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Misuse of Drugs (Amendment) Bill

Bill No. 9/2023.

Read the first time on 24 February 2023.

A BILL

i n t i t u l e d

An Act to amend the Misuse of Drugs Act 1973 and to make consequential and related amendments to certain other Acts.

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

Short title and commencement

1. This Act is the Misuse of Drugs (Amendment) Act 2023 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

Amendment of section 2

2. Section 2 of the Misuse of Drugs Act 1973 (called in this Act the principal Act) is amended —

(a) by inserting, immediately after the word “contains” in the definition of “article liable to seizure”, the words “or constitutes”;

(b) by inserting, immediately after the words “controlled drug” wherever they appear in the definition of “drug addict”, the words “or psychoactive substance”;

(c) by inserting, immediately after the definition of “drug addict”, the following definition:

““excluded substance” means a substance specified in the Fifth Schedule;”;

(d) by inserting, immediately after the definition of “Health Sciences Authority”, the following definition:

““Home Team Science and Technology Agency” means the Home Team Science and Technology Agency established by section 3 of the Home Team Science and Technology Agency Act 2019;”;

(e) by deleting the word “or” at the end of paragraph (a) of the definition of “manufacture”;

(f) by inserting the word “or” at the end of paragraph (b) of the definition of “manufacture”, and by inserting immediately thereafter the following paragraph:

“(c) a psychoactive substance, includes any process of producing the substance and the refining or transformation of one substance into another;” and

(g) by inserting, immediately after the definition of “prison officer”, the following definitions:

““psychoactive effect” means the stimulation or depression, whether directly or indirectly, of an individual’s central nervous system, affecting the individual’s mental functioning or emotional state;

“psychoactive substance” —

(a) means a substance or product that has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; but

(b) does not include an excluded substance;”.

Amendment of section 11

3. Section 11 of the principal Act is amended by inserting, immediately after the words “controlled drug” in paragraph (a), the words “in contravention of section 8(b)”.

Amendment of section 11B

4. Section 11B of the principal Act is amended by deleting subsection (3) and substituting the following subsections:

“(3) Subject to subsection (3A), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(3A) If a person —

(a) has a previous conviction under subsection (1) or (2) or section 11N(1) or (2); and

(*b*) is convicted of an offence under subsection (1) or (2), that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years.”.

Amendment of section 11C

5 **5.** Section 11C of the principal Act is amended —

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

“ (1) A person (*A*) who, knowing or having reason to believe —

10 (*a*) that —

(i) another person (*B*) intends to procure, whether or not for himself or herself, any controlled drug; and

15 (ii) the possession of the controlled drug by *B* (or a person that *B* is procuring the controlled drug for) would not be authorised under this Act; or

20 (*b*) that another person (*B*) intends, without any authorisation under this Act, to smoke, administer (whether or not to himself or herself) or consume any controlled drug,

25 introduces *B* (whether or not through the use of any electronic media) to a person whom *A* knows or has reason to believe is trafficking in any controlled drug and is likely to supply *B* with any controlled drug shall be guilty of an offence.”; and

(*b*) by deleting subsection (2) and substituting the following subsections:

30 “(2) Subject to subsection (2A), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(2A) If a person —

(a) has a previous conviction under subsection (1) or section 11O(1); and

(b) is convicted of an offence under subsection (1),

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that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years.”.

Amendment of section 11D

6. Section 11D of the principal Act is amended by deleting subsections (3) and (4) and substituting the following subsections:

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“(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(4) If a person —

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(a) has a previous conviction under subsection (1) or section 11P(1); and

(b) is convicted of an offence under subsection (1),

that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years.

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(4A) Subject to subsection (4B), a person who is guilty of an offence under subsection (2) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.

(4B) If a person —

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(a) has a previous conviction under subsection (2) or section 11P(2); and

(b) is convicted of an offence under subsection (2),

that person shall on conviction be punished with imprisonment for a term of not less than one year and not more than 5 years.”.

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New Part 2A

7. The principal Act is amended by inserting, immediately after section 11E, the following Part:

“PART 2A

OFFENCES INVOLVING PSYCHOACTIVE SUBSTANCES

Trafficking in psychoactive substance

11F.—(1) Except as authorised by this Act, it shall be an offence for a person, on his or her own behalf or on behalf of any other person, whether or not that other person is in Singapore —

- (a) to traffic in a psychoactive substance;
- (b) to offer to traffic in a psychoactive substance; or
- (c) to do or offer to do any act preparatory to or for the purpose of trafficking in a psychoactive substance.

(2) For the purposes of this Act, a person commits the offence of trafficking in a psychoactive substance if he or she has in his or her possession that psychoactive substance for the purpose of trafficking.

(3) Subject to subsections (4) and (5), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years and shall also be liable to a fine of not less than \$4,000 and not more than \$10,000.

(4) Subject to subsection (5), where a person —

- (a) has a previous conviction —
 - (i) under subsection (1) or section 11H(1); or
 - (ii) under section 5(1) or 7, at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(b) is convicted of an offence under subsection (1),
that person shall on conviction be punished with imprisonment
for a term of not less than 4 years and not more than 20 years and
shall also be liable to a fine of not less than \$8,000 and not more
than \$20,000. 5

(5) If a person of or above 21 years of age is convicted of an
offence under subsection (1) and the intended recipient of the
psychoactive substance which is, or is to be, trafficked is a
young person or a vulnerable person, that person so convicted
shall be punished with — 10

(a) imprisonment for a term of not less than 4 years and
not more than 20 years; and

(b) not less than 4 strokes and not more than 15 strokes of
the cane.

(6) In any proceedings for an offence under subsection (1), it is
a defence for the accused to prove, on a balance of probabilities,
that the accused intended or believed that the psychoactive
substance would be used for a legitimate purpose other than
human consumption, regardless of whether that psychoactive
substance is or is not fit for human consumption. 15 20

Manufacture of psychoactive substance

11G.—(1) Except as authorised by this Act, it shall be an
offence for a person to manufacture a psychoactive substance.

(2) A person who is guilty of an offence under subsection (1)
shall on conviction be punished with imprisonment for a term of
not less than 5 years and not more than 20 years and shall also be
liable to a fine of not less than \$10,000 and not more than
\$20,000. 25

(3) In any proceedings for an offence under subsection (1), it is
a defence for the accused to prove, on a balance of probabilities,
that the accused manufactured the psychoactive substance for a
legitimate purpose other than human consumption, regardless of
whether that psychoactive substance is or is not fit for human
consumption. 30

Import and export of psychoactive substance

11H.—(1) Except as authorised by this Act, it shall be an offence for a person to import into or export from Singapore a psychoactive substance.

(2) Subject to subsections (3) and (4), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term of not less than 3 years and not more than 20 years and shall also be liable to a fine of not less than \$6,000 and not more than \$20,000.

(3) Subject to subsection (4), where a person —

(a) has a previous conviction —

(i) under subsection (1) or section 11F(1); or

(ii) under section 5(1) or 7, at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(b) is convicted of an offence under subsection (1),

that person shall on conviction be punished with imprisonment for a term of not less than 4 years and not more than 20 years and shall also be liable to a fine of not less than \$8,000 and not more than \$20,000.

(4) If a person of or above 21 years of age is convicted of an offence under subsection (1) and the intended recipient of the psychoactive substance which is, or is to be, trafficked is a young person or a vulnerable person, that person so convicted shall be punished with —

(a) imprisonment for a term of not less than 4 years and not more than 20 years; and

(b) not less than 4 strokes and not more than 15 strokes of the cane.

(5) In any proceedings for an offence under subsection (1), it is a defence for the accused to prove, on a balance of probabilities, that the accused imported or exported the psychoactive substance for a legitimate purpose other than human consumption, regardless of whether that psychoactive substance is or is not fit for human consumption. 5

Possession and consumption of psychoactive substance

11I.—(1) Except as authorised by this Act, it shall be an offence for a person to —

(a) have in his or her possession a psychoactive substance; or 10

(b) smoke, administer to himself or herself or otherwise consume, a psychoactive substance.

(2) Subject to subsection (3), a person who is guilty of an offence under subsection (1)(a) shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 10 years or to both. 15

(3) If a person —

(a) has a previous conviction —

(i) under subsection (1)(a); or 20

(ii) under section 8(a), at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(b) is convicted of an offence under subsection (1)(a), 25

that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years and shall also be liable to a fine not exceeding \$20,000.

(4) In any proceedings for an offence under subsection (1)(a), it is a defence for the accused to prove, on a balance of probabilities, that the accused had the psychoactive substance in his or her possession for a legitimate purpose other than human 30

consumption, regardless of whether that psychoactive substance is or is not fit for human consumption.

