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Misuse of Drugs (Amendment) Bill

Bill No. 51/2018.

Read the first time on 19 November 2018.

A BILL

intituled

An Act to amend the Misuse of Drugs Act (Chapter 185 of the 2008 Revised Edition).

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

Short title and commencement

1. This Act is the Misuse of Drugs (Amendment) Act 2019 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

5 Amendment of section 2

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

(a) by inserting, immediately before the definition of “approved institution”, the following definition:

10 ““aircraft” has the same meaning as in section 2(1) of the Air Navigation Act (Cap. 6);”;

(b) by inserting, immediately after the definition of “article liable to seizure”, the following definitions:

15 ““autonomous system”, in relation to a motor vehicle or vessel, means a system that enables the operation of the motor vehicle or vessel without the active physical control of, or monitoring by, a human operator;

20 “autonomous vehicle” means a motor vehicle equipped wholly or substantially with an autonomous system (also commonly known as a driverless vehicle), and includes a trailer drawn by such a motor vehicle;”;

25 (c) by deleting the definition of “Vigilante Corps” and substituting the following definitions:

““unmanned aircraft” and “unmanned aircraft system” have the same meanings as in section 2(1) of the Air Navigation Act;

30 “unmanned vessel” means a vessel equipped wholly or substantially with an autonomous system (such as an unmanned surface vehicle and a saildrone) and includes a barge drawn by an unmanned vessel;

“vehicle” means any means of transport used on land, whether self-propelled or not, such as a train, motor car, bicycle or personal mobility device;

“vessel” includes a floating facility;”.

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New sections 11B to 11E

3. The principal Act is amended by inserting, immediately after section 11A, the following sections:

“Exposing child to drugs, etc., and permitting young person to consume drugs

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11B.—(1) Any person of or above 21 years of age who, being in possession of any controlled drug or drug paraphernalia —

(a) knowingly or recklessly leaves the controlled drug or drug paraphernalia —

(i) exposed in any place; or

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(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 —

(i) the place where the controlled drug or drug paraphernalia is left exposed; or

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(ii) the refrigerator, cupboard, cabinet, box, chest or other article in which the controlled drug or drug paraphernalia is located,

shall be guilty of an offence.

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(2) Any person of or above 21 years of age who, being in possession of any controlled drug —

(a) permits a young person to smoke, administer (whether or not to himself) or consume the controlled drug; or

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(b) does not take all reasonable steps to prevent a young person from smoking, administering (whether or not to himself) or consuming the controlled drug,

shall be guilty of an offence.

5 (3) Any person guilty of an offence under subsection (1) or (2) shall —

(a) on conviction, be punished with imprisonment for a term not exceeding 10 years; and

10 (b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than 2 years and not more than 10 years.

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

(5) In this section —

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

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

Introducing drug trafficker to another person

11C.—(1) Any person (*A*) who, knowing or having reason to believe that another person (*B*) intends —

25 (a) to procure, whether or not for himself, any controlled drug; or

(b) to smoke, administer (whether or not to himself) or consume any controlled drug,

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.

(2) Any person guilty of an offence under subsection (1) shall —

(a) on conviction, be punished with imprisonment for a term not exceeding 10 years; and

(b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than 2 years and not more than 10 years. 5

(3) 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 controlled drug after the introduction is made; or 10

(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.

(4) 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 cultivate cannabis, etc., or to manufacture or consume controlled drugs, etc.

11D.—(1) Any 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 cultivating of any plant of the genus *Cannabis*, or any plant of the species *papaver somniferum* or any plant of the genus *erythroxyton* from which cocaine can be extracted; 25

(b) the manufacture of any controlled drug;

(c) the smoking, administering or consuming of any controlled drug; 30

(d) the trafficking or doing of any act preparatory to or for the purpose of trafficking in any controlled drug;

- (e) the importing into or exporting from Singapore of any controlled drug,

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

5 (2) Any 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.

10 (3) Any person guilty of an offence under subsection (1) shall —

(a) on conviction, be punished with imprisonment for a term not exceeding 10 years; and

15 (b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than 2 years and not more than 10 years.

(4) Any person guilty of an offence under subsection (2) shall —

20 (a) on conviction, be liable to be punished with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 5 years or with both; and

(b) on a second or subsequent conviction, be punished with imprisonment for a term of not less than one year and not more than 5 years.

25 (5) 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 —

30 (a) *B* carries out the activity after *B* is so taught, instructed or provided with information; or

(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.

