act (Cap. 174) and includes a dentist registered under the Dentists Act (Cap. 76).

(2) Subject to subsection (3), the Minister may prescribe additional types of body samples that may be taken under section 40B.

(3) The additional types of body samples that may be prescribed under subsection (2) shall not include samples to be obtained from —

- (a) the genital or anal area of a person’s body;
- (b) a person’s body orifice other than the mouth; or
- (c) the breast of a woman.

Taking of photographs, finger impressions, particulars and body samples from person subject to supervision or in approved institutions

40B.—(1) Any police officer, prison officer, officer of the Bureau or person authorised by the Commissioner of Police may exercise all or any of the following powers in respect of any person referred to in subsection (2):

- (a) take or cause to be taken photographs and finger impressions of such person;
- (b) make or cause to be made a record of the particulars of such person;
- (c) cause body samples of such person to be taken by a person authorised under section 40C(1);
- (d) send any photograph, finger impression, record of particulars or body sample so taken or made to the Commissioner of Police for identification and report.

(2) The powers referred to in subsection (1) may be exercised in respect of a person who on or after the date of commencement of the Misuse of Drugs (Amendment) Act 2005 —

- (a) is subject to supervision pursuant to a supervision order made at any time (whether before, on or after that date) under section 34(2)(a);

(b) is in an approved institution pursuant to an order made at any time (whether before, on or after that date) under section 34(2)(b); or

(c) is subject to a supervision order made at any time (whether before, on or after that date) under any regulations providing for the supervision and aftercare of persons.

(3) Every person mentioned in subsection (2) shall —

(a) submit to the taking of his photographs and finger impressions under subsection (1);

(b) provide such particulars as may be required under subsection (1); and

(c) subject to subsection (5), submit to the taking of his body samples by a person authorised under section 40C(1).

(4) Where any person mentioned in subsection (2) fails, without reasonable excuse, to comply with subsection (3) —

(a) that person shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$1,000 or to imprisonment for a term not exceeding one month or to both; and

(b) any police officer, prison officer, officer of the Bureau or person authorised by the Commissioner of Police may use such force as is reasonably necessary to take or cause to be taken the photographs, finger impressions and body samples of that person.

(5) No —

(a) sample of blood; or

(b) intimate sample prescribed under section 40A(2),

shall be taken from any person unless the appropriate consent is given for the taking of the sample.

Further provisions for taking of body samples

40C.—(1) For the purposes of section 40B(1)(c), a body sample may only be taken by —

(a) a registered medical practitioner;

(b) a police officer, a prison officer or an officer of the Bureau who has received training for the purpose; or

(c) any other suitably qualified or trained person who is duly appointed in writing by the Commissioner of Police as an authorised person for the purpose.

(2) Before taking any body sample, the person authorised under subsection (1) to take the sample must satisfy himself that the taking of the sample does not endanger the person from whom the sample is to be taken.

(3) The fact that a body sample has been taken shall be recorded by the person who took the sample in such form or manner as may be required by the Commissioner of Police.

(4) Every body sample taken shall be sent to an authorised analyst for forensic DNA analysis.

Retention of photographs, finger impressions, particulars and body samples taken

40D.—(1) The Commissioner of Police shall cause to be maintained —

(a) a register (whether in a computerised form or otherwise) in which shall be stored all photographs, finger impressions and particulars of a person taken under section 40B; and

(b) a DNA database (whether in a computerised form or otherwise) in which shall be stored all DNA information derived from a body sample taken from a person under section 40B.

(2) Any information stored in the register and the DNA database under subsection (1) may be used for all or any of the following purposes:

(a) for comparison with any other information or any other DNA information, as the case may be, obtained in the course of an investigation of an offence conducted by a police officer or an officer of the Bureau;

- 5 (b) for comparison with information in the register established under section 4 of the Registration of Criminals Act (Cap. 268) or with DNA information in the DNA database established under section 13F of that Act, as the case may be;
- (c) for comparison with information or DNA information, as the case may be, in the register or DNA database, respectively, established under —
- 10 (i) section 27C of the Criminal Law (Temporary Provisions) Act (Cap. 67); or
- (ii) section 26D of the Intoxicating Substances Act (Cap. 146A);
- (d) for any proceedings for any offence;
- (e) for administering the register and DNA database for the purposes of this Act;
- 15 (f) for such other purposes as may be prescribed.
- (3) For the purposes of subsection (2)(d) —
- (a) any photograph, finger impression or particulars stored in the register under subsection (1)(a);
- 20 (b) any DNA information stored in the DNA database under subsection (1)(b); and
- (c) any certificate or report purporting to have been compiled or made from information stored in the register or DNA database maintained under subsection (1),
- 25 shall, if produced from proper custody and authenticated by the signature of the Commissioner of Police or a police officer authorised by the Commissioner of Police, be admissible in evidence in any proceedings without proof of signature and, until the contrary is proved, shall be proof of all matters contained therein.”.