**Consumption of psychoactive substance outside
Singapore by citizen or permanent resident**

5 **11J.**—(1) Section 11I(1)(b) has effect in relation to a person who is a citizen of Singapore or a permanent resident of Singapore outside as well as within Singapore where he or she is found as a result of urine tests conducted under section 31(4)(b) to have smoked, administered to himself or herself or otherwise
10 consumed a psychoactive substance.

(2) Where an offence under section 11I(1)(b) is committed by a person mentioned in subsection (1) in any place outside Singapore, he or she may be dealt with as if that offence had been committed within Singapore.

15 **Possession of paraphernalia for consumption, etc., of
psychoactive substance**

11K.—(1) Except as authorised by this Act, it shall be an offence for a person to have in his or her possession any pipe, syringe, utensil, apparatus or other article intended for the
20 smoking, administration or consumption of a psychoactive substance in contravention of section 11I(1)(b).

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 3 years or to both.

25 **Responsibilities of owners, tenants, etc.**

11L.—(1) It shall be an offence for a person being the owner, tenant, occupier or person in charge of any place or premises, to permit or allow that place or premises or any part of that place or premises, to be opened, kept or used for —

- 30 (a) the purpose of smoking, administration or consumption of any psychoactive substance in contravention of section 11I(1)(b); or

(b) the unlawful trafficking in or the unlawful manufacturing of any psychoactive substance.

(2) A person who is guilty of an offence under subsection (1) shall be liable on conviction to a fine of not less than \$2,000 and not more than \$10,000 or to imprisonment for a term of not less than 12 months and not more than 5 years or to both.

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Arranging or planning gatherings where psychoactive substances are to be consumed or trafficked

11M.—(1) Where there is a gathering of 2 or more persons in any place, any person who arranges or plans the gathering with the knowledge that any psychoactive substance is, or is to be, smoked, administered or consumed in contravention of section 11I(1)(b) or unlawfully trafficked at that gathering shall be guilty of an offence.

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(2) Subject to subsection (3), a person who is guilty of an offence under subsection (1) shall on conviction —

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(a) be punished with imprisonment for a term of not less than 3 years and not more than 20 years; and

(b) be liable to caning of not more than 10 strokes.

(3) If a person of or above 21 years of age is convicted of an offence under subsection (1) and the gathering consists of any young person or vulnerable person, that person so convicted shall be punished with —

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(a) imprisonment for a term of not less than 5 years and not more than 20 years; and

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(b) not less than 3 strokes and not more than 10 strokes of the cane.

(4) A person may be guilty of an offence under subsection (1) even though he or she does not supply any psychoactive substance to be consumed or trafficked at that gathering.

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Exposing child to psychoactive substance, etc., and permitting young person to consume psychoactive substance

5 **11N.**—(1) A person of or above 21 years of age shall be guilty of an offence if the person, being in possession of any psychoactive substance or paraphernalia —

 (a) knowingly or recklessly leaves the psychoactive substance or paraphernalia —

 (i) exposed in any place; or

10 (ii) in any refrigerator, cupboard, cabinet, box, chest or any other article, that is not locked; and

 (b) knows that any child has, or is likely to have, access to —

15 (i) the place where the psychoactive substance or paraphernalia is left exposed; or

 (ii) the refrigerator, cupboard, cabinet, box, chest or other article in which the psychoactive substance or paraphernalia is located.

20 (2) A person of or above 21 years of age shall be guilty of an offence if the person, being in possession of any psychoactive substance —

 (a) permits a young person to smoke, administer (whether or not to himself or herself) or consume the psychoactive substance; or

25 (b) does not take all reasonable steps to prevent a young person from smoking, administering (whether or not to himself or herself) or consuming the psychoactive substance.

30 (3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) or (2) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(4) If a person —

(a) has a previous conviction —

(i) under subsection (1) or (2); or

(ii) under section 11B(1) or (2), at any time before,
on or after the date of commencement of
section 7 of the Misuse of Drugs
(Amendment) Act 2023; and

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(b) is convicted of an offence under subsection (1) or (2),

that person shall on conviction be punished with imprisonment
for a term of not less than 2 years and not more than 10 years.

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(5) Subsection (1) does not apply in relation to a person who is
in possession of any psychoactive substance or paraphernalia if
the possession of the psychoactive substance or paraphernalia is
authorised under this Act.

(6) In any proceedings for an offence under subsection (1) in
relation to the possession of a psychoactive substance, it is a
defence for the accused to prove, on a balance of probabilities,
that the accused had the psychoactive substance in his or her
possession for a legitimate purpose other than human
consumption, regardless of whether that psychoactive
substance is or is not fit for human consumption.

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(7) In this section —

“child” means any person below 16 years of age;

“paraphernalia” means any pipe, syringe, utensil, apparatus
or other article for the purpose of smoking,
administering or consuming a psychoactive substance.

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Introducing psychoactive substance trafficker to another person

11O.—(1) A person (*A*) who, knowing or having reason to believe —

5 (*a*) that —

(i) another person (*B*) intends to procure, whether or not for himself or herself, any psychoactive substance; and

10 (ii) the possession of the psychoactive substance by *B* (or a person that *B* is procuring the psychoactive substance for) would not be authorised under this Act; or

15 (*b*) that another person (*B*) intends, without any authorisation under this Act, to smoke, administer (whether or not to himself or herself) or consume any psychoactive substance,

introduces *B* (whether or not through the use of any electronic media) to a person whom *A* knows or has reason to believe is trafficking in any psychoactive substance and is likely to supply *B* with any psychoactive substance, shall be guilty of an offence.

(2) Subject to subsection (3), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(3) If a person —

25 (*a*) has a previous conviction —

(i) under subsection (1); or

30 (ii) under section 11C(1), at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(*b*) is convicted of an offence under subsection (1), that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years.

(4) In a prosecution for an offence under subsection (1), it is not necessary for the prosecution to prove that —

- (a) *B* procures, smokes, administers or consumes any psychoactive substance in contravention of section 11I(1)(b) after the introduction is made; or 5
- (b) both *A* and *B* are within Singapore at the time the introduction is made, as long as either *A* or *B* is within Singapore at that time.

(5) In any proceedings for an offence under subsection (1)(a), it is a defence for the accused to prove, on a balance of probabilities, that the accused believed that *B* intended to procure the psychoactive substance for a legitimate purpose other than human consumption, regardless of whether that psychoactive substance is or is not fit for human consumption. 10

(6) In this section, “introduce” includes giving any address, telephone number, email address or any other details of one person to another person. 15

Instructing person to manufacture or consume psychoactive substance, etc.

11P.—(1) A person (*A*) who, whether or not through the use of any electronic media, teaches or instructs another person (*B*) to carry out, or who provides information to *B* on the carrying out of, any of the following activities: 20

- (a) the manufacture of any psychoactive substance;
- (b) the smoking, administering or consuming of any psychoactive substance; 25
- (c) the trafficking or doing of any act preparatory to or for the purpose of trafficking in any psychoactive substance;
- (d) the importing into or exporting from Singapore of any psychoactive substance, 30

knowing or having reason to believe that *B* intends to carry out the activity, shall be guilty of an offence.

(2) A person who disseminates or publishes, or causes the dissemination or publication of, information (whether or not through the use of any electronic media) on the carrying out of any activity mentioned in subsection (1) shall be guilty of an offence.

(3) Subject to subsection (4), a person who is guilty of an offence under subsection (1) shall on conviction be punished with imprisonment for a term not exceeding 10 years.

(4) If a person —

(a) has a previous conviction —

(i) under subsection (1); or

(ii) under section 11D(1), at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(b) is convicted of an offence under subsection (1),

that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years.

(5) Subject to subsection (6), a person who is guilty of an offence under subsection (2) shall be liable on conviction to a fine not exceeding \$10,000 or to imprisonment for a term not exceeding 5 years or to both.

(6) If a person —

(a) has a previous conviction —

(i) under subsection (2); or

(ii) under section 11D(2), at any time before, on or after the date of commencement of section 7 of the Misuse of Drugs (Amendment) Act 2023; and

(b) is convicted of an offence under subsection (2),

that person shall on conviction be punished with imprisonment for a term of not less than 12 months and not more than 5 years.

(7) In a prosecution for an offence under subsection (1), it is not necessary for the prosecution to prove, in relation to any activity mentioned in that subsection for which *B* is taught, instructed or provided with information, that —

- (a) *B* carries out the activity after *B* is so taught, instructed or provided with information; or 5
- (b) both *A* and *B* are within Singapore at the time when *B* is so taught, instructed or provided with information, as long as either *A* or *B* is within Singapore at that time. 10

(8) Subsection (1) does not apply in relation to *A* teaching or instructing *B* to carry out, or providing information to *B* on the carrying out of, any activity mentioned in that subsection if the teaching, instructing or provision of information is authorised under this Act. 15

(9) In any proceedings for an offence under subsection (1), it is a defence for the accused to prove, on a balance of probabilities, that —

- (a) if the offence relates to any activity mentioned in subsection (1) — the teaching, instructing or provision of information has a legitimate purpose related to the administration of justice, the investigation and prosecution of offences, or to science, medicine, education or art; 20
- (b) if the offence relates to any activity mentioned in subsection (1)(a) — the accused believed that *B* intended to manufacture the psychoactive substance for a legitimate purpose other than human consumption, regardless of whether that psychoactive substance is or is not fit for human consumption; or 25 30
- (c) if the offence relates to any activity mentioned in subsection (1)(c) or (d) — the accused believed that *B* intended to traffic or do any act preparatory to or for the purpose of trafficking, or import or export, the 35

psychoactive substance for a legitimate purpose other than human consumption, regardless of whether that psychoactive substance is or is not fit for human consumption.