(6) 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. 5

(7) It is a defence to a charge under subsection (1) if *A* who teaches or instructs *B* to carry out, or provides information to *B* on the carrying out of, any activity mentioned in that subsection proves, on a balance of probabilities, that 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. 10

(8) 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. 15

(9) It is a defence to a charge under subsection (2) if the person who disseminates or publishes information on the carrying out of any activity mentioned in subsection (1) proves, on a balance of probabilities, that the dissemination or publication 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 25

Causing or procuring young person or vulnerable person to commit certain offences

11E. 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 5(1) or 7 shall be guilty of an offence.”. 30

Repeal of section 12A

4. Section 12A of the principal Act is repealed.

Repeal and re-enactment of section 13

5. Section 13 of the principal Act is repealed and the following section substituted therefor:

5 **“Abetting or procuring commission of offences within or outside Singapore**

13. Any person who —

(a) aids, abets, counsels or procures the commission in any place outside Singapore of an offence punishable under a corresponding law in force in that place;

10 (b) aids, abets, counsels or procures the commission of any offence under this Act within Singapore, even though all or any of the acts constituting the aiding, abetment, counselling or procurement were done outside Singapore; or

15 (c) does an act preparatory to, or in furtherance of, an act outside Singapore which if committed in Singapore would constitute an offence under this Act,

shall be guilty of an offence and shall be liable on conviction —

20 (d) in relation to an offence mentioned in paragraph (a) or (c), to imprisonment for a term of not less than 2 years but not more than 10 years, or to a fine of not less than \$4,000 and not more than \$40,000, or to both; and

25 (e) in relation to an offence mentioned in paragraph (b), to the same punishment provided for the offence that the person aided, abetted, counselled or procured.”.

Amendment of section 24

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

30 (a) by deleting the words “not below the rank of Assistant Superintendent of Police or any police officer authorised by him or any” and substituting the word “or”;

(b) by deleting the word “or” at the end of sub-paragraph (i) of paragraph (a), and by inserting immediately thereafter the following sub-paragraph:

“(ia) 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, which is or has been used in the commission of or in connection with an offence under this Act; or”; and

(c) by deleting paragraph (c) and substituting the following paragraph:

“(c) seize and detain all of the following which is found in that place or premises:

- (i) any controlled drug, controlled substance, or drug specified in the Fifth Schedule or substance containing any drug specified in that Schedule;
- (ii) any article liable to seizure;
- (iii) 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, which is or has been used in the commission of or in connection with an offence under this Act.”.

Amendment of section 25

7. Section 25(1) of the principal Act is amended by deleting the words “officer of customs, or special police officer or member of the Vigilante Corps authorised in writing by a police officer not below the rank of Assistant Superintendent of Police,” and substituting the words “special police officer or officer of customs”.

Amendment of section 26

8. Section 26 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 word “and” at the end of paragraph (b) of subsection (1), and by inserting immediately thereafter the following paragraph:

“(ba) intercept and search any autonomous vehicle, unmanned aircraft or unmanned vessel if he has reason to suspect that there is in any such vehicle, aircraft or vessel —

(i) any controlled drug or controlled substance;

(ii) any drug specified in the Fifth Schedule;

(iii) any substance containing any drug specified in the Fifth Schedule; or

(iv) any article liable to seizure; and”;

(c) by inserting, immediately after the word “aircraft,” in subsection (2)(b), the words “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,”;

(d) by inserting, immediately after subsection (2), the following subsection:

“(2A) An officer may —

- (a) in relation to any autonomous vehicle, unmanned aircraft or unmanned vessel that is to be intercepted and searched under subsection (1)(ba), direct any person whom the officer reasonably believes to be involved in operating the autonomous vehicle, unmanned aircraft or unmanned vessel —
 - (i) to end the flight of the unmanned aircraft, or land it, safely in the fastest practicable way; 5
 - (ii) to stop the autonomous vehicle or unmanned vessel safely in the fastest practicable way; or 15
 - (iii) to fly the unmanned aircraft or to operate the autonomous vehicle or unmanned vessel in the manner specified by the officer;
- (b) in relation to any autonomous vehicle, unmanned aircraft or unmanned vessel that is to be intercepted and searched under subsection (1)(ba), without warrant and with such assistance and by such force as is necessary — 20
 - (i) assume control of the unmanned aircraft to fly the aircraft, or to end the flight of the aircraft, or land it, safely in the fastest practicable way; 25
 - (ii) assume control of the autonomous vehicle or unmanned vessel to steer the vehicle or vessel, or to stop the vehicle or vessel (as the case may be) safely in the fastest practicable way; 30

(iii) end the flight of the unmanned aircraft, or land it, in the fastest and safest practicable way; or

(iv) stop the autonomous vehicle or unmanned vessel in the fastest and safest practicable way; or

(c) direct any person to operate any ship, hovercraft, aircraft, autonomous vehicle, unmanned aircraft, unmanned vessel, vehicle or train seized and detained under subsection (2)(b), in such manner as the officer determines.”;

(e) by inserting, immediately after the word “aircraft,” in subsection (3), the words “autonomous vehicle, unmanned aircraft, unmanned vessel,”; and

(f) by deleting the words “aircraft, vehicle or train” in the section heading and substituting the word “etc.,”.

New section 26A

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

“Procedure when person entitled to seized item is known, unknown or cannot be found

26A.—(1) Subject to subsections (2) to (11), if a relevant officer determines that any seized item is not required for the purposes of any investigation or proceedings for any offence under this Act, the relevant officer may return the seized item to the owner of the seized item, or any person authorised by the owner.