30 **Amendment of section 58**

11. Section 58(1) of the principal Act is amended by inserting, immediately after paragraph (q), the following paragraph:

“(qa) prescribing the circumstances under which the Director may extend the period for which a person is subject to supervision under this Act;”.

Amendment of First Schedule

5 **12.** The First Schedule to the principal Act is amended —

(a) by deleting the words “N, α -dimethyl-3, 4-(methylenedioxy) phenethylamine.3-(1, 2-dimethylheptyl)-1-hydroxy-7, 8, 9, 10 tetrahydro-6, 6, 9-trimethyl-6_H-dibenzo [b, d] pyran.” in paragraph 1 of Part I and substituting the following words:

10 “N, α -dimethyl-3, 4-(methylenedioxy) phenethylamine.
3-(1, 2-dimethylheptyl)-1-hydroxy-7, 8, 9, 10 tetrahydro-6, 6, 9-trimethyl-6_H-dibenzo [b, d] pyran.”;

(b) by inserting, immediately below the word “Isomethadone.” in paragraph 1 of Part I, the word “Ketamine.”;

15 (c) by inserting, immediately below the words “3-Methoxy- α -methyl-4, 5-(methylenedioxy) phenethylamine.” in paragraph 1 of Part I, the words “5-Methoxy-N, N-diisopropyltryptamine.”;

(d) by inserting, immediately below the word “Noracymethadol.” in paragraph 1 of Part I, the words “Norketamine and its dehydro derivatives.”; and

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(e) by deleting the words “Ketamine.” and “Norketamine and its dehydro derivatives.” in paragraph 1 of Part II.

Amendment of Second Schedule

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

25 (a) by deleting the words “Unauthorised traffic in cocaine where the quantity is” in paragraph (5) under the heading “General nature of offence” against section 5 and substituting the words “Unauthorised traffic in controlled drug containing such quantity of cocaine being”;

30 (b) by deleting the words “Unauthorised traffic in methamphetamine where the quantity is” in paragraph (9) under the heading “General nature of offence” against section 5 and substituting the words “Unauthorised traffic in controlled drug containing such quantity of methamphetamine being”;

- (c) by inserting, immediately after the words “Unauthorised manufacture of methamphetamine” in paragraph (5) under the heading “General nature of offence” against section 6, the words “or any salt of methamphetamine”; and
- 5 (d) by deleting the words “Unauthorised import or export of methamphetamine where the quantity is” in paragraph (9) under the heading “General nature of offence” against section 7 and substituting the words “Unauthorised import or export of controlled drug containing such quantity of methamphetamine
- 10 being”.

Repeal and re-enactment of Fourth Schedule

14. The Fourth Schedule to the principal Act is repealed and the following Schedule substituted therefor:

“FOURTH SCHEDULE

15

Sections 2 and 33A

SPECIFIED DRUGS

1. Amphetamine
2. N, α -dimethyl-3,4-(methylenedioxy)phenethylamine
3. Diamorphine
- 20 4. N-ethyl- α -methyl-3,4-(methylenedioxy)phenethylamine
5. Ketamine
6. Methamphetamine (also known as Methylamphetamine)
7. α -Methyl-3,4-(methylenedioxy)phenethylamine (also known as Tenamfetamine)
- 25 8. Monoacetylmorphine
9. Morphine
10. Nimetazepam
11. Norketamine and its dehydro derivatives
12. Opium.”.

Miscellaneous amendments

15. The principal Act is amended by deleting the words “section 31” in the following provisions and substituting in each case the words “section 31(4)(b)”:

5 Sections 8A(1), 22 and 34(2).

Consequential amendments to other written laws

16. The provisions of the Acts specified in the first column of the Schedule are amended in the manner set out in the second column thereof.