(10) Subsection (2) does not apply in relation to any dissemination or publication of information on the carrying out of any activity mentioned in subsection (1) if the dissemination or publication of information is authorised under this Act.

(11) In any proceedings for an offence under subsection (2), it is a defence for the person who disseminates or publishes information on the carrying out of any activity mentioned in subsection (1) to prove, on a balance of probabilities, that the dissemination or publication of information had a legitimate purpose related to the administration of justice, the investigation and prosecution of offences, or to science, medicine, education or art.

Causing or procuring young person or vulnerable person to commit certain offences relating to psychoactive substances

11Q.—(1) Any person of or above 21 years of age who causes or procures any young person or vulnerable person to commit any offence under section 11F(1) or 11H(1) shall be guilty of an offence.

(2) A person who is guilty of an offence under subsection (1) shall on conviction be punished with —

- (a) imprisonment for a term of not less than 4 years and not more than 20 years; and
- (b) not less than 4 strokes and not more than 15 strokes of the cane.”.

New Part 2B heading

8. The principal Act is amended by inserting, immediately above section 12, the following Part heading:

“PART 2B
GENERAL PROVISIONS ON OFFENCES”.

Amendment of section 16

9. Section 16 of the principal Act is amended —

- (a) by inserting, immediately after the words “Health Sciences Authority” in paragraph (a)(i), the words “or the Home Team Science and Technology Agency”; and 5
- (b) by deleting the words “or controlled substance” in paragraph (b) and substituting the words “, controlled substance or psychoactive substance”. 10

New section 18A

10. The principal Act is amended by inserting, immediately after section 18, the following section:

“Presumption of possession and knowledge of psychoactive substances” 15

18A.—(1) Any person who is proved to have had in his or her possession or custody or under his or her control —

- (a) anything containing a psychoactive substance;
- (b) the keys of anything containing a psychoactive substance; 20
- (c) the keys of any place or premises or any part of that place or premises in which a psychoactive substance is found; or
- (d) a document of title relating to a psychoactive substance or any other document intended for the delivery of a psychoactive substance, 25

is presumed, until the contrary is proved, to have had that psychoactive substance in his or her possession.

(2) Where a person is proved or presumed to have had a psychoactive substance in his or her possession, the person is presumed, until the contrary is proved — 30

(a) to have known that the psychoactive substance has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; and

(b) to not believe (and to have had no reason to believe) that the psychoactive substance is an excluded substance.

(3) The presumptions provided for in this section are not to be rebutted by proof that the accused never had physical possession of the psychoactive substance.

(4) Where one of 2 or more persons with the knowledge and consent of the rest has any psychoactive substance in his or her possession, it is deemed to be in the possession of each and all of them.”.

Amendment of section 19

11. Section 19 of the principal Act is amended —

(a) by inserting, immediately after the words “of a controlled drug” in subsection (1), the words “or psychoactive substance”;

(b) by inserting, immediately after the words “consuming a controlled drug” in subsection (1), the words “or psychoactive substance, as the case may be”;

(c) by deleting the words “or administering” wherever they appear in subsection (2) and substituting in each case the words “, administering or consuming”;

(d) by inserting, immediately before the words “is presumed” in subsection (2), the words “or psychoactive substance”; and

(e) by inserting, immediately before the words “in that place” in subsection (2), the words “or psychoactive substance (as the case may be)”.

Amendment of section 20

12. Section 20 of the principal Act is amended —

- (a) by inserting, immediately after the words “controlled drug”, the words “or psychoactive substance”; and
- (b) by inserting, immediately after the words “the drug”, the words “or psychoactive substance”.

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Amendment of section 21

13. Section 21 of the principal Act is amended by inserting, immediately after the words “controlled drug”, the words “or psychoactive substance”.

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Amendment of section 22

14. Section 22 of the principal Act is amended —

- (a) by inserting, immediately after the words “controlled drug” wherever they appear, the words “or psychoactive substance”; and
- (b) by inserting, immediately after the words “section 8(b)”, the words “or 11I(1)(b), as the case may be”.

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New sections 22A and 22B

15. The principal Act is amended by inserting, immediately after section 22, the following sections:

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“Proof of psychoactive substance

22A. In any proceedings for an offence under section 11F(1), 11G(1), 11H(1), 11I(1)(a) or (b), 11K(1), 11L(1), 11M(1), 11N(1) or (2), 11O(1), 11P(1) or (2) or 11Q(1) —

- (a) for the purpose of proving that a substance or product is a psychoactive substance —
 - (i) it is sufficient for the prosecution to prove that the substance or product has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or

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herself or otherwise consumes, the substance or product; and

- (ii) it is not necessary for the prosecution to prove that the substance or product is not an excluded substance; and

- (b) a person who asserts that the psychoactive substance mentioned in paragraph (a) is an excluded substance, bears the burden of proving that assertion on a balance of probabilities.

Knowledge of psychoactive substance

22B. Where knowledge that a substance is a psychoactive substance is a fault element of an offence in this Act, that fault element is established if the person alleged to have committed the offence —

- (a) knows that the psychoactive substance has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; and

- (b) did not believe or had no reason to believe that the psychoactive substance is an excluded substance,

whether or not that person knows the name or chemical composition of the psychoactive substance.”.

Amendment of section 24

16.—(1) Section 24 of the principal Act is amended —

- (a) by inserting, immediately after the words “police officer” in subsection (1), the words “, special police officer”;
- (b) by deleting the words “drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule” in subsection (1)(a)(i) and substituting the words “psychoactive substance”;

(c) by deleting the words “seizable offence” in subsection (1)(a)(ii) and substituting the words “arrestable offence”;

(d) by deleting sub-paragraph (i) of subsection (1)(c) and substituting the following sub-paragraph: 5

“(i) any drug or substance that the officer reasonably suspects is a controlled drug, controlled substance, or drug specified in the Fifth Schedule or substance containing any drug specified in the Fifth Schedule;”;

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(e) by inserting, immediately after the word “any” in subsection (1)(c)(ii), the words “article that the officer reasonably suspects is an”;

(f) by deleting the words “which is or has been” in subsection (1)(c)(iii) and substituting the words “that the officer reasonably suspects is, has been or is intended to be,”; and 15

(g) by deleting subsection (3).

(2) Section 24 of the principal Act, as amended by subsection (1)(d), is further amended by deleting the words “drug specified in the Fifth Schedule or substance containing any drug specified in the Fifth Schedule” in subsection (1)(c)(i) and substituting the words “psychoactive substance”. 20

Amendment of section 25

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17. Section 25 of the principal Act is amended —

(a) by deleting the words “a seizable offence” in subsection (1) and substituting the words “an arrestable offence”;

(b) by inserting, immediately after the words “with any” in subsection (2), the words “drug, substance or article that the officer making the arrest reasonably suspects is a”; 30

(c) by inserting, immediately after the words “controlled substance” in subsections (2) and (4), the words “, psychoactive substance”; and

(d) by inserting, immediately after the words “detain any” in subsection (4), the words “drug, substance or article that the officer reasonably suspects is a”.

Amendment of section 26

18. Section 26 of the principal Act is amended —

(a) by deleting the words “drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule” in subsection (1)(a) and substituting the words “psychoactive substance”;

(b) by deleting sub-paragraphs (ii) and (iii) of subsection (1)(ba) and substituting the following sub-paragraph:

“(ii) any psychoactive substance; or”;

(c) by inserting, immediately before the words “controlled drug” in subsection (2)(a), the words “drug, substance or article that the officer reasonably suspects is a”;

(d) by deleting the words “drug specified in the Fifth Schedule, substance containing any drug specified in the Fifth Schedule” in subsection (2)(a) and substituting the words “psychoactive substance”;

(e) by deleting the words “which has been” in subsection (2)(b) and substituting the words “that the officer reasonably suspects has been or is intended to be”; and

(f) by deleting subsection (3).