(2) If the owner of any seized item is known, a relevant officer must notify the owner to claim the seized item, and such notification may be given —

(a) by posting a notice in writing to the owner of the seized item at the owner’s usual or last known place of residence or business in Singapore; or

(b) in such other manner as the relevant officer thinks expedient.

(3) If the owner or the person authorised by the owner does not claim the seized item within one month after the notification is given under subsection (2), any relevant officer may cause to be sold, or otherwise dispose of, the seized item but only after giving one month's notice in the *Gazette* of the relevant officer's intention to do so.

(4) Despite subsection (3), if the value of the seized item is, in the opinion of the Director, less than \$500, any relevant officer may cause the seized item to be sold or disposed of at any time.

(5) If the owner or the person authorised by the owner claims the seized item after it is sold under subsection (3) or (4), the owner is only entitled to the net proceeds.

(6) If the owner of a seized item is unknown or cannot be found, a relevant officer must issue a public notice, specifying the seized item and requiring any person who has a claim to it to appear before the relevant officer and establish the person's claim within 6 months after the date of the public notice.

(7) Every public notice under subsection (6) must be published in the *Gazette* or any daily newspaper but only if, in the opinion of the Director, the value of the seized item is at least \$1,000.

(8) If no person establishes a claim to the seized item within one month after the publication of a public notice issued under subsection (6), and if the person in whose possession the seized item was found cannot show he had legally acquired it, then the seized item may be sold on the order of a relevant officer.

(9) Despite subsection (8), if the value of the seized item is, in the opinion of the Director, less than \$1,000, or if keeping the seized item involves unreasonable expense or inconvenience, a relevant officer may cause the seized item to be sold or disposed of at any time.

(10) If no person has established a claim to the seized item within 6 months after the publication of the public notice mentioned in subsection (6), the ownership of the seized item or

(if sold) its net proceeds is to pass and be vested in the Government absolutely.

(11) If a person establishes the person's claim to the seized item within 6 months after the publication of the public notice mentioned in subsection (6), and the seized item has already been sold by a relevant officer, that person is only entitled to the net proceeds.

(12) This section applies in relation to any ship, hovercraft, aircraft, vehicle or train even though it was seized before the date of commencement of section 9 of the Misuse of Drugs (Amendment) Act 2019.

(13) In this section —

“relevant officer” means any Deputy Director of the Central Narcotics Bureau appointed under section 3(1) or any person authorised by the Deputy Director;

“seized item” means 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 is seized under section 24 or 26.”.

Amendment of section 27

10. Section 27 of the principal Act is amended by inserting, immediately after the word “forfeited” in subsections (4) and (5), the words “to the Government”.

Amendment of section 28

11. Section 28 of the principal Act is amended —

(a) by deleting the words “or aircraft” in subsection (1) and substituting the words “, aircraft, unmanned aircraft, unmanned vessel, component of the autonomous system of an unmanned vessel, or component of an unmanned aircraft system”;

- (b) by inserting, immediately after the word “vehicle” in subsection (2), the words “, autonomous vehicle, or component of the autonomous system of the autonomous vehicle”;
- (c) by deleting the words “or hovercraft” in subsection (3) and substituting the words “, hovercraft or unmanned vessel”;
- (d) by inserting, immediately after the words “any aircraft” in subsection (3), the words “or unmanned aircraft”;
- (e) by deleting subsection (4) and substituting the following subsection:
- “(4) Any ship, hovercraft, aircraft, 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, must not be forfeited under this section if its owner establishes that the ship, hovercraft, aircraft, vehicle, autonomous vehicle, unmanned aircraft or unmanned vessel was unlawfully in the possession of another person without the consent of the owner.”;
- and
- (f) by deleting the words “aircraft or vehicle” in the section heading and substituting the word “etc.”.

Amendment of section 30

12. Section 30(2) of the principal Act is amended by deleting the words “or member of the Vigilante Corps exercising any power under section 25” and substituting the words “exercising any power under section 25 or 26”.

Amendment of section 31

13. Section 31 of the principal Act is amended —

- (a) by inserting, immediately after subsection (1), the following subsections:

“(1A) The Director may, for the purpose of ensuring that a relevant person is no longer a drug addict, after the relevant time, order the relevant person —

(a) to present himself to any officer of the Bureau, immigration officer or police officer not below the rank of sergeant; and

(b) to provide a specimen of the relevant person’s urine for urine tests to be conducted under this section as required by such officer.

