

DRUGS ACT

A translation

Translator's Note

This is a reasonably accurate translation of the “Drugs Act” originally found in the *Dhivehi* language. Every effort has been made to maintain the style and format of the original *Dhivehi* version. The reader may expect certain inconvenient defects in this translation that may be attributable to corresponding defects in the text, format and/or style of the *Dhivehi* original. However, where it is absolutely essential or justifiable for the purposes of this translation, certain departures from the *Dhivehi* text and style have been made without compromising the substance or spirit of the relevant *Dhivehi* provision.

DRUGS ACT

PART ONE PRELIMINARY

CHAPTER ONE INTRODUCTION AND OBJECTS

Introduction
and Title

1. (a) This Act makes provision for the prevention of the use, peddling and trafficking of drugs; and provides for measures to motivate drug dependent persons to treatment and rehabilitation programmes with a view to reducing or eliminating their dependency on drugs and to facilitate their reintegration into the community as responsible citizens; stipulates offences and punishments relating to the misuse of drugs; and matters related thereto.
- (b) This Act shall be cited as the “Drugs Act”.

Objects of the
Act

2. The main object of this Act is to achieve the following:
 - (a) to endeavour to reduce the level of drug dependency of drug dependent persons;
 - (b) to identify those who are in the early stages of drug dependency and to assist them in obtaining measures which will enable them to overcome their dependency on drugs;
 - (c) to establish a mechanism for the rehabilitation of drug dependent persons, believing that drug dependent persons are not just criminals but those in need of rehabilitation as they have, through the use of drugs, developed a psychological or physical dependence upon the effect of those drugs or a desire or need to continue to take those drugs;
 - (d) To prevent peddlers from dealing in drugs to sustain their drug dependency, and to reduce the level of criminal activity associated with their drug dependency;
 - (e) To prevent trafficking of drugs by identifying drug

traffickers, and to hinder the drug trafficking trade by obstructing the tools of their trade and by enforcing measures that directly target drug traffickers;

- (f) To establish a specialist court to hear criminal cases of drug dependent persons, and subject such persons to mandatory treatment and rehabilitation programmes to reduce or eliminate their dependency on drugs and thus increasing their chances of reintegration into the community as responsible citizens;
- (g) To invest law enforcement agencies with special powers to reduce the number of drug dependent persons and to prevent trafficking of drugs;
- (h) To stipulate offences and penalties relating to the use, peddling and trafficking of drugs.

Dictionary

- 3. (a) The basic concepts used in this Act are described in Chapter 2 of this Act.
- (b) The particular terms and phrases used in this Act are defined in Section 188 of this Act.

CHAPTER TWO DICTIONARY OF CONCEPTS

The basis of the concepts used in the Act

- 4. The main concepts used in this Act are described in this Chapter to maintain the basis of this Act and to facilitate the objects of this Act to be achieved in as broad a manner as possible. No provision of this Act shall be read in a manner that will limit the scope of the concepts explained herein.

Rehabilitation Order

- 5. “Rehabilitation Order” means an order made by the Drug Court to subject an eligible person to the treatment programme proposed in the indicative assessment.

Indicative Assessment

- 6. “Indicative Assessment” means an assessment made on the order of the Drug Court to determine whether an accused is drug dependent and to determine the type of treatment programme he requires.

Drugs

- 7. “Drugs” includes any of the substances and products specified in

Schedule 1 or anything that contains any such substance or product or any of the drugs specified in Schedule 2 as a specified drug or anything that contains such specified drug.

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| Use of drugs | 8. | “Use of drugs” means the consumption of any amount of drugs by a person or the administration of any amount of drugs into a person. |
| Possession of drugs | 9. | “Possession of drugs” includes the physical possession by a person of a drug on his person or in a place or thing under his control. |
| Dealing in drugs | 10. | “Dealing in drugs” means the sale or supply of drugs, or the transportation, delivery or distribution thereof for purposes of sale or to offer to do any such thing or to agree to do any such thing. |
| Drug dependent person | 11. | “Drug dependent person” means a person who, through the use of any drug, has developed a dependency on the drug that causes him to continue to take that drug or a psychological or physical dependence upon the effect of that drug. |
| Initial Sentence | 12. | “Initial Sentence” means the sentence imposed by the Drug Court after hearing a case made against an eligible person and upon obtaining a guilty plea from him convicting him of the alleged offence. |
| Final Sentence | 13. | “Final Sentence” means a sentence issued by the Drug Court determining the action to be taken against a person who has successfully completed a drug rehabilitation programme ordered by the Court. |
| Treatment Centre | 14. | “Treatment Centre” means the detoxification centres, the drug treatment and rehabilitation centres, the drug treatment and rehabilitation centres specialised for women and children, halfway houses, drug offender remand centres and other treatment centres that the National Drug Agency is required to establish under this Act or those that are licensed by the Agency under this Act. |
| Drug Court | 15. | “Drug Court” means the specialist court established under this Act to hear and dispose of criminal cases of drug dependent persons, and subject such persons to mandatory treatment and rehabilitation programmes in order to reduce or eliminate their dependency on drugs and thus increasing their chances of reintegration into the |

community as responsible citizens.

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| Drug
Dependence
Assessment | 16. “Drug Dependence Assessment” means an assessment made on the order of the Prosecutor General to determine whether an accused is drug dependent. |
| Trafficking | 17. “Trafficking” means the dealing of drugs by a person who is not a peddler whilst carrying out any one of the acts stated in Section 142 of this Act, or the dealing of drugs by a peddler whilst carrying out any two of the acts stated in Section 142 of this Act. |
| Trafficker | 18. “Trafficker” means a person who deals in drugs whilst carrying out any act deemed to be trafficking under this Act. Or a peddler who carries out any two acts deemed to be trafficking under this Act. |
| Peddling | 19. “Peddling” means the dealing of drugs by a drug dependent person to sustain his habit. |
| Peddler | 20. “Peddler” means a drug dependent person who deals in drugs. |

**PART II
INSTITUTIONAL FRAMEWORK**

**CHAPTER 3
NATIONAL DRUG CONTROL COUNCIL**

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| Establishment
of the National
Drug Control
Council | 21. (a) The President shall, within 30 (thirty) days of the coming into force of this Act, establish a Council to be named the “National Drug Control Council”.

(b) The National Drug Control Council shall advise the president on the policies on combatting drug trafficking in the Maldives, the prevention of use of drugs and policies relating to the rehabilitation of drug dependence persons. |
| Objectives of
the Council | 22. The objectives of the Council are as follows:

(a) To assist the President in formulating policies relating to the prevention of drug trafficking and drug use;

(b) To advise the President on the measures to be taken to combat the issue of drug use and on identifying the |

measures that need to be prioritized;

- (c) To advise the President on how the programmes devised to combat the use of drugs are being carried out and on how such programmes should be revised;
- (d) To bring to the notice of the President, the occurrences of drugs related crimes, acts associated with drug dependency and health issues caused as a result of drug use, and to identify national policies that need to be introduced to combat the issue and the revisions to be made to existing policies;
- (e) To advise the President on the measures to be taken at various times and circumstances on the prevention of the use, peddling and trafficking of drugs;
- (f) To advise the president on the orders to be issued to government agencies to ensure that all government agencies are working towards one goal in combating the issue of drugs;
- (g) To study the measures that are being implemented at both the international and national level to combat the misuse of drugs and to identify, research, and assess the opportunities and solutions that are available to combat the misuse of drugs and to advise the President on the solution most appropriate to the Maldives as regards the same;
- (h) To monitor and report on the extent of implementation of the policies determined by the President to combat the misuse of drugs and to identify, monitor and research the work carried out by government agencies in implementing those policies;
- (i) To identify the types of aid that must be sought from various sources to liberate the country from the epidemic issue misuse of drugs and to attempt to obtain such aid.

Composition of
the Council

23. The National Drug Control Council shall consist of the following 12 (twelve) members:

- (a) Vice President

- (b) Minister of Home Affairs
- (c) Minister of Education
- (d) Minister of Health and Family
- (e) Minister of Human Resources, Youth and Sports;
- (f) Minister of Islamic Affairs
- (g) Attorney General
- (h) Commissioner General of Customs
- (i) Controller of Immigration and Emigration
- (j) Chief of Defence Force
- (k) Prosecutor General

President of the Council **24.** The President of the Drug Control Council shall be the Vice President. Where the President of the Council is for any reason unable to carry out any particular act, the President shall appoint one of the members to do it.

Powers of the Council **25.** The Council shall, in accordance with this Act, have such powers necessary to carry out the functions stipulated in Section 22 of this Act.

CHAPTER FOUR NATIONAL DRUG AGENCY

Establishment of the National Drug Agency **26.** (a) The President shall, within 30 (thirty) days of the coming into force of this Act, establish a Government agency to be named the “National Drug Agency”.

(b) National Drug Agency is the authority that implements the policies related to this Act upon their determination by the President on the advice of the National Drug Council.

Obligations of the National Drug Agency **27.** The National Drug Agency is vested with the following obligations under this Act.

- (a) To implement various measures at various times and circumstances on the prevention of the use, peddling and trafficking of drugs.
- (b) To identify the occurrences of drugs related crimes, acts associated with drug dependency and health issues caused as a result of drug use, and to implement the national policies that are introduced to combat the issue.
- (c) To monitor whether the policies determined by the government on the prevention of drug use are being implemented by Government agencies.
- (d) To monitor the extent of implementation of the programmes to combat the misuse of drugs and to identify, monitor and to coordinate the work of the relevant agencies.
- (e) To endeavour to provide treatment to drug dependent persons with a view to reintegrating them into society as responsible citizens.
- (f) To obtain the support of the private sector in working towards preventing the misuse of drugs; to provide assistance and advice on the work carried out by private individuals or groups; and to work in collaboration with such private individuals and groups.
- (g) To work with all relevant agencies to create public awareness on the efforts to combat the misuse of drugs;
- (h) To conduct programmes in the Maldives in collaboration with various international agencies, to exchange information, and to endeavour to obtain aid and benefits from their expertise and knowledge.

Administration
and operation
of the National
Drug Agency

- 28.**
- (a) The National Drug Agency shall be managed, with the advice of the Board of the Agency, by the Chief Executive Officer appointed by the Board.
 - (b) The Chief Executive Officer mentioned in sub-section (a) of this Section shall have the qualifications stipulated in the Regulations made by the Agency under this Act.

- (c) Unless otherwise decided by the Chairman of the Board of the Agency, the Chief Executive Officer shall attend all Board meetings.
 - (d) The Minister shall be accountable to the Parliament on all matters relating to the Agency.
 - (e) The Regulations relating to the administration of the Agency will be made and implemented by the Board of the Agency.
- Board of the Agency **29.**
- (a) The Board of the National Drugs Agency shall consist of 10 (ten) members appointed by the President from amongst the following agencies:
 - i. The President's Office
 - ii. Ministry of Health and Family
 - iii. Ministry of Home Affairs
 - iv. Ministry of Human Resources, Youth and Sports
 - v. Ministry of Education
 - vi. Maldives National Defence Force
 - vii. Maldives Police Service
 - viii. Maldives Customs Service
 - ix. Department of Immigration and Emigration
 - x. A non-Governmental organization working towards combatting the misuse of drugs.
 - (b) The Chairman of the Board of the Agency shall be appointed by the President from amongst the members of the Board.
 - (c) The Board of the National Drug Agency shall be accountable to the Minister.

CHAPTER FIVE DRUG COURT

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| Drug Court | 30. | <p>(a) There shall be a court established under the name ‘Drug Court’ upon the coming into force of this Act.</p> <p>(b) The Drug Court shall have the jurisdiction accorded to it under this Act and is part of the general justice system. However, due to the nature of the court, it has mechanisms and procedures exclusive to it.</p> <p>(c) The drug court shall be established within the same hierarchy as a superior court stated in Act Number 22/2010 (the Judicature Act). And unless otherwise provided in this Act, the provisions in Act Number 22/2010 (the Judicature Act) relating to superior courts shall apply to the Drug Court where applicable.</p> |
| Basis of the court | 31. | <p>(a) The basis of the Court is to reduce the level of drug dependency of eligible persons, to reduce the level of criminal activity associated with their drug dependency, and to increase their chances of reintegration into the community as responsible citizens.</p> |
| Objectives of the Court | 32. | <p>(a) The Drug Court is established to achieve the following objectives:</p> <ul style="list-style-type: none">i. To endeavour to reduce the level of drug dependency of eligible persons;ii. To endeavour to reduce the level of criminal activity associated with the drug dependency of eligible persons;iii. To find ways to reintegrate eligible persons into the community;iv. To grant legal and judicial recognition to the treatment mechanism, whilst interlinking the treatment mechanism with the general justice system. <p>(b) The Drug court shall achieve the objects stipulated in sub-</p> |

section (a) above, by reducing or eliminating the drug dependency of eligible persons by subjecting them to court ordered mandatory treatment programmes.

Transfer of cases to Drug Court

- 33.** (a) Judges of the Criminal Court, the Juvenile Court, the Drug Court and the Prosecutor General shall determine which cases from amongst the cases submitted to the Criminal Court and the Juvenile Court prior to the coming into force of this Act shall fall within the jurisdiction of the Drug Court, and such cases shall be transferred from the two Courts to the Drug Court within 30 (thirty) days from the expiry of the period mentioned in Section 39.
- (b) The Criminal Court and the Juvenile Court shall not, during the period mentioned in sub-section (a), hear any cases submitted to them prior to the coming into force of this Act where they fall within the jurisdiction of the Drug Court.