THE SCHEDULE

Section 16

CONSEQUENTIAL AMENDMENTS TO OTHER WRITTEN LAWS

<i>First column</i>	<i>Second column</i>
<p>(1) Criminal Law (Temporary Provisions) Act (Chapter 67, 2000 Ed.)</p> <p>(a) Section 27C</p>	<p>(i) Insert, immediately after paragraph (b) of subsection (2), the following paragraph:</p> <p style="padding-left: 40px;">“(ba) for comparison with information or DNA information, as the case may be, in the register or DNA database, respectively, established under —</p> <p style="padding-left: 80px;">(i) section 26D of the Intoxicating Substances Act (Cap. 146A); or</p> <p style="padding-left: 80px;">(ii) section 40D of the Misuse of Drugs Act (Cap. 185);”.</p> <p>(ii) Insert, immediately after the words “Commissioner of Police” in the 11th line of subsection (4), the words “or a police officer authorised by the Commissioner of Police”.</p>

First column

(b) Section 47

(2) Registration of Criminals Act
(Chapter 268, 1985 Ed.)

Section 13F(2)

Second column

- (i) Delete the words “the Deputy Director” in subsections (2) and (3) and substitute in each case the words “a Deputy Director”.
- (ii) Delete the words “the Deputy Director” in the definitions of ““Director of the Central Narcotics Bureau”, “Deputy Director of the Central Narcotics Bureau” and “Assistant Director of the Central Narcotics Bureau”” in subsection (6) and substitute the words “a Deputy Director”.
- (iii) Delete the words “Deputy Director” in the definition of “officer of the Central Narcotics Bureau” in subsection (6) and substitute the words “Deputy Directors”.

Insert, immediately after paragraph (a), the following paragraph:

- “(aa) for comparison with DNA information in the DNA database established under —
- (i) section 27C of the Criminal Law (Temporary Provisions) Act (Cap. 67);
 - (ii) section 26D of the Intoxicating Substances Act (Cap. 146A); or
 - (iii) section 40D of the Misuse of Drugs Act (Cap. 185);”.
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EXPLANATORY STATEMENT

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

- (a) to extend the application of section 33A to persons who repeatedly abuse certain controlled drugs specified in the Fourth Schedule;
- (b) to regulate the taking of urine specimen for urine tests and the conduct of such tests;
- (c) to provide for the taking of photographs, finger impressions, particulars and body samples for DNA profiling of any person who is subject to supervision or in an approved institution pursuant to an order made before, on or after the date of commencement of the Misuse of Drugs (Amendment) Act 2005;
- (d) to reclassify ketamine as a Class A controlled drug and to extend the presumption of trafficking to a person in possession of more than 113 grammes of ketamine; and
- (e) to include 5-Methoxy-N, N-diisopropyltryptamine (commonly known as 'Foxy') as a Class A controlled drug and to reclassify norketamine and its dehydro derivatives from a Class B controlled drug to a Class A controlled drug.

The Bill also makes consequential amendments to the Criminal Law (Temporary Provisions) Act (Cap. 67) and the Registration of Criminals Act (Cap. 268).

Clause 1 relates to the short title and commencement.

Clause 2 makes a technical amendment to the definition of "officer of the Bureau" in section 2.

Clause 3 amends section 3 —

- (a) to provide for the appointment of a Director of the Central Narcotics Bureau (the Director) and such numbers of Deputy Directors, Assistant Directors and other officers of the Central Narcotics Bureau (the Bureau) as the Minister thinks fit; and
- (b) to empower the Director to delegate his powers to any Deputy Director or Assistant Director of the Bureau duly authorised by him to act on his behalf.

Clause 4 repeals and re-enacts section 16 to provide that a certificate signed by either —

- (a) an analyst employed by the Health Sciences Authority; or
- (b) such other person as the Minister may, by notification in the *Gazette*, appoint,

and purporting to relate to a controlled drug or controlled substance to be proof of all matters contained therein, unless the contrary is proved.

Clause 5 amends section 17 to provide that any person who is proved to have in his possession more than 113 grammes of ketamine is presumed, unless the contrary is proved, to have that drug in his possession for the purpose of trafficking.