(1B) Any serviceman in the Singapore Armed Forces who is appointed by the Minister as an enforcement officer may, if the enforcement officer reasonably suspects a person subject to military law under section 3 of the Singapore Armed Forces Act (Cap. 295) to have committed an offence under section 8(b), require that person to provide a specimen of that person’s urine for urine tests to be conducted under this section.”;

(b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “, (1A) or (1B)”;

(c) by inserting, immediately after subsection (2), the following subsection:

“(2A) A person who fails, without reasonable excuse, to comply with an order under subsection (1A) shall be guilty of an offence.”;

(d) by inserting, immediately after the words “subsection (1)” in subsection (5), the words “, (1A) or (1B)”;

(e) by inserting, immediately after subsection (8), the following subsection:

“(9) In this section and section 31A —

“relevant person” means —

(a) any person discharged from an approved institution;

- (b) any person convicted of an offence under subsection (2) or section 8(b) or 31A(2);
- (c) any person subject to a supervision order made under section 34(2)(a) whose supervision order has lapsed; or
- (d) any person who —
 - (i) after having undergone treatment and rehabilitation at approved or other institutions; or
 - (ii) after having been convicted of an offence under subsection (2) or section 8(b) or 31A(2) or an offence under section 34 of the Singapore Armed Forces Act, has been subject to a supervision order made pursuant to the regulations, and the supervision order has lapsed;

“relevant time” means —

- (a) in relation to a person mentioned in paragraph (a) of the definition of “relevant person”, the time the person is discharged from the approved institution;
- (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 subsection (2) or section 8(b) or 31A(2);

(c) in relation to a person mentioned in paragraph (c) of the definition of “relevant person”, the time the supervision order lapses; or

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(d) in relation to a person mentioned in paragraph (d) of the definition of “relevant person”, the time the supervision order lapses.”.

Amendment of section 31A

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14. Section 31A of the principal Act is amended —

(a) by inserting, immediately after subsection (1), the following subsection:

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“(1A) The Director may, for the purpose of ensuring that a relevant person is no longer a drug addict, after the relevant time, order the relevant person —

(a) to present himself to any officer of the Bureau, immigration officer or police officer not below the rank of sergeant; and

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(b) to provide specimens of the relevant person’s hair for a hair test to be conducted under this section as required by such officer.”;

(b) by inserting, immediately after the words “subsection (1)” in subsection (2), the words “or (1A)”; and

25

(c) by inserting, immediately after subsection (2), the following subsection:

“(2A) A person who fails, without reasonable excuse, to comply with an order under subsection (1A) shall be guilty of an offence.”.

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New section 31B

15. The principal Act is amended by inserting, immediately after section 31A, the following section:

“Oral fluid tests

31B.—(1) Any officer of the Bureau, immigration officer or police officer not below the rank of sergeant may, if the officer reasonably suspects any person to have committed an offence under section 8(*b*), require that person to provide one or more specimens of the person’s oral fluid for the purpose of conducting any oral fluid test. 5

(2) A person who fails, without reasonable excuse, to provide any specimen of the person’s oral fluid as required under subsection (1) shall be guilty of an offence. 10

(3) In this section —

“oral fluid test” means a test carried out by an oral fluid testing device for the purpose of ascertaining whether any controlled drug is present in the person’s oral fluid;

“oral fluid testing device” means any device that is designed to indicate the presence of any controlled drug in the person’s oral fluid.”. 15

Amendment of section 33

16. Section 33 of the principal Act is amended —

(*a*) by deleting the words “subsection (4), (4A)” in subsection (1) and substituting the words “subsection (4A)”; 20

(*b*) by inserting, immediately after subsection (3), the following subsection:

“(3A) Any person convicted of an offence under section 8(*b*), 31(2) or 31A(2) that is committed on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019 shall on conviction be punished with imprisonment for a term of not less than one year but not more than 10 years and shall also be liable to a fine not exceeding \$20,000, unless the person is punished under subsection (4), (4AA) or (4AB) or section 33A (as the case may be) for that same offence.”; 25 30

(c) by deleting the words “any person convicted of an offence under section 8(b) or 31(2)” in subsection (4) and substituting the words “any person who has a previous conviction under section 8(b) or 31(2)”;

5 (d) by inserting, immediately after subsection (4), the following subsections:

“(4AA) If a person —

(a) has —

10 (i) a previous conviction under section 31A(2);

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

15 (iii) a previous conviction under section 34 of the Singapore Armed Forces Act; and

(b) is convicted of an offence under section 8(b) or 31(2), being an offence which is committed on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019,

he shall on conviction be punished with imprisonment for a term of not less than 3 years unless he is punished under section 33A for that same offence.

25 (4AB) If a person —

(a) has —

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

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

(iii) a previous conviction under section 34 of the Singapore Armed Forces Act; and

(b) is convicted of an offence under section 31A(2), being an offence which is committed on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019,

he shall on conviction be punished with imprisonment for a term of not less than 3 years unless he is punished under section 33A for that same offence.

(4AC) A certificate purporting to be signed by an officer authorised by the Commissioner of Prisons and purporting to relate to a person's previous admission to an approved institution under this Act is admissible in evidence in any proceedings under this section, on its production by the prosecution without proof of signature.

(4AD) A certificate —

(a) purporting to be signed by the registrar for the subordinate military courts, or the registrar for the Military Court of Appeal, appointed under section 82(5)(c) of the Singapore Armed Forces Act; and

(b) purporting to relate to a person's previous conviction under section 34 of the Singapore Armed Forces Act,

is admissible in evidence, in any proceedings under this section, on its production by the prosecution without proof of signature.