Operation of the Drug Court

- 34.** (a) Even if the Drug Court is created upon the coming into force of this Act, the Drug Court shall not become operational until the rules and procedures relating to the functioning of the Court are published.
- (b) The rules and procedures relating to the functioning of the Drug Court shall be made and published by the Court within 30 days from the expiry of the period mentioned in Section 39.

Eligible persons

- 35.** (a) A person is an eligible person if he falls within the following three categories of persons and if he has the qualifications stipulated for each category in this Section.
- i. A person charged with the offence of use of drugs or drug peddling;
 - ii. A drug dependent person whose drug dependency contributed to the commission of a criminal offence;
 - iii. A person serving a sentence for a criminal offence.
- (b) A person mentioned in sub-section (a)(i) as a

person charged with the offence of use of drugs or drug peddling shall be an eligible person if he satisfies the following qualifications:

- i. He is a drug dependent person; and
 - ii. He has pleaded guilty to the offence or has indicated that he intends to plead guilty to the offence; and
 - iii. He is not charged with an offence referred to in section 36; and
 - iv. He satisfies the criteria for a Drug Court prescribed treatment programme.
- (c) A person mentioned in sub-section (a)(ii) as a drug dependent person whose drug dependency contributed to the commission of a criminal offence shall be an eligible person if he satisfies the following qualifications:
- i. He is a drug dependent person; and
 - ii. His drug dependency contributed to the commission of the criminal offence with which he is charged; and
 - iii. The offence he is charged with is not an offence referred to in Section 36; and
 - iv. He is not being tried in any other court for an offence referred to in section 36; and
 - v. It is likely the person would, if convicted of the offence, be sentenced to imprisonment or banishment for a term exceeding 10 (ten) years; and
 - vi. He has pleaded guilty to the offence or has indicated that he intends to plead guilty to the offence;
 - vii. He satisfies the criteria for a Drug Court prescribed treatment programme.

- (d) A person mentioned in sub-section (a)(iii) as a person serving a sentence for a criminal offence shall be an eligible person if he satisfies the following qualifications:
- i. He is a drug dependent person; and
 - ii. The offence for which he is serving the sentence is either the offence of use of drugs or drug peddling; or
 - iii. If he is serving multiple sentences, and if the offence for which he is serving his current sentence is not the offence of use of drugs or drug peddling, then the subsequent sentence he will serve is for the offence of use of drugs or drug peddling;
 - iv. The offence for which he is serving the sentence is not an offence referred to in Section 36; and
 - v. He is not being tried in any other court for an offence referred to in section 36; and
 - vi. He satisfies the criteria for a Drug Court prescribed treatment programme.

Persons not eligible

- 36.** A person is not an eligible person if he or she has been charged with or is serving a sentence for any of the following offences:
- (a) Murder;
 - (b) Act of terrorism;
 - (c) An offence under Act Number 12/2009 (Child Sexual Offenders (Special Provisions) Act);
 - (d) Drug trafficking;
 - (e) Rape;
 - (f) Aiding or abetting the commission of any of the offences mentioned in subsections (a) to (e).

Jurisdiction of the Drug Court

- 37.** (a) Unless otherwise stated in this Act, the Drug Court shall

have the jurisdiction to hear cases of criminal offences committed by the persons referred to in section 35.

(b) For the purpose of enabling it to exercise its jurisdiction under sub-section (a), the Drug Court shall have the powers vested in the Criminal Court and the Juvenile Court under Act Number 22/2010 (the Judicature Act).

Composition of the Drug Court

- 38.** (a) The Drug Court shall consist of at least 5 (five) judges.
- (b) Notwithstanding the provisions of sub-section (a), the Judicial Service Commission may, where it deems appropriate, and having given due regard to the workload of the Court, increase the number of judges constituting the Court to an amount determined by the Commission.
- (c) Unless otherwise provided in this Act or any other Act, all proceedings in the Drug Court are to be heard and disposed of before a bench consisting of a single judge.

Appointment of judges

- 39.** The judges to be appointed to the Drug Court under Section 38 shall be appointed by the Judicial Service Commission in accordance with Act Number 13/2010 (Judges Act) within 60 (sixty) days of the coming into force of this Act.

Criteria of Drug Court judges

- 40.** (a) The judges appointed to the Drug Court shall satisfy the following criteria:
- i. Shall have obtained a bachelor's degree in Islamic Sharia'h or law or Islamic Sharia'h and law;
 - ii. Shall have at least 2 (two) years practical experience as a judge or a lawyer in a field of work that falls within the jurisdiction of the Drug Court.
- (b) Where any judge who is appointed to the Drug Court fulfils the two criteria referred to in sub-section (a), it shall be deemed that the criteria referred to in Article 149 (a) of the Constitution as to education and experience have been satisfied.

Powers of Drug Court judges

- 41.** The judges of the Drug Court shall have the following powers under this Act:

- (a) To hear and dispose of cases submitted to the Drug Court;
 - (b) To do all other acts permitted by laws and regulations to carry out their functions as judges of the Drug Court.
 - (c) To issue regulations related to the functioning of the Drug Court.
- Appointment of staff **42.** The staff to be appointed to the Drug Court shall be appointed within 30 (thirty) days of the expiry of the period referred to in Section 39 of this Act.
- Place of establishment of Drug Court **43.** The Drug court shall be established in Male'. However, this Act does not prevent the judges of the Drug Court from being assigned to work in various regions of the Maldives or for the Drug Court to be moved to a location deemed appropriate for the time being.
- Advise to the Drug Court by the National Drug Agency **44.** The National Drug Agency shall provide advice to the Drug Court where needed in adjudicating cases before the Court, in determining sentences in such cases and in prescribing treatment programmes for drug dependent persons.
- Appointment of technical panel by the Agency to advise the Drug Court **45.** The National Drug Agency shall appoint a panel or panels of technical persons to advise the Drug Court in accordance with Section 44 of this Act. The Agency shall further make the services of such panels to be available to the Drug Court without interruption.
- Submission of report **46.** The Drug Court shall each year, prepare a report containing the following information and submit it to the National Drug Council.
1. Details of the cases submitted to the court;
 2. How cases were determined;
 3. Types of cases;
 4. Details of persons who were prescribed treatment;
 5. Details of persons who successfully completed treatment;
 6. Details of persons who did not successfully complete treatment;

7. Time spent adjudicating each case;
8. Administrative challenges faced by the Court.

CHAPTER SIX

TREATMENT CENTRES

Establishment
of treatment
centres

47. (a) The National Drug Agency shall, within 18 (eighteen) months from the coming into force of this Act, establish and commence operation of the following treatment centres:
- (1) A detoxification centre;
 - (2) A drug treatment and rehabilitation centre;
 - (3) A drug treatment and rehabilitation centre specialised for children;
 - (4) A drug treatment and rehabilitation centre specialised for women;
 - (5) A halfway house;
 - (6) A drug offender remand centre.
- (b) Notwithstanding the provisions of sub-section (a) of this Section, this Act does not prevent the National Drug Agency from establishing and operating, in accordance with this Act and the Regulations made thereunder, detoxification centres, drug treatment and rehabilitation centres, drug treatment and rehabilitation centres specialised for women and children, halfway houses, and drug offender remand centres in such quantities necessary for the treatment of drug dependent persons.
- (c) In addition to establishing the treatment centres that are required to be established and operated under sub-section (a) of this Section, the Nation Drug Agency may, subject to conditions stipulated in the Regulations made under this Act, grant permission to private parties to establish and operate such treatment centres in the Maldives.

Particulars of
treatment
centres

- 48.** (a) A detoxification centre referred to in Section 47(a)(1) of this Act means a medically supervised residential facility providing treatment to drug dependent persons to physically rid from their bodies and senses, toxins accumulated by drug use and to eliminate their drug dependency.
- (b) A drug treatment and rehabilitation centre referred to in Section 47(a)(2) of this Act means a residential facility that specialises in providing rehabilitation treatment to drug dependent persons to eliminate their drug dependency by placing emphasis on programs that offer them support as they go through the symptoms of withdrawal.
- (c) A drug treatment and rehabilitation centre specialise for children referred to in Section 47(a)(3) of this Act means a residential facility dedicated to providing rehabilitation treatment to drug dependent children under the age of 18 years in an environment where they are segregated from adults by providing rehabilitation programmes to eliminate their drug dependency and by providing them support as they go through the effects of withdrawal.
- (d) Drug treatment and rehabilitation centres specialised for women referred to in Section 47(a)(4) of this Act means treatment facilities that are dedicated to women from amongst drug treatment and rehabilitation centres referred to in Section 47(a)(2) of this Act.
- (e) Halfway houses referred to in Section 47(a)(5) of this Act means specialised residential centres where drug dependent persons undergo rehabilitation in a therapeutic community to enable them to be reintegrated into the wider community
- (f) Drug offender remand centres referred to in Section 47(a)(6) of this Act means centres specialised to provide basic drug dependence treatment during the period of remand of persons arrested for offences of drug use or peddling.

Licence to
operate
treatment
centres

- 49.** The treatment centres referred to in sub-sections (a) and (c) of Section 47, shall be operated in accordance with a licence issued by the National Drug Agency under the Regulations made by the

Agency under this Act.

Regulations relating to treatment centres

- 50.** The National Drug Agency shall, within 3 (three) months of its creation, publish rules and procedures relating to the establishment and operation of treatment centres referred to in Section 47, the standards to be maintained in such centres, other standards to be used in the operation of such centres and guidelines for issuing operating licences to such centres.

Regulations relating to programmes conducted in treatment centres

- 51.** (a) The programmes conducted in treatment centres established under Section 47 shall be devised and conducted in accordance with the standards stipulated in the Regulations made by the National Drug Agency. The Regulations, while providing for the provision of counselling, shall state such counselling to be Islamic behavioural counselling.
- (b) The Regulations made by the National Drug Agency shall provide for the qualifications that are required to be fulfilled by different categories and professions of staff working in treatment centres and shall provide for the ethical and professional standards that must be maintained by them during the provision of their services.

Responsibility for managing treatment centres

- 52.** (a) All treatment centres established under Section 47 shall be managed by a superintendent appointed by the operator of the centre, who shall be responsible for all matters relating to the centre.
- (b) The owner of a treatment shall not be exempt from liability for any act committed in a centre in contravention of this or any other Act.
- (c) The National Drug Agency shall monitor how the treatment centres established under Section 47 are being operated. And shall, no less than twice a year, publish a report as regards the same.

Review Committees

- 53.** (a) The superintendent of each treatment centre shall, in accordance with the regulations made by the National Drug Agency under this Act, appoint a Review Committee for each treatment centre to review the cases of every person undergoing treatment programmes or rehabilitation

programmes.

- (b) The chairperson of the Review Committee appointed under sub-section (b) shall satisfy the criteria stipulated in the regulations made by the National Drug Agency under this Act.

PART III TRIAL PROCESS

CHAPTER SEVEN FILING AND TRANSFER OF CASES

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| Prosecution | 54. | <ul style="list-style-type: none">(a) Where the Prosecutor General, having given due regard to the findings of an investigation conducted on an allegation of a criminal offence by a person, decides to prosecute the alleged offender, the Prosecutor General shall submit such case to the Drug Court if in his opinion the person is an eligible person.(b) The cases of persons who are charged with a criminal offence other than those persons who are eligible persons, shall be submitted to the Criminal Court or any other court that has jurisdiction to hear such cases. |
| Right to prosecute and right not to prosecute | 55. | <ul style="list-style-type: none">(a) This Act does not prevent the case of a person who is charged with an offence under Section 36 to be submitted to the Criminal Court or any other court that has jurisdiction to hear such cases, even if that person is an eligible person whose case is pending before the Drug Court.(b) Where an eligible person, whose case is proceeding in the Drug Court, has to be prosecuted for a criminal offence other than an offence under Section 36 and that the Drug Court has no jurisdiction to adjudicate upon, the Prosecutor General has the discretion to decide not to prosecute him for that offence and to proceed only with the case in the Drug court. |
| Revocation of suit | 56. | <ul style="list-style-type: none">(a) Where the case of an eligible person has to be submitted to the Drug court while he has a criminal case pending in a |

court other than the drug court, the Prosecutor General has the discretion to revoke the case in that court and to prosecute him only for the case in the Drug court.

(b) Where an eligible person whose case is proceeding in the Drug Court, has a criminal case that does not fall within the jurisdiction of the Drug Court pending in another court at the time his case was submitted to the Drug Court, the Prosecutor General has the discretion to revoke the suit against him in that court and to proceed only with the case in the Drug court.

Multiple charges

57. (a) Where an eligible person whose case is proceeding in the Drug Court, has to be prosecuted for more than one criminal offence that do not fall within the jurisdiction of the Drug Court, the Prosecutor General has the discretion to decide whether to prosecute him for only one of those offences while not prosecuting him for the rest, or whether to not prosecute him for any of those offences while proceeding only with the case in the Drug court.

(b) Where an eligible person whose case is proceeding in the Drug Court, is prosecuted for more than one criminal offence that do not fall within the jurisdiction of the Drug Court, the Prosecutor General has the discretion to decide whether to proceed with only one of those case while withdrawing the rest, or whether to not proceed with any of those cases while proceeding only with the case in the Drug court.

Additional offences falling within the jurisdiction of the Drug Court

58. (a) Where an eligible person who has a case pending before the Drug Court, has to be prosecuted for an additional offence that falls within the jurisdiction of the Drug Court, the Prosecutor General has the discretion to decide not to prosecute him for that additional offence and to proceed with the case currently pending before the Drug court.

(b) Where a person undergoing a treatment programme prescribed under a Rehabilitation Order made under Section 67 of this Act has to be prosecuted for a criminal offence other than an offence under Section 36 of this Act, the Prosecutor General has the discretion to not prosecute him for that offence provided he is complying with all the

requirements of the programme in accordance with the Rehabilitation Order issued against him. And the Prosecutor General shall have the discretion to prosecute him for that offence if he fails to complete the programme in accordance with the Rehabilitation Order.

