

Intoxicating Substances (Amendment) Bill

Bill No. 41/2005.

Read the first time on 21st November 2005.

A BILL

intituled

An Act to amend the Intoxicating Substances Act (Chapter 146A of the 2001 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 Intoxicating Substances (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 Intoxicating Substances Act (referred to in this Act as the principal Act) is amended —

(a) by deleting the words “the Deputy Director” in the definition of “Director” and substituting the words “any Deputy Director”;
10 and

(b) by deleting the definition of “officer of the Bureau” and substituting the following definition:

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

Repeal and re-enactment of section 14

3. Section 14 of the principal Act is repealed and the following section substituted therefor:

20 “Presumption of misuse of intoxicating substance

14. A person shall be presumed, until the contrary is proved, to have used or inhaled any intoxicating substance for the purpose of inducing or causing in himself a state of intoxication if the specimen of blood provided by him under section 13 is certified by —

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

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

to contain an amount of any chemical compound specified in the first column of the Schedule in excess of the amount specified in the second column thereof in relation to that chemical compound.”.

Amendment of section 15

4. Section 15 of the principal Act is amended —

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

“(1) A certificate purporting —

(a) to be signed by —

5 (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

10 (b) to relate to any chemical compound specified in the Schedule,

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.”; and

15 (b) by deleting the section heading and substituting the following section heading:

“**Certificate of analyst, etc.**”.

Amendment of section 16

20 **5.** Section 16 of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) The Director may make a supervision order requiring —

(a) a person who has been convicted of an offence under section 3(2); or

25 (b) a person who has been discharged from an approved centre under section 21,

to be subject to supervision by an officer of the Bureau or a person appointed by the Director for that purpose for a supervision period not exceeding 12 months.

30 (2A) Where the person referred to in subsection (2)(a) is sentenced to a term of imprisonment, the supervision order shall commence upon the expiration of that sentence.”.

New Part IVA

6. The principal Act is amended by inserting, immediately after section 26, the following Part:

“PART IVA

5 **TAKING OF PHOTOGRAPHS, FINGER IMPRESSIONS, PARTICULARS AND BODY SAMPLES**

Interpretation of this Part

26A.—(1) In this Part, unless the context otherwise requires —

“appropriate consent” means —

- 10 (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
- 15 (c) for a person below the age of 14 years, the written
 consent of his parent or guardian,

given to —

- (i) a police officer or an officer of the Bureau in charge of
 the case; or
- 20 (ii) a prison officer,
 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;

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

“body sample” means —

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

(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;

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

“finger impression” includes thumb impression and palmar impression;

10 “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);

“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;

15 “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).

20 (2) Subject to subsection (3), the Minister may prescribe additional types of body samples that may be taken under section 26B.

(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;

25 (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 convicted, subject to supervision or in approved centres

30 **26B.**—(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;
- 5 (c) cause body samples of such person to be taken by a person authorised under section 26C(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.

10 (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 Intoxicating Substances (Amendment) Act 2005 —

- (a) is convicted of or is serving a sentence of imprisonment for an offence under section 3(2), 4(2) or 13(3);
- 15 (b) is subject to supervision pursuant to a supervision order made at any time (whether before, on or after that date) under section 16(1) or (2); or
- (c) is in an approved centre pursuant to an order made at any time (whether before, on or after that date) under
- 20 section 17(1).

(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
- 25 subsection (1); and
- (c) subject to subsection (5), submit to the taking of his body samples by a person authorised under section 26C(1).

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

- 30 (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.

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(5) No —

(a) sample of blood; or

(b) intimate sample prescribed under section 26A(2),

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

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Further provisions for taking of body samples

26C.—(1) For the purposes of section 26B(1)(c), a body sample may only be taken by —

(a) a registered medical practitioner;

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(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.

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(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.

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(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.

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

26D.—(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 26B; 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 26B.

(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;
- (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 —
- (i) section 27C of the Criminal Law (Temporary Provisions) Act (Cap. 67); or
 - (ii) section 40D of the Misuse of Drugs Act (Cap. 185);
- (d) for any proceedings for any offence;
- (e) for administering the register and DNA database for the purposes of this Act;
- (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);
- (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),

5 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.”.

EXPLANATORY STATEMENT

This Bill seeks to amend the Intoxicating Substances Act (Cap. 146A) —

- (a) to enable the Minister to, by notification in the *Gazette*, appoint any person or class of persons to analyse blood samples for the purposes of sections 14 and 15;
- (b) to enable the Director of the Central Narcotics Bureau (the Director) to place under supervision persons convicted of an offence under section 3(2) in addition to persons discharged from an approved centre under section 21; and
- (c) to provide for the taking of photographs, finger impressions, particulars and body samples for DNA profiling of inhalant abusers.

Clause 1 relates to the short title and commencement.

Clause 2 makes technical amendments to the definitions of “Director” and “officer of the Bureau” in section 2.

Clause 3 repeals and re-enacts section 14 to provide that a laboratory test on specimen of blood will be conducted by either an analyst employed by the Health Sciences Authority or such other person as the Minister may, by notification in the *Gazette*, appoint.

Clause 4 amends section 15(1) 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 any chemical compound specified in the Schedule to be proof of all matters contained therein, unless the contrary is proved.

Clause 5 amends section 16 to empower the Director to place under supervision a person who has been —

- (a) convicted of an offence under section 3(2); or

- (b) discharged from an approved centre under section 21.

Clause 6 inserts a new Part IVA (comprising new sections 26A to 26D) to provide for the regime of taking of photographs, finger impressions, particulars and body samples from inhalant abusers for DNA profiling.

The new section 26A 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 26B, except that samples taken from certain parts of the body may not be prescribed.

The new section 26B 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 Intoxicating Substances (Amendment) Act 2005 is convicted of or is serving a sentence of imprisonment for an offence under section 3(2), 4(2) or 13(3), is subject to supervision or is in an approved centre.

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 Central Narcotics Bureau (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 26C 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 26D authorises the Commissioner to maintain a register for the retention of photographs, finger impressions and particulars of persons taken under the new section 26B, 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 Misuse of Drugs Act (Cap. 185);
- (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.

EXPENDITURE OF PUBLIC MONEY

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