Amendment of section 27

19. Section 27 of the principal Act is amended —

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

“(1) Subject to subsection (2), where anything is seized under this Act and the owner of that thing is known, the officer who carried out the seizure must notify the owner of the thing, and the notice may be given —

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(a) by delivering a written notice to the owner personally;

(b) by posting a written notice to the owner’s place of residence; or

(c) in any other manner that the officer thinks expedient.”;

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(b) by inserting, immediately after the words “controlled substance” in subsections (3) and (4), the words “, psychoactive substance”;

(c) by deleting subsection (5); and

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(d) by inserting, immediately after the words “controlled substances” in the section heading, the words “, psychoactive substances”.

Amendment of section 30

20. Section 30(2) of the principal Act is amended by inserting, immediately after the word “section”, “24,”.

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Amendment of section 31

21.—(1) Section 31 of the principal Act is amended —

(a) by inserting, immediately after the words “section 8(b)” in subsections (1) and (1B), the words “or 11I(1)(b)”;

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(b) by inserting, immediately after the words “controlled drug” in subsection (3)(b), the words “or psychoactive substance”;

(c) by inserting, immediately after the words “controlled drugs” in subsection (5), the words “and psychoactive substances”;

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(*d*) by deleting paragraph (*b*) of the definition of “relevant person” in subsection (9) and substituting the following paragraph:

“(b) any person convicted of an offence, whether before, on or after the date of commencement of section 21(1)(*d*) of the Misuse of Drugs (Amendment) Act 2023, under —

(i) subsection (2);

(ii) section 8(*b*) or 31A(2);

(iii) section 26 of the Singapore Armed Forces Act 1972 involving the consumption of a controlled drug; or

(iv) section 34 of the Singapore Armed Forces Act 1972 for the consumption of a controlled drug;”;

(*e*) by inserting, immediately after the words “Singapore Armed Forces Act 1972” in paragraph (*d*)(ii) of the definition of “relevant person” in subsection (9), the words “for the consumption of a controlled drug”; and

(*f*) by deleting paragraph (*b*) of the definition of “relevant time” in subsection (9) and substituting the following paragraph:

“(b) in relation to a person mentioned in paragraph (*b*) of the definition of “relevant person”, the time the person is convicted of the offence under —

(i) subsection (2);

(ii) section 8(*b*) or 31A(2);

(iii) section 26 of the Singapore Armed Forces Act 1972 involving the consumption of a controlled drug; or

- (iv) section 34 of the Singapore Armed Forces Act 1972 for the consumption of a controlled drug;”.

(2) Paragraph (b) of the definition of “relevant person” in section 31(9) of the principal Act, as amended by subsection (1)(d), is further amended — 5

- (a) by inserting, immediately after the words “section 8(b)” in sub-paragraph (ii), “, 11I(1)(b)”;
- (b) by inserting, immediately after the words “controlled drug” in sub-paragraphs (iii) and (iv), the words “or psychoactive substance”. 10

(3) Paragraph (d)(ii) of the definition of “relevant person” in section 31(9) of the principal Act, as amended by subsection (1)(e), is further amended —

- (a) by inserting, immediately after the words “section 8(b)”, “, 11I(1)(b)”;
- (b) by inserting, immediately after the words “controlled drug”, the words “or psychoactive substance”. 15

(4) Paragraph (b) of the definition of “relevant time” in section 31(9) of the principal Act, as amended by subsection (1)(f), is further amended — 20

- (a) by inserting, immediately after the words “section 8(b)” in sub-paragraph (ii), “, 11I(1)(b)”;
- (b) by inserting, immediately after the words “controlled drug” in sub-paragraphs (iii) and (iv), the words “or psychoactive substance”. 25

Amendment of section 31A

22. Section 31A(1) of the principal Act is amended by inserting, immediately after the words “section 8(b)”, the words “or 11I(1)(b)”.

Amendment of section 31B

23. Section 31B of the principal Act is amended —

- (a) by inserting, immediately after the words “section 8(b)” in subsection (1), the words “or 11I(1)(b)”; and
- (b) by inserting, immediately after the words “controlled drug” in the definitions of “oral fluid test” and “oral fluid testing device” in subsection (3), the words “or psychoactive substance”.

Amendment of section 32

24. Section 32 of the principal Act is amended —

- (a) by deleting the words “a seizable offence” in subsections (1) and (2)(a) and substituting in each case the words “an arrestable offence”;
- (b) by deleting subsection (1A);
- (c) by deleting the words “is seizable” in subsection (2)(a) and substituting the words “is an arrestable offence”;
- (d) by deleting the words “is non-seizable” in subsection (2)(b) and substituting the words “is a non-arrestable offence”; and
- (e) by deleting the words “a non-seizable offence” in subsection (2)(b) and substituting the words “a non-arrestable offence”.

Amendment of section 33

25.—(1) Section 33 of the principal Act is amended —

- (a) by inserting, immediately after the word “subsection” in subsection (1), “(3B),”;
- (b) by deleting the words “or import or export” in subsection (2)(b)(ii) and substituting the words “, import or export or possession”;
- (c) by inserting, immediately after subsection (3A), the following subsection:

“(3B) If a person —

(a) has a previous conviction under section 8(a); and

(b) is convicted of an offence under section 8(a) that the sixth column of the Second Schedule specifies is subject to this subsection,

that person shall on conviction be punished with imprisonment for a term of not less than 2 years and not more than 10 years and shall also be liable to a fine not exceeding \$20,000.”;

(d) by deleting the words “section 31A(2)” in subsection (4AA)(a)(i) and substituting the words “section 11I(1)(b) or 31A(2)”;

(e) by inserting, immediately after the word “conviction” in subsections (4AA)(a)(iii), (4AB)(a)(iii) and (4AD)(b), the words “for an offence of consumption of a controlled drug”;

(f) by inserting, immediately after the words “section 8(b),” in subsection (4AB)(a)(i), “11I(1)(b),”;

(g) by deleting the words “or 7” in subsection (4A)(a) and substituting the words “, 7, 11F(1) or 11H(1)”;

(h) by inserting, immediately before paragraph (a) of subsection (5), the following paragraph:

“(aa) a previous conviction under section 8(a) means a conviction under section 8(a) at any time before, on or after the date of commencement of section 25(1)(c) of the Misuse of Drugs (Amendment) Act 2023;”.

(2) Section 33(3B)(a) of the principal Act, as inserted by subsection (1)(c), is amended by inserting, immediately after the words “section 8(a)”, the words “or 11I(1)(a)”.

(3) Section 33 of the principal Act, as amended by subsection (1)(c), is further amended by inserting, immediately after subsection (3B), the following subsections:

“(3C) Any person convicted of an offence under section 11I(1)(b) shall be liable on conviction to a fine not exceeding \$20,000 or to imprisonment for a term not exceeding 10 years or to both, unless the person is punished under subsection (3D) for that same offence.

(3D) If a person —

(a) has —

(i) a previous conviction under section 8(b), 11I(1)(b), 31(2) or 31A(2);

(ii) a previous admission under section 34(2) to an approved institution; or

(iii) a previous conviction for an offence of consumption of a controlled drug or psychoactive substance under section 34 of the Singapore Armed Forces Act 1972; and

(b) is convicted of an offence under section 11I(1)(b),

that person shall on conviction be punished with imprisonment for a term of not less than 3 years and not more than 10 years.”.

(4) Section 33 of the principal Act, as amended by subsection (1)(e), is further amended by inserting, immediately after the words “controlled drug” in subsections (4AA)(a)(iii), (4AB)(a)(iii) and (4AD)(b), the words “or psychoactive substance”.

Amendment of section 33A

26. Section 33A of the principal Act is amended by deleting the words “relating to the consumption” in subsections (1B)(a), (b), (c), (g) and (h) and (5)(bb) and substituting in each case the words “of consumption”.

Amendment of section 36A

27. Section 36A of the principal Act is amended by deleting subsection (2) and substituting the following subsections:

“(2) The Commissioner of Prisons may —

(a) appoint a person to be the superintendent of a community rehabilitation centre; and 5

(b) appoint a person to be the manager of a community rehabilitation centre.

(3) The superintendent of a community rehabilitation centre is responsible for assisting the Commissioner of Prisons with the charge and administration of the community rehabilitation centre. 10

(4) The manager of a community rehabilitation centre —

(a) is responsible for the supervision and administration of the community rehabilitation centre; and 15

(b) reports to the superintendent of the community rehabilitation centre.”.