- (c) Where an eligible person against whom a final judgment has been made under Section 84 of this Act, has to be prosecuted for a criminal offence other than an offence under Section 36 of this Act which he committed prior to his case being submitted to the Drug Court, the Prosecutor General has the discretion not to prosecute him for that offence.

Factors to be considered in deciding to prosecute or not prosecute

- 59.** Where the Prosecutor General has to make a decision under Section 55 (b), or 56 (a) or (b), or 57 (a) or (b), or 58 (a) or (b), he shall do so having given regard to the following:

- (a) a drug dependence assessment done by a person authorised to conduct an indicative assessment shows, considering the circumstances under which the accused committed the offence, that it is probable that he committed the offence as a result of his drug dependency or that there is reason to believe that he was a drug dependent person at the time he committed the offence; or
- (b) the circumstances make it more equitable and just to subject the accused to a treatment programme prescribed by the Drug court than to prosecute him for that offence.

Suspension of case by Drug Court

- 60.** (a) Where any of the circumstances referred to in Section 65(b) or (c) occurs while the case of an eligible person is pending before the Drug Court, the Drug Court shall declare that it cannot further proceed with the case and shall transfer the case to a court that has jurisdiction to hear such cases.

- (b) Where an eligible person is convicted of any of the offences referred to in Section 36 while his case is pending before the Drug Court, the Drug Court shall cease to adjudicate upon the case and shall cause his sentence to be commenced immediately.

**PART IV
DRUG COURT PROCESS**

**CHAPTER EIGHT
HEARING AND DISPOSING OF CASES BY DRUG COURT**

Factors to be
ascertained by
the drug court

- 61.** Where a case is submitted to the Court under Section 54 (a) of this Act, the Drug Court shall ascertain the following with regard to the accused:
- (a) that he is an eligible person; and
 - (b) It appears to the court that the person is a drug dependent person; and
 - (c) the person is willing to be subjected to an indicative assessment under Section 62 (b) of this Act; and
 - (d) The person has agreed to participate and complete a prescribed treatment programme.

Determination
by Drug Court
on whether to
proceed with a
case

- 62.**
- (a) Where the Drug Court deems that a person whose case was submitted to the Court is not an eligible person, or if the person does not consent to being subjected to a prescribed treatment programme, the Drug Court shall declare that it cannot further proceed with the case and shall transfer the case to a court that has jurisdiction to hear such cases.
 - (b) If the person appears to be an eligible person and if the court is able to ascertain that he has agreed to participate and complete a prescribed treatment programme, the drug court shall order the National Drug Agency to conduct via an authorized person, an indicative assessment for drug dependency and/or for suitability for rehabilitation.
 - (c) The court shall, while making an order under subsection (b) to refer a person for an indicative assessment, state in that order, the date on which the report shall be submitted to the Court.
 - (d) If the court makes an order under subsection (b) to refer a person for an indicative assessment, the court must do either of the following:

- (1) remand the person in custody in a drug offender remand centre to appear before the drug court on a specified date; or
- (2) release the person on bail or on such other conditions determined by the court, to appear before the drug court on a specified date.

(e) Where the court makes an order under subsection (b) to refer a person for an indicative assessment and where the court remands the person in custody in a drug offender remand centre under subsection (d)(1) of this Section, the Court shall order the person in charge to:

- (1) To ensure that he appears before the drug court on a specified date; and
- (2) To ensure the person meets with the appropriate health professionals authorised by the national drug agency to conduct an indicative assessment.

(f) Where the court makes an order under subsection (b) to refer a person for an indicative assessment and where the court releases the person on bail or on such other conditions determined by the court under subsection (d)(2) of this Section, the Court shall order the person to:

- (g) (1) appear before the drug court on a specified date; and
- (h) (2) attend at the times and places decided by the national drug agency to meet health professionals authorised by the national drug agency to conduct an indicative assessment.

Preparation and submission of indicative assessment report

- 63.**
- (a) The National Drug Agency shall in accordance with Section 62 (b) prepare and submit to the drug court, an indicative assessment report within the time specified by the court.
 - (b) The indicative assessment report referred to in this Section shall contain the following:

- (1) the level of drug dependency of the accused;
 - (2) an assessment of the person's suitability for rehabilitation;
 - (3) if the person is suitable, the type of treatment that is required and/or a proposed rehabilitation program.
- (c) When an indicative assessment report is submitted to the Court, the court shall give a copy of the report to the prosecuting authority and the accused.
 - (d) The drug court must ensure that the prosecuting authority and the accused have sufficient time before the proceedings to consider and respond to the report.
 - (e) The National Drug Agency shall conduct the indicative assessment report via health professionals who are licensed by the Agency to do so.
 - (f) The criteria of persons authorized to conduct indicative assessment reports and the conditions for issuing licences to such persons shall be stipulated in the regulations to be made under this Act.

Suitability for treatment

- 64.** (a) Even if a person is prosecuted in the drug Court, he shall not be suitable to participate in a prescribed treatment programme unless he is capable of participating and completing the treatment programme proposed in the indicative assessment report under Section 62 (b) of this Act.
- (b) The following persons shall not be suitable for a prescribed treatment programme:
 - (1) A person who is shown in the indicative assessment report to be a person who suffers from a mental condition, illness or disorder that could prevent or restrict the person's active participation in a prescribed treatment programme.
 - (2) A person who is shown in the indicative assessment report to be a person who suffers from a mental

sentence of the Court if the offender successfully completes the treatment programme prescribed by the Court. And shall revert if the offender fails to complete the programme or if he does not give his consent to participate in the programme.

Rehabilitation order **67.** Where the Drug Court passes an initial sentence against the accused under Section 65(a) and makes a suspension order under Section 66(a), it shall, based on the indicative assessment report issued under section 62(b), make a Rehabilitation Order against that person.

The contents of a Rehabilitation Order **68.** A Rehabilitation Order made under Section 67 shall contain the following:

- (a) The details of the sentence imposed on the offender;
- (b) How the execution of the initial sentence has been suspended;
- (c) The conditions imposed in the order;
- (d) The type and details of the prescribed treatment programme.

Setting aside suspension order **69.** (a) Even where the Drug Court has made a Rehabilitation Order against a person under Section 67, the Court may set aside the order suspending the execution of the initial sentence and order the initial sentence to be executed if it appears to the Court that the treatment programme cannot be facilitated in accordance with the Rehabilitation Order.

(b) The order to execute the initial sentence made against a person under sub-section (a) shall remain in effect until the first of the following two events/circumstances occur. And where such an event occurs, the order suspending the execution of the initial sentence reverts, and the Rehabilitation Order will come into effect.

(1) The facilities have been arranged in accordance with the Rehabilitation Order;

(2) 90 (ninety) days have passed since the making of

the initial sentence.

- (c) If the facilities cannot be arranged in accordance with the Rehabilitation Order before the expiry of the time period referred to in sub-section (b)(2) above, the authority supervising the offender's custody shall bring him before the Drug Court prior to the expiry of that period.
- (d) Where an offender is brought before the Drug Court under sub-section (c) the court shall decide on executing the initial sentence made against him, suspending the order executing the initial sentence and executing the Rehabilitation Order.

Conditions of a
Rehabilitation
Order

70. A Rehabilitation Order must be made subject to the following conditions:

- (a) To not commit another offence for the duration of the order;
- (b) To obey orders issued by treatment centres;
- (c) To regularly appear before the court on the dates ordered by the court;
- (d) To not depart from an island where a treatment centre is located except after obtaining a court order;
- (e) To inform the treatment centre he is registered under, of any change of address or place of work within 3 (three) months of such change.

Additional
conditions of a
Rehabilitation
Order

71. Based on prevailing circumstances, a Rehabilitation Order may contain the following conditions.

- (a) Community service for a prescribed period or a prescribed number of hours;
- (b) To participate in another activity that will facilitate him to be reintegrated into society or into the rehabilitation system.

Details of

72. Where a Rehabilitation Order is made, it shall provide in as much

treatment
programme

detail as possible, information on the prescribed treatment programme, including the following:

- (a) The degree of supervision to which the offender is subject;
- (b) the frequency with which the offender must undergo testing for drugs;
- (c) Consent of persons whom the indicative assessment requires to undergo vocational education programmes or vocational training programmes.
- (d) Consent to be subject to medical, psychiatric or psychological treatment;
- (e) That the Drug Court may commit the offender to a prison for up to 21 (twenty one) days at a time, if in the opinion of the Court, such action is necessary to facilitate:
 - (1) Detoxification of the offender or assessment of the offender's participation in the treatment programme; or
 - (2) There is no alternative but to commit him to a prison until a suitable facility is made available.

Explanation of
Rehabilitation
Order

73. Before making a Rehabilitation Order under Section 67 of this Act, the Drug Court must ensure that all reasonable steps are taken to explain to the offender the following:

- (a) That the Rehabilitation Order contains:
 - (1) the initial sentence imposed by the Court, and any other sentences that are temporarily suspended, if any;
 - (2) the core conditions of the order;
 - (3) details of any other conditions that are prescribed in accordance with this Act;
 - (4) details of the prescribed treatment programme.

- (b) The purpose and effect of the Rehabilitation Order.
 - (c) The consequences that may follow if the offender fails to comply with the Rehabilitation Order.
- When Order comes into effect
- 74.** (a) Where a Rehabilitation Order is made under Section 67 of this Act, such order shall come into effect when the offender confirms in writing that he has received written notice of the order.
- (b) When a Rehabilitation Order made against a person under Section 67 of this Act comes into effect, that person shall remain under the jurisdiction of the Drug Court for the duration of the order.
- Suspension of Rehabilitation Order
- 75.** If an offender is convicted of an offence referred to in Section 36 of this Act while a Rehabilitation Order is effective against him, the sentence imposed on him for that offence must be executed. And the Rehabilitation Order made against him will be suspended for the duration of the sentence.
- Variation of conditions of Rehabilitation Order
- 76.** (a) The Drug Court may, at the request of a person against whom a Rehabilitation Order is effective, or at its own initiative, vary the terms of an existing Rehabilitation Order.
- (b) Where the terms of a Rehabilitation Order is varied under sub-section (a), the reasons for such change shall be provided in writing.
- Conferring of rewards
- 77.** The Drug Court may confer the following kinds of rewards on an offender where the court is assured that he has maintained a satisfactory level of compliance with the programme:
- (a) conferral of specified leniencies or privileges;
 - (b) a decrease in the frequency with which the offender must undergo testing for drugs;
 - (c) a decrease in the degree of supervision to which the offender is subject;
 - (d) a change in the nature of the vocational training

programmes attended by the offender or a decrease in the total number of hours of community service that the offender is required to complete.

Imposition of sanctions

78. The Drug Court may impose the following kinds of sanctions on an offender where the court is assured that he has failed to comply with the programme:

- (a) Withdrawal of leniencies or privileges conferred on the person;
- (b) A requirement that the offender pay a monetary penalty to the Drug Court;
- (c) An increase in the degree of supervision to which the offender is subject;
- (d) An increase in the frequency of medical, psychiatric or psychological treatment to which the offender is subject;
- (e) An increase in the total number of hours of community service that the offender is required to complete;
- (f) A requirement that the offender be subjected to imprisonment in a prison for up to 15 (fifteen) days.

Limitation of right to appeal

79. Notwithstanding the right to appeal granted under Article 56 of the Constitution, there shall be no right to appeal against the following orders and decisions of the Drug Court, for the reason that a Rehabilitation Order is made with the consent of the offender to be subjected to its terms.

- (a) The initial sentence made under Section 65 of this Act;
- (b) The Rehabilitation Order made under Section 67 of this Act;
- (c) The order setting aside the order to suspend the execution of the initial sentence;
- (d) An order made by the court for the offender to appear before the court on a specified date.

CHAPTER ELEVEN

TERMINATION OF TREATMENT PROGRAMME

- Termination of treatment programme
- 80.** (a) The Drug Court may terminate an offender's treatment programme prescribed under a Rehabilitation Order made under Section 67 of this Act under the following circumstances:
- (1) If any of the persons referred to in Section 81 of this Act requests the Drug Court to terminate the programme;
 - (2) If the offender fails to comply with the terms of the Rehabilitation Order;
 - (3) If the offender refuses to consent to a variation of the terms of the Rehabilitation Order;
 - (4) If the offender refuses to consent to comply with the varied terms of the Rehabilitation Order;
 - (5) If the court is of the opinion that continuing the programme will not produce any satisfactory results.
- (b) Where the Drug Court decides to terminate a treatment programme under sub-section (a), it shall inform the offender in writing of the termination and the reasons for such termination.
- Persons who may request the court for termination of a treatment programme
- 81.** (a) The following persons may request the Court to terminate the treatment programme prescribed under a Rehabilitation Order under Section 67 of this Act.
- (1) The offender undergoing treatment;
 - (2) National Drug Agency;
 - (3) Treatment centre in which the offender is undergoing treatment.

- (b) If an application to terminate a prescribed treatment programme is made to the Drug Court by the offender, the Court shall give notice of the same to the treatment centre in which the offender is undergoing treatment, the Prosecutor General and the National Drug Agency.
- (c) If an application to terminate a prescribed treatment programme is made to the Drug Court by the treatment centre in which the offender is undergoing treatment, the Court shall give notice of the same to the offender, the Prosecutor General and the National Drug Agency.
- (d) If an application to terminate a prescribed treatment programme is made to the Drug Court by the National Drug Agency, the Court shall give notice of the same to the offender, the Prosecutor General and the treatment centre in which the offender is undergoing treatment.

