

PART I

CONVENTION OFFENCES

Offences.

2.

(1) Any person who, whether in or outside Sri Lanka, and whether he is a citizen of Sri Lanka or not, intentionally—

(a) produces, manufactures, extracts, prepares, offers, offers for sale, distributes, sells, delivers, acts as broker for the supply of, dispatches, dispatches in transit, transports, imports or exports or traffics any narcotic drugs or psychotropic substances;

(b) cultivates opium poppy, coca bush or the cannabis plant, for the purposes of the production of any narcotic drug;

(c) possesses or purchases any narcotic drug or psychotropic substance, for any of the purposes described in paragraph (a);

(d) procures, manufactures, stores, transports, sells, delivers or distributes any equipment, material or any substance, set out in Table I or Table II of the First Schedule to this Act, knowing that it is to be used in, or for, the unlawful cultivation, production or manufacture of, any narcotic drug or psychotropic substance;

(e) organizes, arranges or finances any of the acts described in paragraphs (a), (b), (c), or (d)

(f) acquires, possesses or uses any property, knowing at the time of such acquisition, possession or use that such property was derived from an act described in paragraphs (a), (b), (c) (d) or (e) or from an act of participation in any such act;

(g) possesses any equipment or material or any substance, set out in Table I or Table II of the First Schedule to this Act, knowing that it is being or is to be used in, or for, the unlawful cultivation, production or manufacture of any narcotic drug or psychotropic substance;

(h) publicly incites or induces other persons by any means, to commit any of the offences described in this section, or to use narcotic drugs or psychotropic substances, unlawfully;

(i) converts or transfers any property, knowing that such property is derived from any act or acts described in paragraphs (a), (b), (c), (d) or (e), of this section, or from an act of participation in any such act, for the purpose of concealing or disguising the illicit origin of the property, or assisting any person who is involved in the commission of any such act or acts to evade the legal consequences of such acts;

(j) conceals or disguises the true nature, source, location, disposition, movement, rights with respect to, or ownership of any property knowing that such property is derived from the commission of any act described in paragraphs (a), (b), (c), (d) or (e) of this section, or from an act of participation in any such act,

shall be guilty of an offence under this Act and shall on conviction after trial on indictment before the High Court, be punished with imprisonment for a term not less than ten years and not exceeding fifteen years:

Provided that, the acts referred to in paragraphs (a), (b), (c), (d), (e), (f), (g), (h), (i) and (j) shall have been committed in Sri Lanka:

Provided further, that the above provisions shall not be applicable to offences to which Part III of the Third Schedule to the Poisons, Opium and Dangerous Drugs Ordinance (Chapter 218) applies.

(2) Any person who—

(a) attempts to commit; or

(b) abets the commission of; or

(c) conspires with any other person to commit,

any such offence as is referred to in subsection (1) shall be guilty of an offence under this Act and shall on conviction after trial on indictment by the High Court, be liable to, the same punishment as he would have been liable to, had he committed the offence, which he is convicted of having attempted to commit, or having abetted the commission of, or having conspired with any other person to commit.

(3) In this section "abet" has the same meaning as in sections 100 and 101 of the Penal Code and "conspires" has the same meaning as in section 113A of the Penal Code.

(4) In imposing punishment on any person convicted of an offence under this section, the Court shall have regard to the following: —

(a) the involvement in the commission of the offence, of an organized criminal group to which the offender belongs;

(b) the involvement of the offender in any other international organized criminal activities;

(c) the involvement of the offender in other illegal activities facilitated by the commission of the offence;

(d) the use of violence or arms by the offender in the commission of the offence;

(e) the fact that the offender holds a public office and the offence is connected with the office in question;

(f) the victimization or use of minors in the commission of the offence;

(g) the fact that the offence is committed in a prison or in an educational institution or social service institution or in their immediate vicinity or in any other place to which school children and students resort, for educational sports and social activities.

High Court vested with jurisdiction to hear offences under the Act.

3.

(1) The High Court of Sri Lanka holden in Colombo or the High Court of the Province established under Article 154P of the Constitution for the Western Province, holden in Colombo, shall, notwithstanding anything in any other law, have exclusive jurisdiction to hear, try and determine in the manner provide by written law, any offence under this Act.