Amendment of section 38

28. Section 38 of the principal Act is amended —

(a) by deleting the words “Superintendent of an approved institution or the manager of” in subsections (3) and (4) and substituting in each case the words “superintendent of an approved institution or”; and 20

(b) by deleting the words “Superintendent of another approved institution or the manager of another” in subsection (3) and substituting the words “superintendent of another approved institution or”. 25

Amendment of section 38A

29. Section 38A(2) of the principal Act is amended by deleting the words “appointed under section 36A(2) to be the manager” in paragraph (b) and substituting the words “appointed under section 36A(2)(a) or (b) to be the superintendent or manager”. 30

Amendment of section 58

30.—(1) Section 58 of the principal Act is amended —

(a) by inserting, immediately after the words “controlled drugs” wherever they appear in subsections (1)(a), (c), (d), (f), (g), (h), (i) and (k) and (2)(a), the words “or psychoactive substances”;

(b) by inserting, immediately after the words “section 11B(5))” in subsection (1)(ca), the words “or paraphernalia (as defined in section 11N(7))”;

(c) by inserting, immediately after the words “section 11D(1)” in subsection (1)(cb) and (cc), the words “or 11P(1)”;

(d) by inserting, immediately after the words “controlled drug” in subsection (1)(e), the words “or psychoactive substance”;

(e) by inserting, immediately after the words “those drugs” in subsection (1)(f) and (h), the words “or psychoactive substances”;

(f) by inserting, immediately after the words “section 8(b),” in subsection (1)(q), “11I(1)(b),”;

(g) by deleting the words “under section 34” in subsection (1)(q) and substituting the words “involving the consumption of a controlled drug under section 26 or 34”; and

(h) by deleting the words “seizable offences” in subsection (1)(u) and substituting the words “arrestable offences”.

(2) Section 58 of the principal Act, as amended by subsection (1)(g), is further amended by inserting, immediately after the words “controlled drug” in subsection (1)(q), the words “or psychoactive substance”.

Repeal of section 58A

31. Section 58A of the principal Act is repealed.

Amendment of section 59

32. Section 59 of the principal Act is amended —

- (a) by deleting the words “and Fourth Schedules” and substituting the words “, Fourth or Fifth Schedule”; and
- (b) by deleting the words “Third and Fourth Schedules” in the section heading and substituting the words “Third, Fourth and Fifth Schedules”.

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Amendment of First Schedule

33. The First Schedule to the principal Act is amended by deleting “58A(1),” in the Schedule reference.

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Amendment of Second Schedule

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

- (a) by inserting, immediately after “(3)” in the Schedule reference, “, (3B)”;
- (b) by deleting the entries relating to section 8(a) and substituting the following entries:

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“	8(a)	(1) Unauthorised possession of cannabis where the quantity is —						
		(a) less than 330 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—	20
		(b) not less than 330 grammes and not more than 500 grammes	—	—	—	Maximum 20 years and 10 strokes	—	25
						Minimum 10 years and 5 strokes		
		(c) more than 500 grammes	—	—	—	Maximum 30 years and 15 strokes	—	30
						Minimum 20 years and 10 strokes		
		(2) Unauthorised possession of cannabis mixture where the quantity is —						35
		(a) less than 660 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—	

5	(b) not less than 660 grammes and not more than 1,000 grammes	—	—	—	Maximum 20 years and 10 strokes	—
					Minimum 10 years and 5 strokes	
10	(c) more than 1,000 grammes	—	—	—	Maximum 30 years and 15 strokes	—
					Minimum 20 years and 10 strokes	
	(3) Unauthorised possession of cannabis resin where the quantity is —					
15	(a) less than 130 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—
20	(b) not less than 130 grammes and not more than 200 grammes	—	—	—	Maximum 20 years and 10 strokes	—
					Minimum 10 years and 5 strokes	
25	(c) more than 200 grammes	—	—	—	Maximum 30 years and 15 strokes	—
					Minimum 20 years and 10 strokes	
30	(4) Unauthorised possession of controlled drug containing a quantity of cocaine that is —					
	(a) less than 20 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—
35	(b) not less than 20 grammes and not more than 30 grammes	—	—	—	Maximum 20 years and 10 strokes	—
					Minimum 10 years and 5 strokes	
40	(c) more than 30 grammes	—	—	—	Maximum 30 years and 15 strokes	—
					Minimum 20 years and 10 strokes	
45	(5) Unauthorised possession of controlled drug containing a quantity of diamorphine that is —					
50	(a) less than 10 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—
	(b) not less than 10 grammes and not more than 15 grammes	—	—	—	Maximum 20 years and 10 strokes	—
55					Minimum 10 years and 5 strokes	

	(c) more than 15 grammes	—	—	—	Maximum 30 years and 15 strokes	—	
					Minimum 20 years and 10 strokes		
	(6) Unauthorised possession of controlled drug containing a quantity of methamphetamine that is —						5
	(a) less than 167 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—	10
	(b) not less than 167 grammes and not more than 250 grammes	—	—	—	Maximum 20 years and 10 strokes	—	15
					Minimum 10 years and 5 strokes		
	(c) more than 250 grammes	—	—	—	Maximum 30 years and 15 strokes	—	
					Minimum 20 years and 10 strokes		20
	(7) Unauthorised possession of controlled drug (except opium) containing a quantity of morphine that is —						25
	(a) less than 20 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—	
	(b) not less than 20 grammes and not more than 30 grammes	—	—	—	Maximum 20 years and 10 strokes	—	30
					Minimum 10 years and 5 strokes		35
	(c) more than 30 grammes	—	—	—	Maximum 30 years and 15 strokes	—	
					Minimum 20 years and 10 strokes		
	(8) Unauthorised possession of opium where the quantity is —						40
	(a) less than 800 grammes	—	—	—	Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—	
							45
	(b) not less than 800 grammes and not more than 1,200 grammes and containing not less than 20 grammes of morphine	—	—	—	Maximum 20 years and 10 strokes	—	
							50
					Minimum 10 years and 5 strokes		55

	(c) more than 1,200 grammes and containing more than 30 grammes of morphine	—	—	—	Maximum 30 years and 15 strokes	—
	(9) Unauthorised possession of a controlled drug except as otherwise provided in this Schedule	—	—	—	Minimum 20 years and 10 strokes Maximum 10 years or \$20,000 or both (subject to section 33(3B))	—

Repeal and re-enactment of Fifth Schedule

35. The Fifth Schedule to the principal Act is repealed and the following Schedule substituted therefor:

“FIFTH SCHEDULE

Sections 2 and 59

PART 1

EXCLUDED SUBSTANCES

1. Any alcohol or alcoholic product.
2. Any alkyl nitrites.
3. Any chewing gum.
4. Any controlled drug or controlled substance.
5. Any food.
6. Any health product.
7. Any herbal medicine.
8. Any industrial material or substance.
9. Any intoxicating substance.
10. Any medicinal product.
11. Any poison.
12. Any poppy seed.
13. Any psychotropic substance.
14. Any substance listed under any Schedule to the Single Convention on Narcotic Drugs of 1961, as amended by the 1972 Protocol or the Convention on Psychotropic Substances of 1971.

15. Any tobacco, tobacco product or tobacco substitute.
16. Caffeine or any caffeine product.
17. Nitrous oxide.

PART 2

INTERPRETATION

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1. In this Schedule —

“alcoholic product” means any product that —

- (a) contains alcohol; but
- (b) does not contain any other psychoactive substance;

“caffeine product” means any product that —

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- (a) contains caffeine; but
- (b) does not contain any other psychoactive substance;

“food” means any substance that —

- (a) is ordinarily consumed as food by humans or animals; but
- (b) does not contain any psychoactive substance that is not —

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(i) naturally occurring in the substance; or

(ii) produced in the ordinary course of preparing or manufacturing that substance for consumption,

other than a food additive within the meaning of the Food Regulations (Rg 1);

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“health product” has the meaning given by section 2(1) of the Health Products Act 2007;

“herbal medicine” has the meaning given by section 2 of the Traditional Chinese Medicine Practitioners Act 2000;

“industrial material or substance” means —

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(a) any flammable material specified in the Fourth Schedule to the Fire Safety (Petroleum and Flammable Materials) Regulations (Rg 7);

(b) any substance specified in the first column of Part I of the Second Schedule to the Environmental Protection and Management Act 1999; or

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(c) any substance specified in the First Schedule to the Workplace Safety and Health (General Provisions) Regulations (Rg 1);

“intoxicating substance” has the meaning given by section 2 of the Intoxicating Substances Act 1987;

“medicinal product” has the meaning given by section 3 of the Medicines Act 1975;

“poison” has the meaning given by section 2 of the Poisons Act 1938;

“psychotropic substance” has the meaning given by regulation 2 of the Medicines (Export Licence for Psychotropic Substances) Regulations (Rg 9);

“tobacco product” means any product that —

(a) contains tobacco; but

(b) does not contain any other psychoactive substance;

“tobacco substitute” has the meaning given by section 2(1) of the Tobacco (Control of Advertisements and Sale) Act 1993.”.

Consequential amendments to Civil Defence Act 1986

36. The Civil Defence Act 1986 is amended —

(a) by inserting, immediately after the definition of “provost officer” in section 2, the following definition:

““psychoactive substance” has the meaning given by section 2 of the Misuse of Drugs Act 1973;”; and

(b) by deleting the words “or a drug” in the following provisions and substituting in each case the words “, a drug or a psychoactive substance”:

Section 27(3)

Section 50(2)

Section 51(e).