Termination of Rehabilitation Order upon termination of treatment programme

- 82.** (a) Where the Drug Court decides under Section 80 to terminate a treatment programme prescribed under a Rehabilitation Order issued under Section 67 of this Act, the Court shall terminate the Rehabilitation Order made against that person.
- (b) Where the Rehabilitation Order made against a person undergoing a treatment programme is terminated under sub-section (a) of this Section, the Court shall revert the initial sentence made against him under Section 65 (a) and order the execution of that sentence in a correctional facility.

CHAPTER TWELVE

COMPLETION OF TREATMENT PROGRAMME

Completion of treatment programme

- 83.** A treatment programme of an offender subject to it under a Rehabilitation Order issued in accordance with Section 67 of this Act shall be deemed concluded when the offender successfully completes all parts of the programme that are required to be completed under the Rehabilitation Order.

Imposition of final sentence

- 84.** (a) When a treatment programme is deemed completed in accordance with Section 83 of this Act, the Drug Court

shall vacate the Rehabilitation Order made under Section 67 of this Act and shall impose a final sentence on the offender in one of the ways provided for in Section 85 of this Act.

(b) In imposing a final sentence under sub-section (a), the Court shall consider the following:

(1) the opinion of the treatment provider on the extent to which the offender participated in his or her rehabilitation program;

(2) any privileges conferred on the offender during the programme;

(3) any sanctions imposed on the offender during the programme.

(c) Where a final sentence is imposed on an offender under Section 85 of this Act, the initial sentence imposed on him under Section 65 (a) of this Act shall become null and void.

85. (a) The final sentence referred to in Section 84 of this Act may be imposed in any one of the following ways:

(1) By making an order setting aside the initial sentence and releasing the offender unconditionally;

(2) By making an order setting aside the initial sentence and releasing the offender conditionally on such conditions as the Drug Court imposes;

(3) By making an order setting aside the initial sentence, deferring the passing of final sentence and releasing the offender conditionally on such conditions as the Drug Court imposes;

(4) By making an order setting aside the initial sentence, and imposing instead a final sentence, deferring the passing of that sentence and releasing the offender conditionally on such conditions as the

Drug Court imposes.

- (b) The nature or duration of a final sentence imposed on an offender shall not be greater than the initial sentence imposed on him.
- (c) If the imposition of the final sentence has been deferred conditionally under sub-section (a)(3), the Court shall impose the final sentence on the offender if he fails to comply with any of the conditions upon which he was released.
- (d) If the execution of the final sentence has been deferred conditionally under sub-section (a)(4), the Court shall execute the final sentence on the offender if he fails to comply with any of the conditions upon which he was released.
- (e) A final sentence imposed on an offender under sub-section (a)(4) shall not be executed as long as the offender complies with the conditions stipulated in that sentence.
- (f) Where a final sentence is imposed on an offender under sub-section (a)(1), the time spent by the offender in the treatment programme shall be deemed to be time spent serving the sentence, and his sentence shall be considered to be executed.
- (g) Where a final sentence is imposed on an offender under sub-section (a)(2), and where the offender complies with the conditions stipulated in that sentence, the time spent by the offender in the treatment programme shall be deemed to be time spent serving the sentence, and his sentence shall be considered to be executed.

CHAPTER THIRTEEN

SPECIAL PROVISIONS RELATING TO ELIGIBLE CONVICTED OFFENDERS

Offenders
convicted prior

- 86.** (a) If offenders convicted of an offence of use of drugs prior to the coming into force of this Act and serving their sentence

to Act coming
into force

in prison, wish to participate in a prescribed drug Court programme, they may make an application to the National Drug Agency.

- (b) Where the National Drug Agency receives an application under sub-section (a), the Agency shall submit the application to the Drug Court if the Agency is satisfied that he is an eligible convicted offender under Section 35(d) of this Act.

Drug Court to
ascertain certain
matters

87. The Drug Court shall, upon receiving an application under Section 86 (a), ascertain the following:

- (a) The applicant is an eligible convicted offender under Section 35(d) of this Act; and
- (b) The Court is satisfied the convicted offender is a drug dependent person; and
- (c) The offender agrees to be subject to an indicative assessment; and
- (d) The offender agrees to participate in and complete a treatment programme prescribed by the Court.

Suspension of
execution of
sentence of
eligible
convicted
offenders

88. (a) Where the Drug Court is satisfied, upon ascertainment of matters under Section 87 of this Act, that the offender is an eligible convicted offender, the Drug Court shall deem the sentence being served by the offender to be an initial sentence imposed under Section 65(a) of the Act and shall make an order suspending the execution of that sentence. And the Court shall further make a Rehabilitation Order with respect to the offender and shall duly apply the relevant provisions in this Act.

- (b) If an offender determined to be an eligible convicted offender under sub-section (a) has multiple convictions, the Court shall order suspension of the execution of his current sentence as well as his next subsequent sentence. And the Court shall further make a Rehabilitation Order with respect to the offender and shall duly apply the relevant provisions in this Act.

CHAPTER FOURTEEN

TREATMENT OF DRUG DEPENDENT PERSONS WHO VOLUNTEER FOR SAME

Treatment of
persons who
volunteer for
same

- 89.** (a) A child below the age of 18 (eighteen) who is drug dependent may in accordance with the regulations made by the National Drug Agency and in accordance with the provisions of this Chapter, be admitted for treatment in a treatment centre referred to in Section 47 of this Act where the parent of the child applies to the treatment centre for the child to be treated for his drug dependency.
- (b) A person above the age of 18 (eighteen) who is drug dependent may in accordance with the regulations made by the National Drug Agency and in accordance with the provisions of this Chapter, be admitted for treatment in a treatment centre referred to in Section 47 of this Act where he applies to the treatment centre to be provided with treatment in respect of his drug dependency.

Conditions of
treatment for
volunteers

- 90.** A person who voluntarily applies to be treated in a treatment centre referred to in Section 47 or a child below the age of 18 (eighteen) whose parent applies for the same, shall be admitted to such a treatment centre upon the National Drug Agency ascertaining that the following conditions are satisfied, and upon the Agency issuing a directive to the treatment centre:
- (a) A document issued by a state authority vested with the legal power to investigate criminal matters stating that there are no allegations of criminal offences against the person, and a document issued by a court of criminal jurisdiction stating that the person does not have a conviction for a criminal offence; and
- (b) A document issued by a person authorized to conduct indicative assessments stating that there is a likelihood that he may be a danger to himself or to others if he is not admitted to a treatment centre for treatment; and
- (c) A document issued by the treatment centre to which the person has applied to be admitted to, stating that he has been subject to an indicative assessment made by a person

authorized to carry out the same in accordance with the regulations made by the national drug Agency and that a treatment has been prescribed for him based on that assessment report; and

- (d) A declaration made by the person applying for treatment, or in the case of a child below 18 (eighteen) years of age the parent, consenting to be subject to treatment; and
- (e) A document issued by the treatment centre stating that the facilities required for his treatment are available in the centre; and
- (f) That there is no Rehabilitation Order suspended under Section 69 of this Act for reasons that facilities are not available at the treatment centre.

Procedure for treatment of volunteers

91. The National Drug Agency shall make and publish regulations relating to the procedures for the treatment of drug dependent persons and children below 18 (eighteen) years of age at treatment centres referred to in Section 47 of this Act who volunteer for the same in accordance with Section 89 of this Act. And the Agency shall not admit a person into such treatment programme under this Chapter except in accordance with those regulations.

Immunity from prosecution

92. A person is not liable to prosecution for any offence comprising the use of drugs as a result of any admission made for the purpose of seeking admittance to treatment in a treatment centre under Section 89 of this Act. However, if there is evidence of facts giving rise to a criminal offence other than an offence comprising the use of drugs, this Act does not prevent him from being prosecuted for that offence.

Prosecution for a Section 36 offence

93. This Act does not prevent a person who is undergoing treatment in accordance with Section 89 of this Act from being prosecuted for an offence referred to in Section 36 of this Act in the Criminal Court or other court that has jurisdiction to hear such cases.

Prosecution for additional offences committed by persons who volunteer for treatment

94. (a) Where a person undergoing treatment in accordance with Section 89 of this Act has to be prosecuted for a criminal offence other than an offence referred to in Section 36, the Prosecutor General has the discretion to stay prosecution for that offence as long as he is completing his treatment in

accordance with the prescribed treatment.

- (b) Where the person referred to in sub-section (a) fails to complete his treatment in accordance with the prescribed treatment plan, the Prosecutor General has the discretion to proceed with the prosecution that has been stayed under sub-section (a).
- (c) Where the person referred to in sub-section (a) completes his treatment in accordance with the prescribed treatment plan, the Prosecutor General has the discretion to discontinue the prosecution that has been stayed under sub-section (a).

CHAPTER FIFTEEN

GENERAL RULES RELATING TO TREATMENT

Monitoring of
treatment
programmes by
the Court

95. The Drug Court shall monitor the execution of treatment programmes that are conducted in accordance with Rehabilitation Orders made under Section 67 of this Act.

Transfer of
persons
between
treatment
centres

96. (a) Any person who is resident at a treatment centre may, at terms agreed upon by the Superintendent of the Centre, and with the leave of the National Drug Agency, be transferred to another treatment centre. Where such transfer is made, it shall be so recorded at both centres. And the drug court shall be informed of such transfer. The National Drug Agency shall provide the guidelines and procedures for transfer of persons from one centre to another in the Regulations to be made under this Act.

(b) Notwithstanding the provisions of sub-section (a) of this Section, a person undergoing a particular type of treatment in a treatment centre in accordance with this Act shall not be transferred to a different type of treatment centre without an order of the Drug Court.

(c) Where a person undergoing treatment in a treatment centre while in custody of that centre, has to be brought before the court, or has to be taken to a particular place at a particular time or has to be incarcerated at a particular place at a particular time for the purposes of an investigation or for public interest or to protect his own interests, it shall be the

duty of the treatment centre in which he resides to arrange the same.

Residents of
treatment
centres

- 97.** (a) A person who is resident in a treatment centre pursuant to a Rehabilitation Order made under Section 67 of this Act, shall be deemed to be in lawful custody while he is resident at the centre.
- (b) A person shall be deemed to be in lawful custody in the following circumstances:
- (1) While he is being taken to the treatment centre under an order made by the Drug Court;
 - (2) While he is being taken to another treatment centre while he is in custody in a treatment centre;
 - (3) While he is being taken to and from a place that he is required to be taken under this Act;
 - (4) While he is temporarily resident in a place that is not a treatment centre for purposes of work that is being carried out in accordance with this Act.

Arrest warrant

- 98.** (a) Where the Drug Court has reasonable grounds to believe that a person undergoing treatment pursuant to a Rehabilitation Order while not being resident in a treatment centre has failed to comply with the Rehabilitation Order, the Court may issue a warrant requiring the Maldives Police Service to bring the offender before the Court.
- (b) The Drug Court shall have the power to issue a warrant to incarcerate a person arrested under a warrant issued under sub-section (a) of this Section for a period not exceeding 30 (thirty) days while the Court determines whether or not to continue his treatment programme.
- (c) Rules relating to bail prescribed under any other Act shall not apply to an offender who is arrested on the authority of a warrant issued under sub-section (a) of this Section.

Application for
overseas

- 99.** (a) A person subject to a Rehabilitation Order under Section

treatment

67 of this Act may apply to the National Drug Agency for permission to be treated in an overseas treatment centre.

- (b) Where the National Drug Agency receives an application under sub-section (a) of this Section, the Agency shall apply to the Drug Court for leave authorising the person to travel abroad to be treated in an overseas treatment centre.
- (c) Where the Drug Court receives an application under sub-section (b) of this Section, the Court shall grant leave subject to the following conditions being met or subject to any further conditions determined by the Court being met in addition to meeting the following conditions.
 - (1) The overseas treatment centre that the applicant wishes to be treated in is a centre approved by the National Drug Agency;
 - (2) The treatment programme offered at the overseas treatment centre is a programme approved by the National Drug Agency;
 - (3) The overseas treatment centre is one that has entered into a memorandum of understanding with the National Drug Agency relating to inter-agency cooperation, exchange of information, and the establishment of a mandatory reporting mechanism between the centre and the Agency as regards treatment of the offender.
 - (4) The finances have been arranged or are available for the person to reside in the overseas treatment centre for the duration of the treatment programme.
 - (5) The person is not being prosecuted in another Court for a criminal offence;
 - (6) The person is not subject to a sentence for a criminal offence other than a sentence, the execution of which has been suspended by the Drug Court.
- (d) The National Drug Agency shall publish a list of overseas

treatment centres that are approved by the Agency, and shall review the list at least every six months.

- (e) The National Drug Agency is required to furnish to the Drug Court, at such times to be determined by the Court, information on the degree of participation of a person granted leave under sub-section (c) in a treatment programme for the duration of his residency in the overseas treatment centre.
- (f) The Drug Court shall grant leave to a person to travel abroad for treatment in an overseas treatment centre under sub-section (c) after suspending the Rehabilitation Order made against him for the duration of such treatment. And the order will become effective upon the expiry of such period notwithstanding the person being abroad at the time.

Treatment of persons in prison

- 100.** (a) Where a person who is not an eligible person or who does not satisfy the conditions for a prescribed treatment programme, is serving a sentence of imprisonment for an offence comprising the use of drugs, and where such a person is a drug dependent person who requires treatment for his drug dependency, the National Drug Agency shall, in collaboration with the prison authority, facilitate his treatment at the prison premises.
- (b) The National Drug Agency shall, in collaboration with the prison authority, facilitate the treatment in prison of persons who are sentenced to imprisonment under Section 69 (a) of this Act.