(4AE) The certificate mentioned in subsection (4AC) or (4AD) is, until the contrary is proved, evidence of the matters contained in it.”; and

(e) by deleting subsection (5) and substituting the following subsection:

“(5) For the purposes of this section —

5 (a) a conviction under section 8(b) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at any time on or after 1 October 1992 is deemed to be a previous conviction under
10 section 8(b);

15 (b) a conviction under section 31(2) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at any time on or after 1 October 1992 is deemed to be a previous conviction under
section 31(2);

20 (c) a conviction under section 31A(2) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at any time on or after 1 May 2013 is deemed to be a previous conviction under
section 31A(2);

25 (d) a conviction under section 34 of the Singapore Armed Forces Act on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019 is deemed to be a previous conviction under section 34 of the
30 Singapore Armed Forces Act;

(e) “admission” means an admission under section 34(2) to an approved institution at any time on or after 1 October 1992; and

- (f) “convicted of an offence”, in relation to an offence under section 8(b), 31(2) or 31A(2), includes a conviction by a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act.” 5

Amendment of section 33A

17. Section 33A of the principal Act is amended —

- (a) by inserting, immediately after subsection (1), the following subsections: 10

“(1A) Where a person who has not less than —

- (a) 2 previous admissions;
- (b) 2 previous convictions for consumption of a specified drug under section 8(b);
- (c) 2 previous convictions for an offence of failure to provide a urine specimen under section 31(2); 15
- (d) one previous admission and one previous conviction for consumption of a specified drug under section 8(b); 20
- (e) one previous admission and one previous conviction for an offence of failure to provide a urine specimen under section 31(2); or
- (f) one previous conviction for consumption of a specified drug under section 8(b) and one previous conviction for an offence of failure to provide a urine specimen under section 31(2), 25

is convicted of an offence under section 31A(2) for failure to provide a hair specimen, being an offence that is committed on or after the date of commencement of section 17 of the Misuse of 30

Drugs (Amendment) Act 2019, he shall on conviction be punished with the same punishment mentioned in subsection (1).

(1B) Where a person who has not less than —

- 5
- (a) 2 previous convictions for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act;
- 10
- (b) one previous admission and one previous conviction for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act;
- 15
- (c) one previous conviction for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act and one previous conviction for an offence of failure to provide a urine specimen under section 31(2);
- 20
- (d) 2 previous convictions for an offence of failure to provide a hair specimen under section 31A(2);
- 25
- (e) one previous admission and one previous conviction for an offence of failure to provide a hair specimen under section 31A(2);
- 30
- (f) one previous conviction for consumption of a specified drug under section 8(b) and one previous conviction for an offence of failure to provide a hair specimen under section 31A(2);
- 35
- (g) one previous conviction for consumption of a specified drug under section 8(b) and

one previous conviction for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act;

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(*h*) one previous conviction for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act, and one previous conviction for an offence of failure to provide a hair specimen under section 31A(2); or

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(*i*) one previous conviction for an offence of failure to provide a urine specimen under section 31(2) and one previous conviction for an offence of failure to provide a hair specimen under section 31A(2),

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is convicted of an offence of consumption of a specified drug under section 8(*b*), an offence of failure to provide a urine specimen under section 31(2), or an offence of failure to provide a hair specimen under section 31A(2), being an offence that is committed on or after the date of commencement of section 17 of the Misuse of Drugs (Amendment) Act 2019, he shall on conviction be punished with the same punishment mentioned in subsection (1).”;

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

“(2) Where a person who has been convicted under subsection (1), (1A) or (1B) is again convicted of an offence for consumption of a specified drug under section 8(*b*), an offence of failure to provide a urine specimen under section 31(2), or an offence of failure to provide a hair specimen under section 31A(2), he shall on conviction be punished with —

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(a) imprisonment for a term of not less than 7 years and not more than 13 years; and

(b) not less than 6 strokes and not more than 12 strokes of the cane.”;

5 (c) by inserting, immediately after paragraph (b) of subsection (5), the following paragraphs:

10 “(ba) a conviction under section 31A(2) by a court including a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act at any time on or after 1 May 2013 is deemed to be a previous conviction for an offence of failure to provide a hair specimen under section 31A(2);

15 (bb) a conviction under section 34 of the Singapore Armed Forces Act on or after the date of commencement of section 17 of the Misuse of Drugs (Amendment) Act 2019 for an offence of consumption of a controlled drug that is a specified drug is deemed to be a previous conviction for an offence relating to the consumption of a controlled drug that is a specified drug under section 34 of the Singapore Armed Forces Act;”; and

20 (d) by inserting, immediately after paragraph (c) of subsection (5), the following paragraph:

25 “(ca) “convicted of an offence”, in relation to an offence under section 8(b), 31(2) or 31A(2), includes a conviction by a subordinate military court or the Military Court of Appeal constituted under the Singapore Armed Forces Act; and”.