Consequential amendment to Environmental Public Health Act 1987

37. Section 2 of the Environmental Public Health Act 1987 is amended by inserting, immediately after the word “drugs” in

paragraph (c) of the definition of “food”, the words “or psychoactive substances within the meaning of section 2 of the Misuse of Drugs Act 1973”.

Consequential amendments to Merchant Shipping Act 1995

38. The Merchant Shipping Act 1995 is amended —

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- (a) by inserting, immediately after the definition of “port of return” in section 2(1), the following definition:

““psychoactive substance” has the meaning given by section 2 of the Misuse of Drugs Act 1973;”;

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- (b) by deleting the words “or a drug” in the following provisions and substituting in each case the words “, a drug or a psychoactive substance”:

Section 76

Section 115(3)(b); and

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- (c) by inserting, immediately after the word “drug” wherever it appears in section 79 (including the section heading), the words “or psychoactive substance”.

Consequential amendments to Prisons Act 1933

39. The Prisons Act 1933 is amended —

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- (a) by inserting, immediately after the definition of “prisoner” in section 2, the following definition:

““psychoactive substance” has the meaning given by section 2 of the Misuse of Drugs Act 1973;”;

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- (b) by inserting, immediately after the words “controlled drug” in the following provisions, the words “, psychoactive substance”:

Section 54(1)(da)

Section 59D(1)(ba)

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Section 59M(1)(e) and (f) and (2)(c)

Section 66(4)(c); and

- (c) by inserting, immediately after the words “controlled drug” in the following provisions, the words “or psychoactive substance”:

5 Section 54(1)(db)

Section 59D(1)(bb)

Section 59M(2)(d).

Consequential amendments to Road Traffic Act 1961

40. The Road Traffic Act 1961 is amended —

- 10 (a) by deleting the words “or of a drug” in the following provisions and substituting in each case the words “, a drug, a psychoactive substance”:

Section 67(1)(a)

Section 68(1)(a);

- 15 (b) by deleting the words “or drugs” in the section headings of sections 67 and 68 and substituting in each case the word “, etc.”;

- 20 (c) by inserting, immediately after the words “a drug” in the following provisions, the words “, a psychoactive substance”:

Section 69(5)(c)

Section 70(3)(a)(iii);

- 25 (d) by inserting, immediately after the word “drug” wherever it appears in the following provisions, the words “, psychoactive substance”:

Section 71A(1) and (3)(b)

Section 71B(1), (2) and (3); and

- 30 (e) by deleting the full-stop at the end of the definition of “prescribed limit” in section 72(1) and substituting a semi-colon, and by inserting immediately thereafter the following definition:

““psychoactive substance” has the meaning given by section 2 of the Misuse of Drugs Act 1973.”.

Consequential and related amendments to Road Vehicles (Special Powers) Act 1960

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41.—(1) Paragraph 1 of the Schedule to the Road Vehicles (Special Powers) Act 1960 is amended by deleting the words “sections 7 and 8(a)” in sub-paragraph (g) and substituting the words “sections 5, 6, 7 and 8(a)”.

(2) Paragraph 1 of the Schedule to the Road Vehicles (Special Powers) Act 1960, as amended by subsection (1), is further amended by deleting the words “and 8(a)” in sub-paragraph (g) and substituting the words “, 8(a), 11F(1), 11G(1), 11H(1) and 11I(1)(a)”.

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Consequential amendment to Sale of Food Act 1973

42. Section 2A(3) of the Sale of Food Act 1973 is amended by inserting, immediately after the words “controlled drug,” in paragraph (c), the words “psychoactive substance,”.

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Consequential and related amendments to Singapore Armed Forces Act 1972

43. The Singapore Armed Forces Act 1972 is amended —

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(a) by deleting the words “as defined in any written law relating to the misuse or control of drugs” in section 34 and substituting the words “or any psychoactive substance as defined in any written law relating to the misuse or control of drugs or harmful substances”;

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(b) by renumbering section 34 as subsection (1) of that section, and by inserting immediately thereafter the following subsections:

“(2) In any proceedings for an offence under subsection (1) for the possession of a psychoactive substance, it is a defence for the accused to prove, on a balance of probabilities, that the accused had the psychoactive substance in his or her possession for a

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legitimate purpose other than human consumption, regardless of whether that psychoactive substance is or is not fit for human consumption.

(3) In any proceedings for an offence under subsection (1) for possessing, smoking, administering or consuming a psychoactive substance —

(a) for the purpose of proving that a substance or product is a psychoactive substance —

(i) it is sufficient for the prosecution to prove that the substance or product has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; and

(ii) it is not necessary for the prosecution to prove that the substance or product is not an excluded substance; and

(b) a person who asserts that the psychoactive substance mentioned in paragraph (a) is an excluded substance bears the burden of proving that assertion on a balance of probabilities.

(4) In this section, “excluded substance” and “psychoactive effect” have the meanings given by section 2 of the Misuse of Drugs Act 1973.”;

(c) by inserting, immediately after the word “drugs” in the section heading of section 34, the words “or psychoactive substances”;

(d) by inserting, immediately after the words “Health Sciences Authority” in section 99(1)(a)(i), the words “or the Home Team Science and Technology Agency”;

- (e) by deleting the words “or controlled substance” in section 99(1)(b) and substituting the words “, controlled substance or psychoactive substance”;
- (f) by deleting the definitions of “controlled drug” and “controlled substance” in section 99(2) and substituting the following definitions:
 - ““controlled drug”, “controlled substance” and “psychoactive substance” have the meanings given by section 2 of the Misuse of Drugs Act 1973;”;
- (g) by deleting the full-stop at the end of the definition of “Health Sciences Authority” in section 99(2) and substituting a semi-colon, and by inserting immediately thereafter the following definition:
 - ““Home Team Science and Technology Agency” means the Home Team Science and Technology Agency established by section 3 of the Home Team Science and Technology Agency Act 2019.”; and
- (h) by deleting the words “or controlled substance” in the section heading of section 99 and substituting the word “, etc.”.

Consequential amendment to Work Injury Compensation Act 2019

44. Section 7(3) of the Work Injury Compensation Act 2019 is amended by inserting, immediately after the words “controlled drug” in paragraph (a), the words “or psychoactive substance”.

Saving and transitional provisions

45.—(1) A person who, immediately before the date of commencement of section 27, is appointed as the superintendent or manager of a community rehabilitation centre, is deemed to be appointed as the superintendent or manager of the community rehabilitation centre (as the case may be) under section 36A of the principal Act as amended by section 27.

- (2) For a period of 2 years after the date of commencement of any provision of this Act, the Minister may, by regulations, prescribe such additional provisions of a saving or transitional nature consequent on the enactment of that provision as the Minister may consider necessary or expedient.

EXPLANATORY STATEMENT

This Bill seeks to amend the Misuse of Drugs Act 1973 (the Act) —

- (a) to create a new statutory framework for and relating to the regulation of psychoactive substances;
- (b) to increase the penalties for the possession of certain quantities of specified controlled drugs; and
- (c) to make miscellaneous amendments.

The Bill also makes consequential and related amendments to the Civil Defence Act 1986, the Environmental Public Health Act 1987, the Merchant Shipping Act 1995, the Prisons Act 1933, the Road Traffic Act 1961, the Road Vehicles (Special Powers) Act 1960, the Sale of Food Act 1973, the Singapore Armed Forces Act 1972 and the Work Injury Compensation Act 2019.

Clause 1 relates to the short title and commencement. This Explanatory Statement is arranged thematically.

PART 1

PSYCHOACTIVE SUBSTANCES

Clause 2(c) and (g) amends section 2 to define psychoactive substance, psychoactive effect and excluded substance.

A psychoactive substance means a substance or product that has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product but does not include an excluded substance. Psychoactive effect means the stimulation or depression, whether directly or indirectly, of an individual's central nervous system, affecting the individual's mental functioning or emotional state. Excluded substance means a substance specified in the Fifth Schedule.

A psychoactive substance would generally be a substance that mimics the effects of a controlled drug but has not yet been identified and therefore cannot as yet be listed in the First Schedule as a controlled drug.

Clause 35 repeals and re-enacts the Fifth Schedule. The regulatory scheme for psychoactive substances will replace the framework for temporarily listed drugs in the existing Fifth Schedule. Clause 31 will accordingly repeal section 58A and clause 33 will consequently amend the Schedule reference of the First Schedule. The new Fifth Schedule will set out the list of substances excluded from the definition of a psychoactive substance under the Act. An example of such a substance is any intoxicating substance under the Intoxicating Substances Act 1987 because that Act already prohibits the misuse of intoxicating substances. Clause 32 amends section 59 to allow the Minister to amend the Fifth Schedule by order in the *Gazette*.