Treatment of persons held in remand

- 101.** (a) Where Maldives Police Service is of the view that a person arrested for an offence comprising the use or peddling of drugs is a drug dependent person that requires treatment even while in police custody, he shall be remanded in a drug offender remand centre established under Section 47 of this Act instead of being remanded in a police custodial.
- (b) Where the Drug Court commits a person to be remanded under Section 62(d)(1) of this Act, he shall be remanded in a drug offender remand centre.
- (c) A person remanded under sub-sections (a) and (b) shall be

deemed to be under police custody.

Register of
Persons
Undergoing
Treatment

- 102.** The National Drug Agency shall maintain a Register of Persons Undergoing Treatment in accordance with a treatment programme prescribed by the Drug Court, which shall contain the details and progress of such treatment programmes. The Drug Court and treatment centres shall regularly provide such information necessary for the Agency to maintain the Register in such manner determined by the Agency. The Agency shall also maintain records of persons who are re-admitted into a treatment programme after completion of a prescribed treatment programme.

PART V OFFENCES AND PENALTIES

CHAPTER SIXTEEN OFFENCES RELATING TO SCHEDULE 1 DRUGS

Trafficking in
diamorphine

- 103.** (a) It shall be an offence to traffic in diamorphine.
- (b) It shall be an offence to attempt to traffic in diamorphine, or abet or take part in any manner in the trafficking of diamorphine.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for life and with a fine of an amount not less than Maldivian Rufiyaa 100,000 (one hundred thousand) but not exceeding Maldivian Rufiyaa 10,000,000 (ten million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 18 (eighteen) years and with a fine of an amount not less than Maldivian Rufiyaa 75,000 (seventy five thousand) but not exceeding Maldivian Rufiyaa 7,500,000 (seven million five hundred thousand).

Peddling in
diamorphine

- 104.** (a) It shall be an offence to peddle in diamorphine.
- (b) It shall be an offence to attempt to peddle in diamorphine, or abet or take part in any manner in the peddling of diamorphine.

- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term not less than 5 (five) years but not exceeding 10 (ten) years and with a fine of an amount not less than Maldivian Rufiyaa 15,000 (fifteen thousand) but not exceeding Maldivian Rufiyaa 250,000 (two hundred and fifty thousand).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term not less than 3 (three) years but not exceeding 7 (seven) years and with a fine of an amount not less than Maldivian Rufiyaa 10,000 (ten thousand) but not exceeding Maldivian Rufiyaa 150,000 (hundred and fifty thousand).

Dealing in
diamorphine

- 105.**
- (a) It shall be an offence to deal in diamorphine.
 - (b) It shall be an offence to attempt to deal in diamorphine, or abet or take part in any manner in the dealing of diamorphine.
 - (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 15 (fifteen) years and with a fine of an amount not less than Maldivian Rufiyaa 25,000 (twenty five thousand) but not exceeding Maldivian Rufiyaa 500,000 (five hundred thousand).
 - (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 7 (seven) years and with a fine of an amount not less than Maldivian Rufiyaa 15,000 (fifteen thousand) but not exceeding Maldivian Rufiyaa 250,000 (two hundred and fifty thousand).

Trafficking in
cannabis

- 106.**
- (a) It shall be an offence to traffic in cannabis.
 - (b) It shall be an offence to attempt to traffic in cannabis, or abet or take part in any manner in the trafficking of cannabis.
 - (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for life and with a fine of an amount not less than Maldivian Rufiyaa 100,000

(one hundred thousand) but not exceeding Maldivian Rufiyaa 10,000,000 (ten million).

- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 18 (eighteen) years and with a fine of an amount not less than Maldivian Rufiyaa 75,000 (seventy five thousand) but not exceeding Maldivian Rufiyaa 7,500,000 (seven million five hundred thousand).

Peddling in
cannabis

- 107.**
- (a) It shall be an offence to peddle in cannabis.
 - (b) It shall be an offence to attempt to peddle in cannabis, or abet or take part in any manner in the peddling of cannabis.
 - (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term not less than 5 (five) years but not exceeding 10 (ten) years and with a fine of an amount not less than Maldivian Rufiyaa 15,000 (fifteen thousand) but not exceeding Maldivian Rufiyaa 250,000 (two hundred and fifty thousand).
 - (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term not less than 3 (three) years but not exceeding 7 (seven) years and with a fine of an amount not less than Maldivian Rufiyaa 10,000 (ten thousand) but not exceeding Maldivian Rufiyaa 150,000 (hundred and fifty thousand).

Dealing in
cannabis

- 108.**
- (a) It shall be an offence to deal in cannabis.
 - (b) It shall be an offence to attempt to deal in cannabis, or abet or take part in any manner in the dealing of cannabis.
 - (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 15 (fifteen) years and with a fine of an amount not less than Maldivian Rufiyaa 25,000 (twenty five thousand) but not exceeding Maldivian Rufiyaa 500,000 (five hundred thousand).
 - (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 7

(seven) years and with a fine of an amount not less than Maldivian Rufiyaa 15,000 (fifteen thousand) but not exceeding Maldivian Rufiyaa 250,000 (two hundred and fifty thousand).

Trafficking in
Schedule 1
drugs

- 109.** (a) It shall be an offence to traffic in a Schedule 1 drug other than diamorphine or cannabis.
- (b) It shall be an offence to attempt to traffic in a Schedule 1 drug other than diamorphine or cannabis, or abet or take part in any manner in the trafficking of a Schedule 1 drug other than diamorphine or cannabis.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for life and with a fine of an amount not less than Maldivian Rufiyaa 100,000 (one hundred thousand) but not exceeding Maldivian Rufiyaa 10,000,000 (ten million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 18 (eighteen) years and with a fine of an amount not less than Maldivian Rufiyaa 75,000 (seventy five thousand) but not exceeding Maldivian Rufiyaa 7,500,000 (seven million five hundred thousand).

Import and
export of
Schedule 1 drug

- 110.** (a) It shall be an offence to import into or export from the Maldives a Schedule 1 drug.
- (b) It shall be an offence to attempt to import into or export from the Maldives a Schedule 1 drug, or abet or take part in any manner in the importation of or exportation from the Maldives of a Schedule 1 drug.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for life and with a fine of an amount not less than Maldivian Rufiyaa 100,000 (one hundred thousand) but not exceeding Maldivian Rufiyaa 10,000,000 (ten million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 18 (eighteen) years and with a fine of an amount not less than

Maldivian Rufiyaa 75,000 (seventy five thousand) but not exceeding Maldivian Rufiyaa 7,500,000 (seven million five hundred thousand).

- Manufacture of Schedule 1 drug **111.** (a) It shall be an offence to manufacture a Schedule 1 drug.
- (b) It shall be an offence to attempt to manufacture a Schedule 1 drug, or abet or take part in any manner in the manufacturing of a Schedule 1 drug.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for life and with a fine of an amount not less than Maldivian Rufiyaa 100,000 (one hundred thousand) but not exceeding Maldivian Rufiyaa 10,000,000 (ten million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term of 18 (eighteen) years and with a fine of an amount not less than Maldivian Rufiyaa 75,000 (seventy five thousand) but not exceeding Maldivian Rufiyaa 7,500,000 (seven million five hundred thousand).
- Use of diamorphine **112.** (a) It shall be an offence to use diamorphine.
- (b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years.
- Use of cannabis **113.** (a) It shall be an offence to use cannabis.
- (b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years.
- Use of schedule 1 drug **114.** (a) It shall be an offence to use a Schedule 1 drug.
- (b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years.
- Administration of Schedule 1 Drug **115.** (a) It shall be an offence to:

- (1) administer or cause to be administered by any means, a Schedule 1 drug to a person with his consent or knowledge;
 - (2) administer or cause to be administered by any means, a Schedule 1 drug to a person without his consent or knowledge or while he is incapacitated.
- (b) A person who commits an offence under sub-section (a)(1) of this Section shall be punishable with imprisonment for a term of 5 (five) years.
 - (c) A person who commits an offence under sub-section (a)(2) of this Section shall be punishable with imprisonment for a term of 10 (ten) years.

CHAPTER SEVENTEEN

OFFENCES RELATING TO SCHEDULE 2 DRUGS

Trafficking in
Schedule 2 drug

- 116.** (a) It shall be an offence to traffic in a Schedule 2 drug.
- (b) It shall be an offence to attempt to traffic in a Schedule 2 drug, or abet or take part in any manner in the trafficking of a Schedule 2 drug.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term not less than 5 (five) years but not exceeding 10 (ten) years and with a fine of an amount not less than Maldivian Rufiyaa 50,000 (fifty thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term not less than 7 (seven) years but not exceeding 11 (eleven) years and with a fine of an amount not less than Maldivian Rufiyaa 35,000 (thirty five thousand) but not exceeding Maldivian Rufiyaa 750,000 (seven hundred and fifty thousand).

Import and
export of
Schedule 2 drug

- 117.** (a) It shall be an offence to import into or export from the Maldives a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining

written authorisation from the Ministry.

- (b) It shall be an offence to attempt to import into or export from the Maldives a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining written authorisation from the Ministry, or abet or take part in any manner in the importation of or exportation from the Maldives of a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining written authorisation from the Ministry.
- (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term not less than 5 (five) years but not exceeding 10 (ten) years and with a fine of an amount not less than Maldivian Rufiyaa 50,000 (fifty thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).
- (d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term not less than 7 (seven) years but not exceeding 11 (eleven) years and with a fine of an amount not less than Maldivian Rufiyaa 35,000 (thirty five thousand) but not exceeding Maldivian Rufiyaa 750,000 (seven hundred and fifty thousand).

Manufacture of
Schedule 2
drugs

- 118.**
- (a) It shall be an offence to manufacture a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining written authorisation from the Ministry.
 - (b) It shall be an offence to attempt to manufacture a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining written authorisation from the Ministry, or abet or take part in any manner in the manufacturing of a Schedule 2 drug except in accordance with the Regulations made under this Act and except after obtaining written authorisation from the Ministry.
 - (c) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term not less

than 5 (five) years but not exceeding 10 (ten) years and with a fine of an amount not less than Maldivian Rufiyaa 50,000 (fifty thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).

(d) A person who commits an offence under sub-section (b) shall be punishable with imprisonment for a term not less than 7 (seven) years but not exceeding 11 (eleven) years and with a fine of an amount not less than Maldivian Rufiyaa 35,000 (thirty five thousand) but not exceeding Maldivian Rufiyaa 750,000 (seven hundred and fifty thousand).

Administration of Schedule 2 drug

119. (a) It shall be an offence to:

(1) administer or cause to be administered by any means without a prescription, a Schedule 2 drug to a person with his consent or knowledge;

(2) administer or cause to be administered by any means without a prescription, a Schedule 2 drug to a person without his consent or knowledge or while he is incapacitated.

(b) A person who commits an offence under sub-section (a)(1) of this Section shall be punishable with imprisonment for a term of 3 (three) years.

(c) A person who commits an offence under sub-section (a)(2) of this Section shall be punishable with imprisonment for a term of 7 (seven) years.

Alteration of prescription

120. (a) It shall be an offence to alter a prescription for the purposes of obtaining a Schedule 2 drug.

(b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years.

CHAPTER EIGHTEEN OTHER DRUG RELATED OFFENCES

Drugs not

121. (a) It shall be an offence to use any substance for the purpose

included
Schedules 1 and
2

of being intoxicated regardless of it not being a Schedule 1 drug or a Schedule 2 drug.

- (b) Alcohol is not included in the substances mentioned in sub-section (a).
- (c) A person who commits an offence under sub-section (a) of this Section shall be punishable with imprisonment for a term of 1 (one) year.

Manufacture of
Schedule 3
precursor
substance

122. (a) Any person who:

- (1) manufactures or prepares any Schedule 3 precursor substance;
- (2) has in his possession, any Schedule 3 precursor substance;
- (3) supplies, delivers, or gives any Schedule 3 precursor substance to another person;
- (4) imports or exports any Schedule 3 precursor substance,

knowing or having reason to believe that the substance is to be used in the peddling of drugs or in the trafficking of drugs or in the use of drugs.

- (b) A person who commits an offence under numbers (1) to (4) of sub-section (a) of this Section shall be punishable with imprisonment for a term not less than 3 (three) years but not exceeding 5 (five) years.
- (c) It shall not be an offence to import into or export from the Maldives any Schedule 3 precursor substance in accordance with an authorisation granted under the Regulations made under this Act. Nor shall it be an offence for any person in possession of such an authorisation to have in his possession, any Schedule 3 precursor substance where such substance is imported under such authorisation.

Failure to provide urine sample

- 123.** (a) Any person who fails to provide a specimen of his urine upon request by a police officer under Section 161 (a) of this Act commits an offence.
- (b) A person who commits an offence under sub-section (a) of this Section shall be punishable with imprisonment for a term of 1 (one) year.

Failure to consent to taking of photograph, finger impressions or body sample

- 124.** (a) Any person undergoing treatment in a treatment centre who fails without reasonable excuse to consent to his photograph or finger impressions being taken, commits an offence.
- (b) Any person undergoing treatment in a treatment centre who fails without reasonable excuse to consent to his body sample being taken, commits an offence.
- (c) Any person undergoing treatment in a treatment centre who fails without reasonable excuse to provide his urine sample, commits an offence.
- (d) Any person undergoing treatment in a treatment centre who fails without reasonable excuse to provide information being sought from him, commits an offence.
- (e) A person who commits an offence under sub-sections (a) to (d) of this Section shall be punishable with imprisonment for a term not exceeding 3 (three) months.