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Amendment of section 34

18. Section 34 of the principal Act is amended —

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

“(1) The Director may order any person whom the Director reasonably suspects to be a drug addict to be committed, for a period not exceeding 7 days, to any place specified by the Director for the purpose of any medical examination or observation.”;

(b) by inserting, immediately after the words “section 31(4)(b)” in subsection (2), the words “or the hair test conducted under section 31A”;

(c) by inserting, immediately after the words “for the urine tests” in subsection (2), the words “, or who supplied the hair specimens for the hair test”;

(d) by deleting the words “2 years” in subsection (2)(a) and substituting the words “5 years”;

(e) by deleting subsection (2A);

(f) by deleting the words “6 months” in subsections (3), (3A) and (4) and substituting in each case the words “12 months”;

(g) by deleting subsection (4A); and

(h) by deleting the words “3 years” in subsection (5) and substituting the words “4 years”.

New section 34A

19. The principal Act is amended by inserting, immediately after section 34, the following section:

“Parents or guardians to attend counselling with supervisees

5 **34A.**—(1) If the Director, on or after the date of commencement of section 19 of the Misuse of Drugs (Amendment) Act 2019, makes a supervision order under section 34(2)(a) against a supervisee who is below 21 years of age, the Director may require the parent or guardian of the supervisee to attend any counselling session (whether or not together with the supervisee) at such place and time as the Director, or any person authorised by the Director, determines.

10 (2) Any parent or guardian of a supervisee who fails, without reasonable excuse, to comply with the requirement under subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding \$5,000.

15 (3) A court may, in lieu of imposing a fine, order a parent or guardian of a supervisee to attend any counselling session at such place and time as the Director, or any person authorised by the Director, determines.”.

Amendment of section 58

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

(a) by inserting, immediately after paragraph (c), the following paragraphs:

25 “(ca) authorising the possession of any drug paraphernalia (as defined in section 11B(5)) and prescribing the circumstances and conditions under which a person may possess it;

30 (cb) authorising the teaching, instructing or provision of information, of any activity mentioned in section 11D(1) and prescribing the circumstances and conditions under which the teaching, instructing or provision of information may take place;

- (cc) authorising the dissemination or publication of information on the carrying out of any activity mentioned in section 11D(1) and prescribing the circumstances and conditions under which the information may be disseminated or published;”;
- (b) by inserting, immediately after paragraph (p), the following paragraph:
 - “(pa) providing for any matter in respect of a person who is committed under section 34(1), including the medical examination or observation of that person;”;
- (c) by inserting, immediately after the words “section 8(b)” in paragraph (q), the words “, 31(2) or (2A) or 31A(2) or (2A), or an offence under section 34 of the Singapore Armed Forces Act”.

Amendment of Second Schedule

- 21.** The Second Schedule to the principal Act is amended —
- (a) by deleting the entries relating to section 8(b);
 - (b) by deleting “12A” under the heading “Section creating offence” and substituting “11E”;
 - (c) by deleting the entries relating to section 13; and
 - (d) by deleting the entries relating to sections 31(2) and 31A(2) and substituting the following entries:

“31(2A)	Failure to comply with order of Director for urine test	—	—	—	—	Maximum 4 years or \$10,000 or both	
31A(2A)	Failure to comply with order of Director for hair test	—	—	—	—	Maximum 4 years or \$10,000 or both	30
31B(2)	Failure to provide oral fluid	—	—	—	—	Maximum 2 years or \$5,000 or both”.	

Saving and transitional provisions

22.—(1) Despite sections 16 and 17, sections 33 and 33A of the principal Act as in force immediately before the date of commencement of sections 16 and 17 continue to apply in relation to any person convicted of an offence under section 8(b), 31(2) or 31A(2) that is committed before that date.

(2) Despite section 18, section 34(4A) of the principal Act as in force immediately before the date of commencement of section 18 continues to apply in relation to any person who, before that date, is subject to a supervision order made under section 34(2)(a) or (2A) of the principal Act as in force immediately before that date.

(3) Despite section 18, section 34(3), (3A) and (5) of the principal Act as in force immediately before the date of commencement of section 18 continues to apply in relation to any person who, before that date, is admitted to an approved institution under section 34(2)(b) of the principal Act as in force immediately before that date.

EXPLANATORY STATEMENT

This Bill seeks to amend the Misuse of Drugs Act (Cap. 185) —

- (a) to introduce new offences to deter the promotion of certain drug-related activities;
- (b) to clarify the penalties for the offence of abetting an offence in Singapore by someone outside Singapore;
- (c) to increase the supervision period and the period that a drug addict may be detained in a drug rehabilitation centre or a community rehabilitation centre;
- (d) to enable a drug addict to be committed to a drug rehabilitation centre or community rehabilitation centre based on hair analysis results;
- (e) to introduce mandatory minimum sentences for first-time offenders convicted under section 8(b), 31(2) or 31A(2);
- (f) to include various factors which could attract enhanced punishments under the Act;
- (g) to require the parent or guardian of a young drug offender to attend counselling sessions;

- (h) to empower a serviceman of the Singapore Armed Forces who is appointed as an enforcement officer under the Act to obtain urine samples of any person subject to military law who is suspected of committing an offence under section 8(b); and
- (i) to enhance the powers of the Central Narcotics Bureau (the Bureau) to search, seize, forfeit or dispose of certain items.