Clause 7 inserts a new Part 2A which relates to the following offences involving psychoactive substances:

- (a) the new section 11F deals with the offence of trafficking in a psychoactive substance and is based on section 5 which applies to trafficking of a controlled drug;
- (b) the new section 11G deals with the offence of the manufacture of a psychoactive substance and is based on section 6 which prohibits the manufacture of a controlled drug. Clause 2(e) and (f) amends the definition of “manufacture” in section 2 so that it applies in relation to a psychoactive substance;
- (c) the new section 11H deals with the offence of the import or export of a psychoactive substance and is based on section 7 which prohibits the import or export of a controlled drug;
- (d) the new section 11I deals with the offence of the possession or consumption of a psychoactive substance and is based on section 8 which prohibits the possession or consumption of a controlled drug. The penalty for the offence of unauthorised possession of a psychoactive substance is a fine not exceeding \$20,000, imprisonment for a term not exceeding 10 years or both. This is subject to the enhanced penalty provision in the new section 11I(3). The penalty for the offence of unauthorised consumption, etc., of a psychoactive substance is provided for under the new section 33(3C) and (3D) (as inserted by clause 25(3));
- (e) the new section 11J provides that the offence of consuming a psychoactive substance applies to a citizen or permanent resident of Singapore outside Singapore as well as within Singapore and is based on section 8A which applies to a controlled drug;
- (f) the new section 11K deals with the offence of the possession of paraphernalia intended for the smoking, administration or consumption of a psychoactive substance and is based on section 9

which applies to paraphernalia intended for the smoking, administration or consumption of a controlled drug;

- (g) the new section 11L makes it an offence for an owner, tenant, occupier or person in charge of any place or premises, to permit or allow that place or premises or any part of that place or premises, to be opened, kept or used for the purpose of smoking, administration or consumption of any psychoactive substance in contravention of the new section 11I(1)(b) or the unlawful trafficking in or the unlawful manufacturing of any psychoactive substance and is based on section 11 which applies to a controlled drug;
- (h) the new section 11M deals with the offence of arranging or planning gatherings where psychoactive substances are to be consumed or trafficked and is based on section 11A which applies to a controlled drug;
- (i) the new section 11N deals with the offences of exposing a child to any psychoactive substance or paraphernalia and permitting a young person to consume a psychoactive substance and is based on section 11B which applies to a controlled drug;
- (j) the new section 11O deals with the offence of introducing a psychoactive substance trafficker to another person and is based on section 11C which applies to a controlled drug;
- (k) the new section 11P makes it an offence for any person (*A*), whether or not through the use of any electronic media, to teach or instruct another person (*B*) to carry out, or to provide information to *B* on the carrying out of, certain proscribed activities that contravene the Act and is based on section 11D which applies to a controlled drug;
- (l) the new section 11Q makes it an offence for a person of or above 21 years of age to cause or procure any young person or vulnerable person to commit any offence under the new section 11F(1) or 11H(1) and is based on section 11E which applies to a controlled drug.

Clause 15 inserts a new section 22A which provides that in any proceedings for certain offences, for the purpose of proving that a substance or product is a psychoactive substance, it is sufficient for the prosecution to prove that the substance or product has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product. It is not necessary for the prosecution to prove that the substance or product is not an excluded substance.

The new section 22A also provides that in any proceedings for those offences, a person who asserts that the psychoactive substance is an excluded substance bears the burden of proving that assertion on a balance of probabilities. For

example, an accused charged for an offence of trafficking a psychoactive substance who asserts that the substance in question is not a psychoactive substance because it is an excluded substance bears the burden of proving that assertion on a balance of probabilities.

The offences relating to psychoactive substances must be read with the new section 22B (which is also inserted by clause 15). The new section 22B provides that where knowledge that a substance is a psychoactive substance is a fault element of an offence in the Act, that fault element is established if the person alleged to have committed the offence —

- (a) knows that the psychoactive substance has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; and
- (b) did not believe or had no reason to believe that the psychoactive substance is an excluded substance,

whether or not that person knows the name or chemical composition of the psychoactive substance.

A defence relating to the use of the psychoactive substance for a legitimate purpose other than human consumption (whether or not that psychoactive substance is fit for human consumption) applies to certain offences involving psychoactive substances:

- (a) the new section 11F(6) provides that in any proceedings for an offence under section 11F(1), it is a defence for the accused to prove, on a balance of probabilities, that the accused intended or believed that the psychoactive substance in question would be used for a legitimate purpose other than human consumption;
- (b) the new section 11G(3) provides that in any proceedings for an offence under section 11G(1), it is a defence for the accused to prove, on a balance of probabilities, that the accused manufactured the psychoactive substance for a legitimate purpose other than human consumption;
- (c) the new section 11H(5) provides that in any proceedings for an offence under section 11H(1), it is a defence for the accused to prove, on a balance of probabilities, that the accused imported or exported the psychoactive substance for a legitimate purpose other than human consumption;
- (d) the new section 11I(4) provides that in any proceedings for an offence under section 11I(1)(a), it is a defence for the accused to prove, on a balance of probabilities, that the accused had the psychoactive

substance in his or her possession for a legitimate purpose other than human consumption;

- (e) the new section 11N(6) provides that in any proceedings for an offence under section 11N(1) in relation to the possession of a psychoactive substance, it is a defence for the accused to prove, on a balance of probabilities, that the accused had the psychoactive substance in his or her possession for a legitimate purpose other than human consumption;
- (f) the new section 11O(5) provides that in any proceedings for an offence under section 11O(1)(a), it is a defence for the accused to prove, on a balance of probabilities, that the accused believed that the person in question intended to procure the psychoactive substance for a legitimate purpose other than human consumption;
- (g) the new section 11P(9)(b) provides that in any proceedings for an offence under section 11P(1)(a) (where an accused teaches or instructs another person to carry out, etc., the manufacture of a psychoactive substance), it is a defence for the accused to prove, on a balance of probabilities, that the accused believed that the person intended to manufacture the psychoactive substance for a legitimate purpose other than human consumption;
- (h) the new section 11P(9)(c) provides that in any proceedings for an offence under section 11P(1)(c) or (d) (where an accused teaches or instructs another person to carry out, etc., the trafficking, etc., in a psychoactive substance), it is a defence for the accused to prove, on a balance of probabilities, that the accused believed that the person intended to traffic or do any act preparatory to or for the purpose of trafficking, or import or export, the psychoactive substance for a legitimate purpose other than human consumption.

Clause 10 inserts a new section 18A which deals with the presumption of possession of a psychoactive substance and the presumption of knowledge of a psychoactive substance, and is based on section 18 which applies to a controlled drug.

A person who is proved to have had in his or her possession or custody or under his or her control anything containing a psychoactive substance, the keys of anything containing a psychoactive substance, the keys of any place or premises or any part of that place or premises in which a psychoactive substance is found or a document of title relating to a psychoactive substance or any other document intended for the delivery of a psychoactive substance, is presumed, until the contrary is proved, to have had that psychoactive substance in his or her possession.

The presumption of knowledge of a psychoactive substance in the new section 18A(2) should be read with the new section 22B and contains 2 separate presumptions. A person who is proved or presumed to have had a psychoactive substance in his or her possession, is presumed —

- (a) to have known that the psychoactive substance has the capacity to have a psychoactive effect on an individual if the individual smokes, administers to himself or herself or otherwise consumes, the substance or product; and
- (b) to not believe (and to have had no reason to believe) that the psychoactive substance is an excluded substance.

The following amendments also relate to the statutory framework for and relating to the regulation of psychoactive substances:

- (a) clause 2(b) amends the definition of “drug addict” in section 2 to include a person who, through the use of any psychoactive substance, has developed a desire or need to continue to take that psychoactive substance or a psychological or physical dependence upon the effect of that psychoactive substance. The effect of this amendment is that a person who is addicted to a psychoactive substance may be subject to supervision, treatment or rehabilitation under section 34;
- (b) clause 9(b) amends section 16 to extend it to certificates purporting to relate to a psychoactive substance;
- (c) clauses 11, 12 and 13 amend sections 19, 20 and 21, respectively, to apply in relation to a psychoactive substance;
- (d) clause 14 amends section 22 to extend the presumption so that a person is presumed to have consumed a psychoactive substance in contravention of the new section 11I(1)(b) if the psychoactive substance is found in the urine of the person as a result of both urine tests conducted under section 31(4)(b). Clauses 21, 22 and 23 amend sections 31, 31A and 31B, respectively, so that a urine test, hair test or oral fluid test under that provision applies in relation to the offence of consuming, etc., a psychoactive substance;
- (e) clauses 16(1)(b) and (2), 18(a), (b), (d) and (f), 19(c) and 24(b) amend sections 24, 26, 27 and 32, respectively, to remove references to a drug specified in the existing Fifth Schedule and, where necessary, replace them with references to a psychoactive substance. Clauses 17(c) and 19(b) and (d) amend sections 25 and 27 to insert references to a psychoactive substance;
- (f) clause 30 amends section 58 to extend the Minister’s regulation-making powers to relate to psychoactive substances.