Offences relating to drug trafficking by owners of premises or vehicles

- 125.** (a) It shall be an offence for a person being the owner, tenant, caretaker, occupier or person in charge of any dwelling, building or vehicle, to permit or allow such dwelling, building or vehicle or any part thereof to be used, knowing or having reason to believe that such dwelling, building or vehicle or any part thereof is being used or is to be used for purposes of peddling or trafficking a Schedule 1 drug or peddling or trafficking a Schedule 2 drug or the manufacture of a Schedule 1 drug or a Schedule 2 drug.
- (b) A person who commits an offence under sub-section (a) of this Section shall be punishable with imprisonment for a term of 10 (ten) years.

Offences relating to use of drugs by owners of premises or vehicles

- 126.** (a) It shall be an offence for a person being the owner, tenant, caretaker, occupier or person in charge of any non-residential premises, building, place or vehicle, to permit or allow such non-residential premises, building, place or vehicle or any part thereof to be used, knowing or having reason to believe that such non-residential premises, building, place or vehicle or any part thereof is being used or is to be used for purposes of using or administering a Schedule 1 drug or a Schedule 2 drug.
- (b) A person who commits an offence under sub-section (a) of this Section shall be punishable with imprisonment for a term of 2 (two) years.

Receiving, retaining, using or concealment of proceeds of crime

- 127.** (a) It shall be an offence to receive, retain or use any property or money, knowing or having reason to believe that such property or money are direct proceeds of an offence of drug peddling or trafficking or obtained by result of having committed such an offence.
- (b) It shall be an offence to commit any act that may alter the origin of or title to any property or money that are proceeds of an offence of drug peddling or trafficking; or cause to be transferred or assist in the transferring of the title to any property or money that are proceeds of an offence of drug peddling or trafficking, in order to conceal the fact that they are proceeds of crime or to assist a person who participated in the commission of the offence to escape due punishment.
- (c) A person who commits an offence under sub-sections (a) or (b) shall be punishable with imprisonment for a term of 3 (three) years and with a fine of an amount not less than Maldivian Rufiyaa 10,000 (ten thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).

Offence of Incitement

- 128.** (a) It shall be an offence to incite or counsel a person to use or traffic in drugs or to commit any act in furtherance of such an offence.
- (b) It shall be an offence to write, paint, disclose, reveal, publish, or otherwise circulate to the public anything that incites the use of or traffic in drugs.

- (c) A person who commits any of the offences under sub-sections (a) or (b) of this Section shall be punishable with imprisonment for a term of 3 (three) years.
- Buying or selling of substance believing it to be a schedule 1 drug **129.** (a) It shall be an offence to buy any substance in the belief that it is a schedule 1 drug or to sell any substance in the belief that it is a schedule 1 drug or to attempt to do any such act.
- (b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years life and with a fine of an amount not less than Maldivian Rufiyaa 10,000 (ten thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).
- Failure to report trafficking or importation or exportation of drugs **130.** (a) It shall be an offence for any person to fail to inform the Maldives Police Service of any act of trafficking or importation or exportation of a schedule 1 drug or of any attempts to commit such an offence where such person has knowledge of the same. Silly!
- (b) A person who commits an offence under sub-section (a) shall be punishable with imprisonment for a term of 3 (three) years life and with a fine of an amount not less than Maldivian Rufiyaa 10,000 (ten thousand) but not exceeding Maldivian Rufiyaa 1,000,000 (one million).
- Offence by Corporations **131.** (a) If an offence under this Act is committed by a corporation or with the consent or knowledge of a member of the board of directors of the corporation, or of a person who is concerned in the management of the corporation, the person who commits the offence as well as the corporation shall be guilty of that offence.
- (b) A person who commits an offence under sub-section (a) shall be punishable with a fine of an amount not less than Maldivian Rufiyaa 1,000,000 (one million) but not exceeding Maldivian Rufiyaa 100,000,000 (one hundred million).
- Commission of offences outside the Maldives **132.** (a) An act deemed to be an offence under this Act, shall be an offence if committed by a Maldivian, even if the offence is committed outside the Maldives. And the penalty for the

offence shall be the penalty stipulated in this Act for that offence.

- (b) Notwithstanding the provisions of sub-section (a) of this Section, a Maldivian shall be prosecuted in the Maldives under this Act for an offence committed outside the Maldives only where he has not been prosecuted or convicted for that offence in the country where the offence was committed.
- (c) Where a Maldivian prosecuted and sentenced in another country for the commission of an offence within the meaning of this Act, is extradited to the Maldives under relevant law or under an extradition agreement for purposes of executing his sentence in the Maldives, the sentence imposed by the foreign court shall be enforceable in the Maldives to the same effect as a sentence imposed in the Maldives.

Offences punishable by maximum penalty

133. Where an offence under this Act is committed by any of the persons stated below, that person shall be punishable by the maximum penalty determined for that offence under this Act.

- (a) A member of a gang within the meaning of Act No: 18/2010 (Anti-Gang Act);
- (b) An officer of an enforcement agency under this Act;
- (c) Any person who administers or assists in the administration of drugs to any of the following persons or causes any such person to participate in the commission of an offence under this Act:
 - (1) A child below the age of 18 (eighteen) years;
 - (2) A person of unsound mind;
 - (3) A person undergoing treatment under this Act.

CHAPTER NINETEEN PRESUMPTIONS

Use, peddling **134.** (a) A drug dependent person, who has in his possession 2

or trafficking of
diamorphine by
drug dependant
person

(two) grammes or less than 2 (two) grammes of
diamorphine, shall be presumed to have had the drug in his
possession for the purpose of using it.

- (b) Notwithstanding the provisions of sub-section (a), even if a drug dependent person has in his possession 2 (two) grammes or less of diamorphine, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if he is proved to have committed any two acts stated in Section 142 of this Act.
- (c) A drug dependent person, who has in his possession more than 2 (two) grammes but less than 4 (four) grammes of diamorphine, shall be presumed to have had the drug in his possession for the purpose of peddling it, unless the state proves that he has committed any two acts stated in Section 142 of this Act.
- (d) Notwithstanding the provisions of sub-section (c) above, even if a drug dependent person has in his possession more than 2 (two) grammes but less than 4 (four) grammes of diamorphine, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if he is proved to have committed any two acts stated in Section 142 of this Act.
- (e) A drug dependent person, who has in his possession more than 4 (four) grammes of diamorphine, shall be presumed to have had the drug in his possession for the purpose of trafficking it.

Use, peddling
or trafficking of
diamorphine by
person not drug
dependant

- 135.** (a) A person who is not a drug dependent person, who has in his possession 2 (two) grammes or less than 2 (two) grammes of diamorphine, shall be presumed to have had the drug in his possession for the purpose of dealing it.
- (b) Notwithstanding the provisions of sub-section (a), even if a person who is not a drug dependent person has in his possession 2 (two) grammes or less of diamorphine, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if it is proved that he had committed any two acts stated in Section 142 of this Act.

- (c) A person who is not a drug dependent person, who has in his possession more than 2 (two) grammes but less than 4 (four) grammes of diamorphine, shall be presumed to have had the drug in his possession for the purpose of dealing it, unless the state proves that he has committed any two acts stated in Section 142 of this Act.
- (d) Notwithstanding the provisions of sub-section (c) above, even if a person who is not a drug dependent person has in his possession more than 2 (two) grammes but less than 4 (four) grammes of diamorphine, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if he is proved to have committed any two acts stated in Section 142 of this Act.
- (e) A person who is not a drug dependent person, who has in his possession more than 4 (four) grammes of diamorphine, shall be presumed to have had the drug in his possession for the purpose of trafficking it.

Use, peddling or trafficking of cannabis by drug dependant person

- 136.**
- (a) A drug dependent person, who has in his possession 5 (five) grammes or less than 5 (five) grammes of cannabis, cannabis mixture or cannabis resin shall be presumed to have had the drug in his possession for the purpose of using it.
 - (b) Notwithstanding the provisions of sub-section (a), even if a drug dependent person has in his possession 5 (five) grammes or less than 5 (five) grammes of cannabis, cannabis mixture or cannabis resin, it shall be presumed that he had the drug in his possession for the purpose of peddling it, if he is proved to have committed any two acts stated in Section 142 of this Act.
 - (c) A drug dependent person, who has in his possession more than 5 (five) grammes but less than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, shall be presumed to have had the drug in his possession for the purpose of peddling it, unless the state proves that he has committed any two acts stated in Section 142 of this Act.
 - (d) Notwithstanding the provisions of sub-section (c) above, even if a drug dependent person has in his possession more

than 5 (five) grammes but less than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if he is proved to have committed any two acts stated in Section 142 of this Act.

(e) A drug dependent person, who has in his possession more than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, shall be presumed to have had the drug in his possession for the purpose of trafficking it.

Use, peddling
or trafficking of
cannabis by
person not drug
dependant

137. (a) A person who is not a drug dependent person, who has in his possession 5 (five) grammes or less than 5 (five) grammes of cannabis, cannabis mixture or cannabis resin, shall be presumed to have had the drug in his possession for the purpose of dealing it.

(b) Notwithstanding the provisions of sub-section (a), even if a person who is not a drug dependent person has in his possession 5 (five) grammes or less than 5 (five) grammes of cannabis, cannabis mixture or cannabis resin, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if it is proved that he had committed any two acts stated in Section 142 of this Act.

(c) A person who is not a drug dependent person, who has in his possession more than 5 (five) grammes but less than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, shall be presumed to have had the drug in his possession for the purpose of dealing it, unless the state proves that he has committed any one of the acts stated in Section 142 of this Act.

(d) Notwithstanding the provisions of sub-section (c) above, even if a person who is not a drug dependent person has in his possession more than 5 (five) grammes but less than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, it shall be presumed that he had the drug in his possession for the purpose of trafficking it, if he is proved to have committed any two acts stated in Section 142 of this Act.

(e) A person who is not a drug dependent person, who has in

his possession more than 14 (fourteen) grammes of cannabis, cannabis mixture or cannabis resin, shall be presumed to have had the drug in his possession for the purpose of trafficking it.

Use or
trafficking of
Schedule 1 drug

138. (a) A person who has in his possession 1 (one) gramme or less than 1 (one) gramme of a Schedule 1 drug other than diamorphine or cannabis, shall be presumed to have had the drug in his possession for the purpose of using it.

(b) A person who has in his possession more than 1 (one) gramme or less than 1 (one) gramme of a Schedule 1 drug other than diamorphine or cannabis, shall be presumed to have had the drug in his possession for the purpose of trafficking it.

Presumption as
to weight of
Schedule 1 drug

139. (a) Where a Schedule 1 drug in the possession of a person is not an admixture, the weight of the drug in its purity shall be presumed to be the weight of the drug.

(b) Where a Schedule 1 drug in the possession of a person is an admixture of a Schedule 1 Drug and any other substance, the weight of the total mixture shall be presumed to be the weight of the drug.

(c) Where a person has in his possession, an admixture of a Schedule 1 Drug and a Schedule 2 drug, and where it is shown that the majority of the mixture contains the Schedule 1 drug, it shall be presumed for the purposes of sub-section (b) above that the person has in his possession, a Schedule 1 drug.

(d) Where a person has in his possession, an admixture of a Schedule 1 Drug and a Schedule 2 drug, and where the majority of the mixture contains the Schedule 2 drug, it shall be presumed for the purposes of sub-section (b) above that the person has in his possession, a Schedule 2 drug.

(e) In determining the 'majority of the mixture' for the purposes of sub-section (c) and (d), a Schedule 1 drug shall be determined in grammes whereas a Schedule 2 drug will be determined in dosages.

Use or
trafficking of
Schedule 2 drug

- 140.** (a) An authorised person, who has in his possession more than an approved amount of a Schedule 2 drug shall be presumed to have had the drug in his possession for the purpose of trafficking it.
- (b) A person in the possession of a doctor's prescription, who has in his possession more than the prescribed amount of a Schedule 2 drug, it shall be presumed that he has in his possession, the amount exceeding the prescribed amount for the purpose of trafficking it.
- (c) A person who is not in possession of a doctor's prescription, has in his possession a Schedule 2 drug in an amount that is the normal dosage or lower than the normal dosage prescribed by a doctor, it shall be presumed that he has the drug in his possession for the purpose of using it.
- (d) A person who is not in possession of a doctor's prescription, has in his possession a Schedule 2 drug in an amount exceeding the normal dosage prescribed by a doctor, it shall, unless the contrary is proved, be presumed that he has the drug in his possession for the purpose of trafficking it.

Presumption as
to possession

- 141.** Unless the contrary is proven, it shall be presumed that a person who is in any of the following circumstances is in possession of drugs.
- (a) Having possession of drugs in his hands or on his person;
- (b) Having possession of drugs on his clothing or accessories or jewellery;
- (c) Having possession of drugs in anything carried by him in his hand or on his person;
- (d) Having possession of drugs in a place or thing under his control;
- (e) Having possession of drugs in a room or dwelling resided solely by himself and where no other person has access;
- (f) Having possession of drugs in any other manner that may

be deemed as possession;

- Presumption of trafficker
- 142.** Unless otherwise stated in this Act, a person who deals in drugs shall, if he is proven to have committed any one of the following acts, be deemed to be a drug trafficker.
- (a) Imports drugs into or exports drugs from the Maldives; or
 - (b) Is associated with an international organisation that traffics drugs;
 - (c) Is a regular supplier of drugs;
 - (d) Is in possession of an unexplainable amount of wealth in comparison to his standard of living;
 - (e) Supports a gang within the meaning of Act No: 18/2010 (Anti-Gang Act) or is supported by such gang;
 - (f) Has under his control, the means for packaging drugs in different quantities and qualities for sale thereof;
 - (g) Supplies drugs in an organised or systematic manner;
 - (h) Has made a financial transaction with the intention of buying or selling drugs;
 - (i) Transports or sends or causes to be transferred or sent drugs from one country to another; or
 - (j) Manufactures drugs or cultivates a plant from which a drug may be derived;
 - (k) Is in possession of drugs in any amount deemed to be for the purpose of trafficking.
- Presumption of a peddler
- 143.** If a drug dependent person deals in drugs, he shall be deemed to be a peddler.
- Presumption of possession by more than one person
- 144.** Where one of two or more persons with the knowledge and consent of the rest, has any drug in his possession, it shall be deemed to be in the possession of each and every one of them.