Clause 1 relates to the short title and commencement.

Clause 2 amends section 2 by introducing new definitions. The definitions of “aircraft”, “autonomous system”, “autonomous vehicle”, “unmanned aircraft” and “unmanned vessel”, etc., are introduced primarily to support the provisions in the Bill dealing with search, seizure and disposal of items seized under the Act (for example, sections 24, 26, 26A and 28).

Clause 3 inserts new sections 11B to 11E.

The new section 11B(1) deals with the offence of exposing a child to any controlled drug or drug paraphernalia. It is an offence if a person (who is of or above 21 years of age), being in possession of any controlled drug or drug paraphernalia (the relevant item), knowingly or recklessly leaves the relevant item exposed in any place, or in any unlocked article, when that person knows that any child has, or is likely to have, access to the place where the relevant item is exposed or the unlocked article where the relevant item is located.

To give an example, it is an offence if a person (being the father of a child), who being in possession of cannabis, leaves the cannabis in the refrigerator at home, knowing that his child is likely to have access to the refrigerator where the cannabis is located.

To give another example, it is an offence if a person recklessly leaves exposed drug paraphernalia in his possession on the table in his house, knowing that his nephew (who has the access keys to the house) will have access to his house where the drug paraphernalia is located.

The offence under the new section 11B(1) does not apply if the person is authorised under the Act to possess the controlled drug or drug paraphernalia. For example, there are provisions in the regulations made under the Act which give general authority to certain persons to possess controlled drugs under certain circumstances.

The new section 11B(2) deals with the offence of a person (who is of or above 21 years of age) who, being in possession of any controlled drug, permits a young person to smoke, administer or consume the controlled drug, or does not take all reasonable steps to prevent a young person from doing so.

To give an example, it is an offence for a person, who has in his possession some ecstasy pills, to give permission to a young person to consume an ecstasy pill. It is

also an offence if a person does nothing to prevent a young person from consuming an ecstasy pill (which is in the person's possession) in his presence, even though the young person did not obtain any permission from that person prior to consuming the pill.

The new section 11C(1) makes it an offence for a person (*A*) who, knowing or having reason to believe that another person (*B*) intends to procure, smoke, administer or consume any controlled drug, 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.

For the offence to be made out, it does not matter that *B* does not procure, smoke, administer or consume any controlled drug, after the introduction is made. It is also not necessary for both *A* and *B* to be within Singapore at the time the introduction is made, as long as either *A* or *B* is within Singapore at that time.

The new section 11D(1) 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, for example, cultivating certain plants from which cocaine can be extracted, manufacturing any controlled drug and trafficking in any controlled drug. However, *A* must know or have reason to believe that *B* intends to carry out the proscribed activity.

For an offence under the new section 11D(1) to be made out, it does not matter (in relation to any proscribed activity for which *B* is taught, instructed or provided with information) that *B* does not carry out that activity after *B* is taught, instructed or provided with information. There is also no requirement for both *A* and *B* to be within Singapore at the time when *B* is taught, instructed or provided with information, as long as either *A* or *B* is within Singapore at that time.

The new section 11D(1) also 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 proscribed activity if the teaching, instructing or provision of information is authorised under the Act. It is a defence if a person can prove, on a balance of probabilities, that 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.

The new section 11D(2) makes it an offence for a person to disseminate or publish, or cause the dissemination or publication of, information (whether or not through the use of any electronic media) on the carrying out of any of the proscribed activities mentioned in the new section 11D(1).

The new section 11D(2) does not apply if the dissemination or publication of the relevant information is authorised under the Act. It is a defence if a person can prove, on a balance of probabilities, that the dissemination or publication of the

relevant information has a legitimate purpose related to the administration of justice, the investigation and prosecution of offences, or to science, medicine, education or art.

The new section 11E is the existing section 12A.

Clause 4 repeals section 12A, which is now moved to the new section 11E.

Clause 5 repeals and re-enacts section 13. The new section 13 provides for the various means by which a person may aid, abet, counsel or procure the commission of an offence (whether the offence is within or outside Singapore). The penalty for the offence of aiding, abetting, counselling or procuring the commission of any offence under the Act in Singapore is clarified to be the same penalty as the offence that the person aided, abetted, counselled or procured, even though all or any of the acts constituting the aiding, abetment, counselling or procuring were done outside Singapore.

Clause 6 amends section 24(1) to empower an officer of the Bureau, police officer and other officers to 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, which is or has been used in the commission of or in connection with an offence under the Act.