Clause 6 makes a technical amendment to section 31(3) and also amends section 31(4) to provide for a specimen of urine to be divided into 3 parts to be dealt with in such manner and in accordance with such procedure as may be prescribed. The amended section 31(4) further provides that a preliminary urine test will be conducted on one part of the urine specimen and a urine test will be conducted on each of the remaining 2 parts of the urine specimen by a different person, being either an analyst employed by the Health Sciences Authority or any person as the Minister may, by notification in the *Gazette*, appoint for such purpose.

Clause 7 inserts a new section 32A to specifically allow every officer of the Bureau to be provided with staves, arms, ammunitions and other accoutrements necessary for the effective discharge of his duties.

Clause 8 amends section 33A(5) to extend the punishment regime under the section to a drug abuser of certain drugs (which have been added to the Fourth Schedule) who commits the offence for a third or subsequent time.

Clause 9 inserts a new subsection (4A) to section 34 to empower the Director to extend the period for which a person is subject to supervision under subsection (2)(a) for a period not exceeding 2 years. The clause also makes a technical amendment to subsection (5).

Clause 10 inserts a new Part IVA (comprising new sections 40A to 40D) to provide for the regime of taking of photographs, finger impressions, particulars and body samples from drug abusers for DNA profiling.

The new section 40A defines a number of expressions used in the new Part IVA. The section also empowers the Minister to prescribe additional body samples to be taken under the new section 40B, except that samples taken from certain parts of the body may not be prescribed.

The new section 40B provides for the taking of photographs, finger impressions, particulars and body samples of a person who, on or after the date of commencement of the Misuse of Drugs (Amendment) Act 2005, is subject to supervision or is in an approved institution.

The section also requires such person to submit to the taking of photographs, finger impressions and body samples, and to provide the required particulars, except that blood samples and intimate samples cannot be taken without the appropriate consent. Where such person refuses to submit to the taking of photographs, finger impressions or body samples (other than blood samples or intimate samples), he is guilty of an offence. Any police officer, prison officer, officer of the Bureau or person authorised by the Commissioner of Police (the Commissioner) may use reasonable force to obtain the photographs, finger impressions or body samples from that person.

The new section 40C provides that body samples may only be taken by a registered medical practitioner, a trained police officer, prison officer or officer of the Bureau or

other suitably qualified or trained person authorised by the Commissioner. The person taking the body sample must —

- (a) satisfy himself that the taking of the sample does not endanger the person from whom the sample is to be taken;
- (b) record the taking of the sample; and
- (c) send the sample to an authorised analyst for forensic DNA analysis.

The new section 40D authorises the Commissioner to maintain a register for the retention of photographs, finger impressions and particulars of persons taken under the new section 40B, and a DNA database for the retention of DNA information from body samples taken under that section. The information in the register and DNA database may only be used —

- (a) for comparison with other information obtained in the course of an investigation into an offence, and for comparison with the registers and DNA databases established under the Registration of Criminals Act (Cap. 268), the Criminal Law (Temporary Provisions) Act (Cap. 67) and the Intoxicating Substances Act (Cap. 146A);
- (b) for criminal proceedings; and
- (c) for purposes of administration and any other prescribed purpose.

The section also provides that information in the register and DNA database and any certificate or report made from that information is admissible in evidence in court, if produced from proper custody and authenticated by the signature of the Commissioner or a police officer authorised by the Commissioner, and is prima facie proof of the matters contained therein.

Clause 11 amends section 58(1) to allow the Minister to prescribe the circumstances under which the Director may extend the period for which a person is subject to supervision under the Act (including any subsidiary legislation made thereunder).

Clause 12 amends the First Schedule —

- (a) by reclassifying the drugs “ketamine” and “norketamine and its dehydro derivatives” as Class A controlled drugs; and
- (b) by classifying “5-Methoxy-N,N-diisopropyltryptamine” (commonly known as ‘Foxy’) as a Class A controlled drug.

Clause 13 makes technical amendments to certain provisions in the Second Schedule.

Clause 14 repeals and re-enacts the Fourth Schedule to reflect additional controlled drugs which are specified drugs for the purposes of enhanced penalties under section 33A.

Clause 15 makes consequential amendments to sections 8A(1), 22 and 34(2) arising from the amendments made to section 31.

Clause 16 provides for consequential amendments to the Criminal Law (Temporary Provisions) Act (Cap. 67) and the Registration of Criminals Act (Cap. 268) arising from the establishment of a register and a DNA database under new section 40D and the appointment of one or more Deputy Directors.

EXPENDITURE OF PUBLIC MONEY

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