Presumption concerning premises

- 145.** (a) Where an article intended for the use of drugs is found in any room, it shall be presumed, until the contrary is proved, that the room is used for the purpose of using drugs.
- (b) Any person escaping from a room referred to in sub-section (a) or any person found in a room where drugs are being used shall, until the contrary is proved, be presumed to have been using drugs in that room.

Presumption concerning urine test

- 146.** If any drug is found in the urine of a person as a result of urine tests conducted in accordance with this Act, he shall be presumed, until the contrary is proved, to have used that drug.

CHAPTER TWENTY POWERS OF ENFORCEMENT

Powers of search and seizure

- 147.** A police officer has the power, to use the following powers under the following circumstances:
- (a) With a warrant, enter and search any place or premises in which he reasonably suspects that there is to be found a Schedule 1 drug or that an offence under this Act is being committed;
- (b) Without a warrant search the body or clothing of any person he reasonable suspects of having committed an offence under this Act;
- (c) Any search conducted for the purposes of sub-section (b) shall be conducted on a person by an officer of the same sex;
- (d) Seize, confiscate or detain any thing found in a place or premises referred to in sub-section (a) that may be used as evidence of an offence under this Act;
- (e) Use to the extent necessary, police dogs and other resources in searching for drugs or in conducting investigations under this Act.

Additional powers of police

- 148.** (a) A police officer exercising his powers under Section 147 of this Act, may:

- (1) Break open a door by breaking its lock;
- (2) Break open a window by breaking it or its lock;
- (3) Search any place or thing by breaking open a part of a floor, wall or ceiling;
- (4) Search any thing by opening or breaking open a closed box or container.

(b) A police officer shall not do any of the acts referred to in sub-parts (1) to (4) of sub-section (a) unless the use of force is absolutely necessary under the circumstances.

(c) For the purposes of exercising the powers conferred to police officers under Section 147, a police officer may, with a court order, listen, view or record telephone conversations and other conversations or information exchanged between private individuals using other means of communication.

(d) The Maldives Police Service shall make and enforce under this Act regulations on the use of police powers under this Act.

Power to search
vehicles

149. (a) A police officer has the power under the following circumstances, to do any of the following with respect to a ship or vessel arriving in or departing from the Maldives or any vehicle used in the Maldives:

(1) without a warrant, stop, board and search any ship, vessel or vehicle if he has reasonable grounds to suspect that there is a Schedule 1 drug or a Schedule 3 precursor on that ship, vessel or vehicle or that an offence under this Act has been or is being committed on or with the use of that ship, vessel or vehicle;

(2) search any person or thing on that ship, vessel or vehicle.

(b) A customs officer has the power under the following circumstances, to do any of the following with respect to a

ship or vessel arriving in or departing from the Maldives:

(1) without a warrant, stop, board and search any ship, vessel or vehicle if he has reasonable grounds to suspect that there is a Schedule 1 drug or a Schedule 3 precursor on that ship, vessel or vehicle or that an offence under this Act has been or is being committed on or with the use of that ship, vessel or vehicle;

(2) search any person or thing on that ship, vessel or vehicle.

(c) An officer may, as a result of any search under this Section, seize and detain any article or thing from a person where he suspects it to be or to contain a Schedule 1 drug or Schedule 3 precursor and he may also seize and detain any such ship, vessel or vehicle.

Powers and obligations of Maldives Customs Service

150. (a) The chief responsibility for preventing the importation of drugs into the Maldives via airports and seaports and the prevention of the exportation of drugs from the Maldives lies with the Maldives Customs Service.

(b) Customs officers shall have the power, using reasonable force, to screen a person without his consent, if he refuses to be subjected to a screening from an x-ray machine or any other means when arriving in or departing from the Maldives.

Additional powers of customs officers

151. (a) An authorised customs officer, in the exercise of his functions under this Act, has the power to arrest and search without a warrant, a person he reasonably suspects of having committed or of being about to an offence under this Act.

(b) Where a customs officer in the exercise of his powers under sub-section (a) of this Section, has to search a person, such search shall be conducted by an officer of the same sex.

(c) Where a customs officer arrests a person under sub-section (a) for suspicion of an offence under this Act, he shall

without delay, hand such person over to the Maldives Police Service for purposes of conducting an investigation.

CHAPTER TWENTY ONE

SPECIAL OPERATIONS

Controlled
deliveries

- 152.** (a) Any police officer acting under the written authority of the Commissioner of Police or a police officer designated by the Commissioner, or a customs officer acting under the supervision of such police officer may, under the following circumstances allow any drug prohibited under this Act to enter the Maldives and allow drugs that are being transported from one place to another within the Maldives for purposes of sale, to be collected by or delivered to or on behalf of the consignee, for purposes of identifying and arresting persons who traffic them.
- (1) To identify persons who imported any drug into the Maldives;
 - (2) To identify persons associated in the importation of drugs into the Maldives;
 - (3) To identify who the drugs imported into or from the Maldives are being supplied to;
 - (4) To identify persons involved in the trafficking or use of drugs that are imported into or from the Maldives.
- (b) No police officer or customs officer who exercises any power under sub-section (a) shall bear any liability in respect of the exercise of that power.
- (c) All documents relating to an operation referred to in sub-section (a) shall be recorded either in writing, or in audio or video format.
- (d) Notwithstanding the provisions of Section 89 (a) of Act No: 8/2011 (Maldives Customs Act), all operations of controlled deliveries relating to drugs conducted for the purposes of this Section shall be conducted in accordance with the provisions of this Section. And the procedures

under Section 89 (a) of Act No: 8/2011 (Maldives Customs Act) shall to that extent, be suspended for the purposes of this Act.

Covert operations

- 153.** (a) In an effort to identify persons who use, peddle or traffic in drugs, any police officer acting under the written authority of the Commissioner of Police or a police officer designated by the Commissioner may, whilst being undercover, join a group of persons who use, or peddle or traffic in drugs, and offer to sell or buy drugs from them.
- (b) No exercise of powers by a police officer under sub-section (a) shall be deemed an offence. And no police officer shall be prosecuted under this Act in respect of the exercise of such power.
- (c) All documents relating to an operation referred to in sub-section (a) shall be recorded either in writing, or in audio or video format.
- (d) Notwithstanding the provisions of Section 89 (b) of Act No: 8/2011 (Maldives Customs Act), all covert operations relating to drugs conducted for the purposes of this Section shall be conducted in accordance with the provisions of this Section. And the procedures under Section 89 (b) of Act No: 8/2011 (Maldives Customs Act) shall, to that extent, be suspended for the purposes of this Act.

Evidence relating to operations

- 154.** (a) Any document or audio or video recording obtained by a police officer or customs officer as a result of a controlled delivery operation conducted under Section 152 of this Act or any such thing obtained by a police officer in a covert operation conducted under Section 153 of this Act shall be admissible as evidence for proof of an offence under this Act.
- (b) For purposes of sub-section (a), admissible evidence shall include any evidence obtained:
- (1) by the police, in another country in accordance with the laws of that country;
 - (2) by a law enforcement agency of another country in

accordance with the laws of that country and shared with the police.

Unexplained
wealth

- 155.** (a) A person suspected of committing an offence comprising the use, peddling, dealing or trafficking of drugs, and who has in his possession any goods or money is required under this Act to explain how he came to be in possession of such good or money.
- (b) Where the suspect is unable to explain under sub-section (a) how he came to be in possession of goods or money discovered in the investigation of an offence referred to in sub-section (a), the police shall deem the goods or money to be unlawfully obtained and shall have the power to forfeit such goods or money as evidence relevant to the investigation until conclusion of the proceedings relating to the offence alleged to have been committed by the suspect.
- (c) Where the money subject to forfeiture under sub-section (a) is a bank account in the name of the suspect or in a bank account in the name of a person connected to the suspect, the police shall have the power to order the respective bank to freeze such account until conclusion of the proceedings relating to the offence alleged to have been committed by the suspect.
- (d) Where an order is made under sub-section (a) to freeze an account, such order shall be effective for a period of 15 (fifteen) days from the date of such order. Such accounts shall only be frozen for a further period under a court order.

Forfeiture of
proceeds of
crime

- 156.** (a) Any drugs or articles used in the commission of an offence under this Act and proceeds of crime shall be forfeited.
- (b) Where a person is suspected of committing an offence comprising the peddling, dealing, trafficking, import or export of drugs or where a person is prosecuted for such an offence, the court shall order any goods or money believed to be obtained as a result of or in connection with the commission of such offence to be forfeited until conclusion of the proceedings.

- (c) Where a person is suspected of committing an offence comprising of dealing, peddling, trafficking, import or export of drugs, the police shall have the power to apply for a court order as provided in sub-section (b), and, pending determination of the same by the court, seize property or money suspected to be proceeds of such crime.
- Things seized under this Act **157.** (a) Where anything is seized under this Act, the officer who carried out the seizure shall give notice of the seizure to the owner of that thing.
- (b) The notice referred to in sub-section (a) shall not be required to be given where the seizure is made in the presence of the offender, or the owner or his agent, or in the case of a ship or vessel, in the presence of the master or captain thereof.
- Burden of proving thing not proceeds of crime **158.** (a) Unless the contrary is proven, any property or money believed to have been obtained as a result of or in connection with an offence shall, for the purposes of this Act, be deemed to be proceeds of crime.
- Disposal of seized property **159.** The regulations made under Act No: 3/2006 shall provide for procedures on how to dispose of things seized under this Act.
- Procedures on how to deal with things seized as evidence **160.** (a) Any drugs seized by the Maldives Police Service or the Maldives Customs Service in relation to an offence under this Act shall be disposed of in accordance with the regulations made under this Act.
- (b) The regulations made under this act shall provide for procedures on how to deal with drugs seized under this Act by the two agencies to be used as evidence until their disposal under this Act and procedures on how to deal with other things seized by the two agencies under this Act.
- (c) The regulations referred to in sub-sections (a) and (b) shall be made by the Prosecutor General.

CHAPTER TWENTY THREE

CONFERRING OF CERTAIN POWERS AND EXCHANGE OF INFORMATION

- Urine testing **161.** (a) Any police officer may, if he reasonably suspects any

person to have committed an offence comprising the use of drugs, require that person to provide a specimen of his urine for tests to be conducted under this Section.

- (b) A specimen of urine provided under sub-section (a) shall be divided into two parts, and the two parts of the specimen shall be marked, sealed, and dealt with as follows:
 - (1) One of the two parts of the urine specimen shall be sent to the Maldives Police Service for testing;
 - (2) The second part shall be sent for testing by an authority approved for such purpose under the Regulations made under this Act.
- (c) The regulations made under this Act shall provide for the circumstances under which a police officer may require a person to provide urine specimens, the procedures on how the specimens should be delivered for testing, and the procedures on how the testing should be conducted.
- (d) The National Drug Agency shall, within 18 (eighteen) months from the coming into force of this Act, arrange for urine testing facilities to be established, in accordance with sub-section (b)(2) of this Section, at the agency referred to in that Section.
- (e) Notwithstanding the provisions of sub-section (b) of this Section, the procedures stipulated in that sub-section shall become operative only when the facilities that are required to be established in accordance with that provision by the National Drug Agency have been established within the period referred to in that sub-section. Until such time, testing of urine specimens shall be carried out in the same manner it was done prior to the coming into force of this Act.

Exchange of
intelligence
information

- 162.** (a) A process for exchange of intelligence information between the Maldives Police Service and the Maldives Customs Service with regard to offences committed or conspired to be committed under this Act shall be formulated in writing within 45 (forty five) days of the

coming into force of this Act.

- (b) No information exchanged within the process established in accordance with sub-section (a) shall, under any circumstances, be disclosed to anyone except those determined by the Maldives Police Service and the Maldives Customs Service.

CHAPTER TWENTYFOUR TAKING OF PHOTOGRAPHS AND SAMPLES

Interpretation of
this Chapter

163. In this Part, unless the context otherwise requires:

- (a) “body sample” means a sample of blood, head hair, a swab taken from a person’s mouth or under a person’s nails.
- (b) “DNA” means deoxyribonucleic acid.
- (c) “DNA information” means genetic information derived from the forensic DNA analysis of a body sample.
- (d) “finger impression” includes thumb and toe impressions.
- (e) “intimate sample” means any body sample that is obtained by means of any invasive procedure.
- (f) “photograph” means the photograph of a person or any part of a person’s body.
- (g) “internal photograph” means any scan, x-ray or any other photograph showing the inside of a person’s body.

Admissibility
of evidence
obtained under
this Chapter

164. Any photograph, finger impression or DNA information obtained in accordance with this Chapter shall be admissible as evidence in court proceedings where such information is contained in a document signed by the person who created it.

Power to take
samples and
photographs

165. (a) The superintendent of a treatment centre or an analyst or police officer authorized by him may exercise any of the following powers:

- (1) take or cause to be taken finger impressions of a person undergoing treatment in a treatment centre;

- (2) Take or cause to be taken, body samples of a person undergoing treatment in a treatment centre;
- (3) take or cause to be taken internal photographs of a person undergoing treatment in a treatment centre;
- (4) Cause any samples taken under this Section to be marked and a report regarding the same to be furnished to the superintendent or the Drug Court.