Clauses 36, 37, 38, 39, 40, 41, 42, 43 and 44 make consequential amendments to the Civil Defence Act 1986, the Environmental Public Health Act 1987, the Merchant Shipping Act 1995, the Prisons Act 1933, the Road Traffic Act 1961, the Road Vehicles (Special Powers) Act 1960, the Sale of Food Act 1973, the Singapore Armed Forces Act 1972 and the Work Injury Compensation Act 2019, respectively, to refer to psychoactive substances and the offences relating to psychoactive substances. In addition, related amendments to the Singapore Armed Forces Act 1972 insert evidential provisions relating to those offences. Further, a related amendment to the Road Vehicles (Special Powers) Act 1960 makes an offence under section 5 or 6 a scheduled offence.

PART 2

INCREASED PENALTIES FOR POSSESSION OF CERTAIN QUANTITIES OF SPECIFIED CONTROLLED DRUGS

Clause 34 amends the Second Schedule to increase the penalties for the offence of the unauthorised possession of certain quantities of specified controlled drugs under section 8(a). The controlled drugs affected by this amendment are cannabis, cannabis mixture, cannabis resin, cocaine, diamorphine, methamphetamine, morphine and opium.

The penalties are separated into 3 tiers depending on the quantity of the specific controlled drug in question. Where the quantity of the controlled drug falls within the lower tier, the penalty remains unchanged (subject to the new enhanced penalty provision in the new section 33(3B) as inserted by clause 25(1)(c)). Where the quantity of the controlled drug falls within the middle tier, the penalty is a mandatory minimum sentence of 10 years' imprisonment and 5 strokes of the cane and a maximum sentence of 20 years' imprisonment and 10 strokes of the cane. Where the quantity of the controlled drug falls within the higher tier, the penalty is a mandatory minimum sentence of 20 years' imprisonment and 10 strokes of the cane and a maximum sentence of 30 years' imprisonment and 15 strokes of the cane. These increased penalties do not apply to an offence committed before the amendments come into force because Article 11(1) of the Constitution of the Republic of Singapore provides that no person shall suffer greater punishment for an offence than was prescribed by law at the time it was committed.

In all other cases, the penalty for the possession of a controlled drug remains unchanged (subject to the enhanced penalty provision in the new section 33(3B) that will also apply in relation to a previous conviction under the new section 11I(1)(a)).

PART 3

MISCELLANEOUS

Clause 2(*a*) amends the definition of “article liable to seizure” in section 2 to clarify that it includes any money, thing, controlled equipment or controlled material which constitutes evidence of an offence under the Act. Clause 2(*d*) inserts the definition of “Home Team Science and Technology Agency”.

Clause 3 amends section 11 to clarify that an owner, tenant, occupier or person in charge of any place or premises only commits an offence if the smoking, administration or consumption of any controlled drug is in contravention of section 8(*b*).

Clause 4 amends section 11B to provide that the enhanced penalty provision in the new section 11B(3A) will apply if a person is guilty of an offence under section 11B(1) or (2) and has a previous conviction under section 11B(1) or (2) or the equivalent offence provision for psychoactive substances in the new section 11N(1) or (2).

Clause 5 amends section 11C to provide that a person (*A*) only commits an offence by introducing another person (*B*) to a person whom *A* knows or has reason to believe is trafficking in any controlled drug and is likely to supply *B* with any controlled drug if *A* knows or has reason to believe that *B* intends to procure a controlled drug and the possession of the controlled drug by *B* (or a person that *B* is procuring the controlled drug for) would not be authorised under the Act or *B* intends, without any authorisation under the Act, to smoke, administer or consume a controlled drug.

Section 11C is also amended to provide that the enhanced penalty provision in the new section 11C(2A) will apply if a person is guilty of an offence under section 11C(1) and has a previous conviction under section 11C(1) or the equivalent offence provision for psychoactive substances in the new section 11O(1).

Clause 6 amends section 11D to provide that the enhanced penalty provision in the new section 11D(4) will apply if a person is guilty of an offence under section 11D(1) and has a previous conviction under section 11D(1) or the equivalent offence provision for psychoactive substances in the new section 11P(1).

Section 11D is also amended to provide that the enhanced penalty provision in the new section 11D(4B) will apply if a person is guilty of an offence under section 11D(2) and has a previous conviction under section 11D(2) or the equivalent offence provision for psychoactive substances in the new section 11P(2).

Clause 8 inserts a new Part 2B heading.

Clause 9(a) amends section 16 so that it also applies in relation to a certificate purporting to be signed by an analyst employed by the Home Team Science and Technology Agency.

Clause 16(1) amends section 24(1) to insert a reference to a special police officer so that a special police officer may exercise the powers of search and seizure in that section.

Section 24 is amended to clarify that the officer of the Central Narcotics Bureau, police officer, special police officer or senior officer of customs may seize and detain any drug, substance or article that he or she reasonably suspects is a controlled drug, a controlled substance or an article liable to seizure.

Section 24 is also amended to provide that the officer of the Central Narcotics Bureau, police officer, special police officer or senior officer of customs may seize and detain any vehicle, autonomous vehicle, unmanned aircraft, unmanned vessel, component of the autonomous system of an autonomous vehicle or unmanned vessel, or component of an unmanned aircraft system, that he or she reasonably suspects is, has been or is intended to be, used in the commission of or in connection with an offence under the Act.

Clause 20 amends section 30(2) to extend the definition of “public officer” to include a special police officer exercising any power under section 24.

Clauses 16(1)(c), 17(a), 24(a), (c), (d) and (e) and 30(1)(h) amend sections 24(1)(a)(ii), 25(1), 32(1) and (2) and 58(1)(u), respectively, to substitute a reference to a seizable offence with a reference to an arrestable offence.

Clause 17 amends section 25 to clarify that the officer making an arrest under the section may seize and detain any drug, substance or article that the officer reasonably suspects is a controlled drug, a controlled substance or an article liable to seizure.

Clause 18 amends section 26 to clarify that an officer may seize and detain any drug, substance or article that he or she reasonably suspects is a controlled drug, a controlled substance or an article liable to seizure.

Sections 24, 25 and 26 are also amended to cover psychoactive substances, by a separate amending instruction to allow for staged commencement.

Section 26 is also amended to clarify that an officer may seize and detain any ship, hovercraft, aircraft, autonomous vehicle, unmanned aircraft, unmanned vessel, component of the autonomous system of an autonomous vehicle or unmanned vessel, or component of an unmanned aircraft system, vehicle or train, that he or she reasonably suspects has been or is intended to be, used in the commission of or in connection with an offence under the Act.

Clause 19(a) deletes and substitutes section 27(1) to allow an officer who carried out the seizure to give the owner of the thing, notice in any manner that the officer thinks expedient.

Clause 21 amends the definitions of “relevant person” and “relevant time” in section 31(9) so that the Director of the Central Narcotics Bureau may order a person convicted of an offence under section 26 of the Singapore Armed Forces Act 1972 involving the consumption of a controlled drug (or psychoactive substance) or section 34 of the Singapore Armed Forces Act 1972 for the consumption of a controlled drug (or psychoactive substance), to provide a specimen of the person’s urine for urine tests or a specimen of the person’s hair for a hair test, under section 31(1A) or 31A(1A).

Clause 25(1)(e) amends section 33 to clarify that a previous conviction for an offence of consumption of a controlled drug under section 34 of the Singapore Armed Forces Act 1972 will be a previous conviction for the purposes of enhanced penalties under section 33(4AA) and (4AB).

Clause 26 amends section 33A to clarify that an offence under section 34 of the Singapore Armed Forces Act 1972 will only count as an antecedent for the purposes of section 33A(1B) where that offence is for the consumption of a controlled drug that is a specified drug.

Clause 27 amends section 36A to provide that the Commissioner of Prisons may appoint a person to be the superintendent of a community rehabilitation centre and to set out the responsibility of the superintendent.

Clause 28 amends section 38 to provide that it is the superintendent of a community rehabilitation centre who may enter into an arrangement for the transfer of an inmate or order that an inmate be taken to a place.

Clause 29 amends section 38A to expand the purpose for which a prison officer may exercise the power to obtain information in section 38A(1) to include assisting the person appointed to be the superintendent of a community rehabilitation centre.

Clause 45 contains a transitional provision and empowers the Minister to make further provisions of a saving or transitional nature for any provision of the Bill for a period of 2 years after the date of commencement of any provision of the Bill.

EXPENDITURE OF PUBLIC MONEY

This Bill will not involve the Government in any extra financial expenditure.