(2) Where an act constituting an offence under this Act is committed outside Sri Lanka, the High Court referred to in subsection (1) shall have jurisdiction to try such offence as if it were committed within Sri Lanka, if—

(a) the person who committed such act is present in Sri Lanka;

(b) such act is committed by a citizen of Sri Lanka or by a national of another State which is a party to this Convention, or by a stateless person, who has his habitual residence in Sri Lanka.

(c) such act is committed against, or on board a ship or aircraft registered in Sri Lanka at the time of the commission of the offence;

(d) such act is committed against or on board a ship or aircraft registered under the laws of another State. which is a party to this Convention, at the time of the commission of the offence;

(e) the person in relation to whom the offence is alleged to have been committed is a citizen of Sri Lanka;

(f) such act is committed in order to compel the Government of Sri Lanka, to do or abstain from doing, any act.

Rights of certain persons arrested for offences under this Act.

4. Where a person who is not a citizen of Sri Lanka is arrested for an offence under this Act, then he shall be entitled—

(a) to communicate without delay with the nearest appropriate representative of the State of which he is a national or which is otherwise entitled to protect his rights or if he is a stateless person, which he requests and is willing to protect his rights; and

(b) to be visited by a representative of that State.

Evidence

5. Where in a prosecution for an offence under section 2 the question arises as to whether any drug or substance is a narcotic drug or a psychotropic substance or a substance specified in Table I or Table II of the 1988 United Nations Convention or the SAARC Convention, a report by the Government Analyst to the effect that such drug or substance is a narcotic drug or psychotropic substance or a substance specified in Table I or Table II of the 1988 United Nations Convention or the SAARC Convention, shall be admissible in evidence and shall be prima facie evidence of the facts stated therein.

For the purposes of this section "Government Analyst" shall include the Additional Government Analyst, a Deputy Government Analyst, a Senior Government Analyst or an Assistant Government Analyst.

Seizure and freezing

6. (1) On indictment of any person in the High Court, for an offence under this Act—

(a) any article or substance in connection with which the offence was committed, or used in, or in connection with, the commission of such offence;

(b) the proceeds of such offence,

shall with effect from the date of filing of such indictment be liable to seizure or freezing as the case may be, on application made in that behalf to the High Court.

(2) The seizure of any article or substance or the freezing of proceeds in terms of subsection (1) shall be in force until the conclusion of the trial.

Forfeiture

7. (1) On the conviction of any person for an offence under section 2, the Court may Order that—

(a) any article or substance in connection with which the offence was committed, or used in or in connection with, the commission of such offence;

(b) the proceeds of such offence,

shall be forfeited to the State.

(2) any property forfeited to the State by an Order made under subsection (1) . shall vest absolutely in the State. Such vesting shall take effect—

(a) where no appeal is preferred to the Court of Appeal against the Order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Court of Appeal against such Order of forfeiture;

(b) where an appeal has been preferred, to the Court of Appeal against such Order of forfeiture and no appeal is preferred to the Supreme Court against the Order of the Court of Appeal affirming or upholding

such Order of forfeiture, on the expiration of the period within which an appeal may be preferred to the Supreme Court from such Order of the Court of Appeal ; or

(c) where an appeal has been preferred to the Court of Appeal against such Order of forfeiture and an appeal has been preferred to the Supreme Court from the determination of the Court of Appeal on the first mentioned appeal, upon the determination of the Supreme Court affirming or upholding the Order of forfeiture.

(3) Where a Court is satisfied on the evidence adduced at a trial for an offence under section 2, that any funds standing to the credit of any account in any bank, are the proceeds of such offence, it may by written Order prohibit the manager of such bank from permitting or allowing the withdrawal of any funds from that account, until the conclusion of the trial of such offence.

Offences to be cognizable and non-bailable.

8. An offence under section 2 shall be a cognizable offence and a non-bailable offence, within the meaning and for the purposes of the Code of Criminal Procedure Act, No. 15 of 1979.