(b) A superintendent, police officer or analyst authorized by the superintendent 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.

Failure to submit to photographs or to provide samples

166. No person undergoing treatment in a treatment centre shall refuse to:

- (a) submit to the taking of his photographs and finger impressions;
- (b) submit to the taking of his body samples;
- (c) Provide a specimen of his urine;
- (d) provide such particulars as may be required from him.

Further provisions relating to taking of body samples

167. (a) A body sample may only be taken by an authorized medical practitioner or by an authorized allied health professional.

- (b) Before taking any body sample, the superintendent or an analyst authorized by him must satisfy himself that the taking of the sample does not endanger the person from whom the sample is to be taken.
- (c) The fact that a body sample has been taken shall be recorded in writing and such record must show that the sample was taken with or without the consent of the person concerned and by whom.

(d) Every body sample taken shall be sent to a laboratory

technician authorised by the Ministry for forensic analysis.

Use of DNA information

168. Any DNA information stored may be used for the following purposes:

- (a) for comparison with any other DNA information obtained in the course of an investigation of an offence conducted by a police officer;
- (b) for comparison with any other DNA information obtained for the purposes of being submitted as evidence in court proceedings relating to such offence.

Retention of photographs, fingerprints and information

169. The Drug Court shall ensure the following:

- (a) cause to be maintained, a register, whether in a computerised form or otherwise, in which shall be stored all internal photographs, finger impressions and particulars of a person taken under sub-parts (1) and (3) of sub-section (a) of Section 165 of this Act;
- (b) cause to be maintained, a DNA database, whether in a computerised form or otherwise, in which shall be stored all DNA information derived from a body sample taken under sub-part (2) of sub-section (a) of Section 165 of this Act.

PART VII MISCELLANEOUS

CHAPTER TWENTY FIVE NATIONAL FUND FOR DRUG CONTROL

Establishment of National Fund for Drug Control

170. The Government shall establish, in accordance with Act No: 3/2006 (Public Finance Act), a fund to be called the “National Fund for Drug Control” within 60 (sixty) days of the coming into force of this Act, and there shall be credited to such fund:

- (a) any monies forfeited under this Act;
- (b) the sale proceeds of any property forfeited under this Act;

- (c) any grants made by any person for the control of drug abuse.

Expenditure to which fund is applied to meet

- 171.** The Fund established under Section 170 shall be applied to meet the expenditure incurred in connection with measures taken to combat drug trafficking, or to improve services relating to treatment of drug dependent persons, or to achieve any other purposes of this Act.

Governing board of the Fund

- 172.** (a) The President shall, within 30 (thirty) days of the expiry of the period referred to in Section 170 of this Act, constitute a Governing Board consisting of 7 (seven) members to advise the National Drug Agency on the management and application of the Fund.
- (b) The regulations of the Governing Board referred to in sub-section (a) shall be issued by the Board in consultation with the Minister of Finance and Treasury.

Expenditure report of Fund

- 173.** The Governing Board shall, before the end of February each year, cause to be published in the Government Gazette, a report giving an account of the activities financed under the Fund referred to in Section 170 of this Act, together with a statement of accounts received.

CHAPTER TWENTY SIX MISCELLANEOUS

Benefit of the law

- 174.** (a) Unless otherwise stated in the Constitution or this Act, this Act shall come be applied in relation to an act that constitutes an offence within the meaning of this Act upon the coming into force of this Act.
- (b) Notwithstanding the provisions of sub-section (a) of this Section, a person who is subject to a criminal investigation or court proceedings for an offence committed under any other Act prior to the coming into force of this Act, shall be entitled to any leniency or benefit that he would have been entitled to, had the offence been committed under this Act. Further, where there is a process that he must be subjected to had the offence been committed under this Act, and where any leniency or benefit is to be had from being subjected to such a process, he shall be entitled to the

same.

- (c) Where an obligation or burden is imposed on a person upon the coming into force of this Act, he shall not be required to bear such obligation or burden where it relates to an act committed prior to the coming into force of this Act.

Plea bargaining **175.** (a) If a person prosecuted for an offence constituting the use, peddling, dealing or trafficking of drugs agrees to provide previously undisclosed information relating to his offence, or information previously unavailable to the prosecution, as a witness for the state, and where the Prosecutor General believes that such information would be of use in directly facilitating enforcement measures undertaken by law enforcement officials to prevent offences drug use, peddling, dealing or trafficking, he may request the Court to reduce the sentence that would be prescribed under this Act upon conviction of such an offence, to one third of the sentence.

- (b) Where the Prosecutor General makes a request under sub-section (a), the court shall, upon conviction of the offender, reduce his sentence accordingly.

Protection of informants and witnesses **176.** (a) No person who provides information relating to the commission of an offence under this Act to a state authority during the investigation process or evidence submission process in the prosecution of such offence shall be disclosed.

- (b) Notwithstanding the provisions of sub-section (a), this Section does not prevent the identity of such person being revealed where it is proved that he had intentionally provided false information under sub-section (a).

- (c) Where any written document, book, paper or any other article submitted to a court proceeding contains the name of a person who has provided information relating to the commission of an offence under this Act or any information that may reveal the identity of such person, the court in which the proceeding is taking place shall, in order to protect the identity of the informant, be required to

conceal or prevent from being disclosed, the part which contains such information.

(d) Where a threat is made against a person who is a witness for the prosecution in a proceeding relating to an offence under this Act, or against his property or a member of his family, or where there is reason to believe that such a threat is imminent, the testimony of such witness may be provided in any of the following ways without disclosing his identity:

(1) The witness testimony to be provided in a way that the name, address or any other information that may reveal his identity is not disclosed to the accused or his attorney, and to provide the testimony while being in a separate room or behind a screen that will prevent him from being seen by the defendant or his counsel and by distorting his voice so that his identity will not be revealed. Such testimony must be taken in the presence of the parties to the prosecution. And the accused shall have the right to cross-examine the witness except questions that may lead to the disclosure of the identity of the witness. Such testimony shall be admissible as oral evidence.

(2) Where either party wishes for a witness testimony to be given as provided in this Section, they may, prior to the commencement of proceedings, apply for leave from the court, and the court may grant such leave.

Imposition of multiple sentences

177. Where multiple sentences are imposed upon a person convicted an offence under this Act, and unless otherwise determined by the court executing the sentences, he shall serve his sentences concurrently. And the first such sentence to be enforced shall be the maximum of the sentences.

Conducting of test by foreign agencies

178. (a) This Act does not prevent agencies authorized to conduct tests under this Act from entering into memoranda of understanding with foreign countries as regards conducting such tests or to conduct tests in such country in accordance with such memorandum. However, such tests must be

conducted in a way that does not limit any processes provided under this Act.

- (b) The results of any tests conducted in accordance with sub-section (a) shall be admissible as evidence.

Compensation

179. (a) Where damage is caused to property or person by any act done by a law enforcement official during the seizing of property or the searching of a building belonging to a person under this Act, there shall be no compensation for damage caused to such property. However, compensation shall be payable where such damage is caused by the negligence of the official or because of an act done by him in contravention of laws and regulations or with intention to cause harm.

- (b) The court shall determine the amount of any compensation payable under this Section.

Revision of the
mandate of
magistrates'
courts

180. (a) Notwithstanding the mandate vested in the magistrates' courts under Act No: 22/2010 (Judicature Act), each magistrates' court shall, from the date the Drug Court comes into operation in accordance with Section 34(a) of this Act, have the mandate to hear and process cases relating to offences under this Act except those cases that are within the jurisdiction of the Drug Court and those relating to offences under this Act with a prescribed penalty of imprisonment of 5 (five) years or more.

- (b) Upon the expiry of 30 (thirty) months from the coming into force of this Act, sub-section (a) of this Section shall cease to be effective, and all magistrates' courts shall have the jurisdiction to hear and process cases relating to all offences under this Act except cases that fall within the jurisdiction of the Drug Court.

- (c) This Act does not prevent the Prosecutor General from prosecuting cases in a magistrates' court determined by him or in the Criminal Court or in the Juvenile Court, without limiting the jurisdiction vested with magistrates' courts under sub-sections (a) and (b) of this Section or without limiting the regional jurisdiction of such courts.

- (d) For the purpose of enabling it to hear and process cases under this Act, magistrates' courts shall have the powers vested in the Criminal Court under Act Number 22/2010 (the Judicature Act).
- (e) It shall be deemed that Act Number 22/2010 (Judicature Act) is amended by this Act to the extent necessary for the purposes of sub-sections (a) and (b) of this Section.

Funds for establishment of treatment centres

181. The Government shall, within 120 (hundred and twenty) days of the coming into force of this Act, secure the funds necessary for the establishment and operation of the treatment centres required to be established under Section 47 of this Act by submitting the matter to the People's Majlis and having it passed by the Majlis. And the relevant government agencies shall cause the treatment centres under this Act to be established and to become operational within the period stipulated in this Act.

Regulations relating to Schedule 2 drugs and Schedule 3 precursor substances

- 182.** (a) The Ministry shall make regulations relating to the following:
- (1) Rules relating to the importation of Schedule 2 drugs into the Maldives;
 - (2) Rules providing for the issue of licences to persons authorised to import Schedule 2 drugs into the Maldives;
 - (3) Rules relating to the registration of places and buildings designated for the import, export, manufacture, production, distribution, storage or transportation of Schedule 2 drugs;
 - (4) Rules providing for record keeping of Schedule 2 drugs;
 - (5) Rules providing for keeping of records in relation to Schedule 2 drugs or information required to be provided in relation to Schedule 2 drugs and for the inspection of such records;

(6) Rules relating to the labelling of containers of Schedule 2 drugs.

(b) The National Drug Agency shall make regulations relating to the following:

(1) Rules relating to the importation of Schedule 3 precursor substances into the Maldives;

(2) Rules providing for the issue of licences to persons authorised to import Schedule 3 precursor substances into the Maldives;

(3) Rules relating to the registration of places and buildings designated for the import, export, manufacture, production, distribution, storage or transportation of Schedule 3 precursor substances;

(4) Rules relating to documentation required for transactions relating to Schedule 3 precursor substances;

(5) Rules providing for keeping of records in relation to Schedule 3 precursor substances or information required to be provided in relation to Schedule 3 precursor substances and for the inspection of such records;

(6) Rules relating to the labelling of containers of Schedule 3 precursor substances.

Regulations **183.** Unless otherwise stated in this Act, the Regulations to be issued under this Act shall be issued by the National Drug Agency.

Entry into force **184.** This Act shall come into force upon its publication in the Government Gazette.

Repealed laws **185.** Act Number 17/77 (Drugs Act) shall be repealed upon the coming into force of this Act.

Rule applicable when procedures vary **186.** Where an Act providing for criminal procedures comes into effect subsequent to the coming into force of this Act, and where the procedures in such Act depart from those provided in this Act, the

procedures in this Act that are favourable to the rights of the accused shall prevail.

Schedules **187.** The three Schedules referred to in this Act forms an integral part of this Act. This Act shall be complete with the three Schedules. Each time a reference is made to one of those three Schedules, reference is being made to an integral part of this Act.

Interpretation **188.** Unless a contrary intention otherwise appears:

- (a) “Parents” mean the legal and lawful guardians of a person.
- (b) “Registered medical practitioner” means in the Maldives, medical practitioners licensed by the Ministry to practice medicine in the Maldives and to prescribe specified drugs in Schedule 2, and means outside the Maldives, medical practitioners licensed by the respective authority in that country to practice medicine.
- (c) “Cannabis” means any part of a plant of the genus Cannabis or any part of such plant, by whatever name it is called.
- (d) “Cannabis mixture” means any mixture of vegetable matter containing tetrahydrocannabinol and cannabinalol in any quantity.
- (e) “Cannabis resin” means any substance in which is found tetrahydrocannabinol and cannabinalol in any quantity.
- (f) “Dealing in cannabis” includes the sale or supply of cannabis, or the transportation, distribution or delivery thereof for purposes of sale, or attempting to or consenting to do any such act.
- (g) “Court that has similar jurisdiction” means any court except the Drug Court that has jurisdiction to hear and process cases of offences relating to drugs.
- (h) “Customs officer” means an officer of the Maldives Customs service authorised by the Service to carry out the functions mandated under this Act.

- (i) “Room” includes rooms contained in dwellings and rooms contained in other places.
- (j) “Manufacture” means in relation to a Schedule 1 drug, any process of producing the drug and the refining or transformation of one drug into another;
- (k) “Imprisonment for life” means imprisonment for a period of 25 (twenty five years).
- (l) “Minister” means the Minister responsible for the Ministry mandated to implement policies on the prevention of the use of drugs.
- (m) “Ministry” means the Ministry mandated to implement policies on the prevention of the use of drugs.
- (n) “Goods” means immovable and movable property, including the title to such property, and any rights, interests and benefits derived from such property.
- (o) “Police officer” means a police officer within the meaning of Act No: 5/2008 (Police Act).
- (p) “Dealing in diamorphine” includes the sale or supply of diamorphine, or the transportation, distribution or delivery thereof for purposes of sale, or attempting to or consenting to do any such act.
- (q) “Schedule 1 drug” means any substance or product specified in Schedule 1 or anything that contains any such substance or product.
- (r) “Schedule 2 drug” means any drug specified in Schedule 2 as a specified drug or anything that contains such specified drug.
- (s) “Schedule 3 precursor substance” means any equipment, material or substance specified in Schedule 3 as an equipment, material or substance used in the manufacture or preparation of a Schedule 1 drug or a Schedule 2 drug.
- (t) “Prescription” means any prescription of specified drugs

issued by a medical practitioner in a dosage approved by the Ministry of Health as a single dosage of specified drugs.