Clause 7 amends section 25(1) by removing the powers of arrest and search of a member of the Vigilante Corps.

Clause 8 amends section 26 to empower an officer of the Bureau, police officer, special police officer or officer of customs to intercept, search and seize certain items (for example, an autonomous vehicle, unmanned aircraft or unmanned vessel) under certain circumstances. The relevant officer may also give certain directions to certain persons in relation to such items, assume control of such items using such force as is necessary, and direct any person to operate such items.

Clause 9 inserts a new section 26A to deal with the procedure related to the return and disposal of any ship, hovercraft, aircraft, autonomous vehicle, unmanned aircraft, unmanned vessel, etc., that is seized under the Act when a relevant officer determines that such items are no longer required for the purposes of any investigation or proceedings for any offence under the Act. The procedure to be followed when returning or disposing of such items differs according to whether the owner of the item is known.

Clause 10 amends section 27 by making clear that the items mentioned in subsections (4) and (5) are to be forfeited to the Government under certain circumstances.

Clause 11 amends section 28 to extend the power of forfeiture to other items seized under the Act (including any autonomous vehicle, unmanned aircraft or unmanned vessel) under certain circumstances.

Clause 12 makes a technical amendment to section 30(2) arising from the amendments to sections 25 and 26.

Clause 13 amends section 31 by empowering the Director of the Bureau (the Director) to order certain persons to be recalled at certain times for a urine test, for the purpose of ensuring that the person is no longer a drug addict. It is an offence if any such person fails, without reasonable excuse, to comply. The penalty is a maximum imprisonment term of 4 years or \$10,000 fine or both.

The clause also confers certain powers on a serviceman in the Singapore Armed Forces who is appointed by the Minister as an enforcement officer. Such an enforcement officer may, if he reasonably suspects a person subject to military law under section 3 of the Singapore Armed Forces Act (Cap. 295) to have committed an offence under section 8(b), require that person to provide a specimen of that person's urine for urine tests to be conducted. It is an offence if that person fails, without reasonable excuse, to provide a specimen of that person's urine.

Clause 14 amends section 31A by empowering the Director to order certain persons to be recalled at certain times for a hair test, for the purpose of ensuring that the person is no longer a drug addict. It is an offence if any such person fails, without reasonable excuse, to comply. The penalty is a maximum imprisonment term of 4 years or \$10,000 fine or both.

Clause 15 inserts a new section 31B for an offence relating to oral fluid tests. Any officer of the Bureau, immigration officer or police officer not below the rank of sergeant may, if the officer reasonably suspects any person to have committed an offence under section 8(b), require that person to provide one or more specimens of the person's oral fluid for the purpose of conducting any oral fluid test. It is an offence if a person fails, without reasonable excuse, to provide any specimen of the person's oral fluid.

Clause 16 amends section 33 by introducing mandatory minimum sentences for an offence under section 8(b), 31(2) or 31A(2). This is subject to the enhanced penalty provisions under section 33(4), (4AA) or (4AB) or 33A. The mandatory minimum sentences will only apply if the offence under section 8(b), 31(2) or 31A(2) is committed on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019.

The maximum sentence is also increased for an offence under section 31A(2).

The new section 33(4AA) and (4AB) enhances the punishment of an offender convicted of certain offences (which are committed on or after the date of commencement of section 16 of the Misuse of Drugs (Amendment) Act 2019) if the offender has a previous conviction for certain offences, or has a previous admission to an approved institution.

Clause 16 also sets out the types of convictions which are deemed to be previous convictions for the purposes of section 33.

Clause 17 amends section 33A by introducing enhanced penalties for a person who is convicted of certain offences under the Act (which are committed on or after the date of commencement of section 17 of the Misuse of Drugs (Amendment) Act 2019), and has certain antecedents. The clause further sets out certain types of convictions which are deemed to be previous convictions.

Clause 18 amends section 34 by empowering the Director to order any person whom the Director reasonably suspects to be a drug addict to be committed, for a period not exceeding 7 days, to any place specified by the Director for the purpose of any medical examination or observation. The clause further amends the supervision period of a person subject to supervision under section 34(2)(a). The clause also amends the period for which a person may be detained in an approved institution and the period for which a person may be further detained.

Clause 19 inserts a new section 34A which empowers the Director, to require the parent or guardian of the supervisee to attend any counselling session (whether or not together with the supervisee) at such place and time as the Director, or any person authorised by the Director, determines. It is an offence if any parent or guardian of a supervisee, without reasonable excuse, fails to do so.

Clause 20 amends section 58(1) by expanding on the regulation-making powers of the Minister.

Clause 21 amends the Second Schedule by deleting the entries relating to sections 8(b), 13, 31(2) and 31A(2). The clause further makes certain technical amendments arising from the deletion of section 12A. The clause also sets out the penalties relating to an offence under the new sections 31(2A), 31A(2A) and 31B(2).

Clause 22 sets out the saving and transitional provisions.

EXPENDITURE OF PUBLIC MONEY

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