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NARCOTIC DRUGS, PSYCHOTROPIC
SUBSTANCES AND SUBSTANCE ABUSE ACT
2005

KINGDOM OF BHUTAN

**Narcotic Drugs and Psychotropic Substances and Substance Abuse
Act 2005
Kingdom of Bhutan.**

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PREAMBLE

The Royal Government and People of Bhutan,

Concerned with the health and well-being of the people of Bhutan, which are important elements of the development principle of Gross National Happiness.

Recognizing that the licit use of narcotic drugs and psychotropic substances continues to be indispensable for medical, veterinary and scientific purposes.

Considering that illicit use of narcotic drugs and psychotropic substances can ultimately lead to addiction which constitutes a serious threat to individuals and to the community as a whole.

Affirming that primary responsibility for drug abuse prevention rests within families and local communities.

Recognizing that advocacy, awareness raising, education, counselling and other proactive measures are necessary to help parents and communities to carry out their responsibility.

Also recognizing that such measures are necessary to support treatment, rehabilitation and social reintegration when prevention fails.

Acknowledging that appropriate preventive, regulatory and control mechanisms must be put in place in line with the international drug

control conventions to which Bhutan may be party to reduce the illicit demand and supply for drugs.

Believing that effective measures against abuse and illicit trafficking of narcotic drugs and psychotropic substances require co-ordination and cooperation of various enforcement agencies in the country, including social and community support.

This Bill has been passed on the 30th Day 11th month of 2005 year of the Bhutanese Calendar corresponding to 29th day of 9th month of 2005 during 84th Session by the National Assembly, Kingdom of Bhutan.

CHAPTER ONE

PRELIMINARY

1. Title, Commencement and Scope of the Act.

- a) This Act shall be called Narcotic Drugs and Psychotropic Substances and Substance Abuse Act 2005, the Kingdom of Bhutan.
- b) This Act shall come into force from the 30th Day 11th month of 2005 year of Bhutanese Calendar corresponding to 29th day of 9th month of the Wood Female Bird Year.
- c) This Act shall extend to the whole Kingdom of Bhutan.

Repeal

2. From the day this Act comes into force, any provision of any law, by-law, rule or regulation or announcement which is inconsistent with this Act shall be repealed.

CHAPTER TWO

CLASSIFICATION OF DRUGS, PRECURSORS AND CONTROLLED SUBSTANCES

3. Each of the plants, drugs and substances to which this Act applies is classified by the Schedule in which it appears under its international non-proprietary name or lacking such a name, under its scientific name.
4. Different measures of control are specified in this Act for different plants, drugs and substances according to the classification so adopted to ensure that drugs are available exclusively for medical, veterinary and scientific purposes, with the strictest measures being applied in relation to those listed in Schedule I, less strict measures in relation to those listed in Schedule II, and the least strict in relation to those listed in Schedule III.
5. Each of the precursors to which this Act applies is classified by the table of Schedule IV in which it appears.
6. Schedule V includes other substances which are liable for abuse but do not fall under International control. The Board may issue directives as to the measures of control applicable to the substances.

Preparations

7. Preparations shall be subject to the same measures of control under this Act as the drugs of abuse or controlled chemicals

they contain, and where any preparation contains two or more constituent drugs of abuse, it shall be subject to the measures governing the most strictly controlled constituent.

CHAPTER THREE

CONTROL OF LICIT ACTIVITIES

License

8. The cultivation, production, manufacture, wholesale and retail trading and distribution, import, export, and use of the plants, substances and preparations listed in Schedules II and III shall be prohibited to any person not expressly licensed for that purpose and at any establishment or on any premises not expressly licensed for that purpose.

International Trade

9. Only private enterprises holding the licenses laid down in section 8 and specially designated public or Government enterprises using establishments and premises licensed pursuant to section 8 shall engage in import or export in the plants, substances and preparations listed in Schedules II and III.
10. All exports and imports shall be subject to separate authorization by the competent authority. The authorization shall not be transferable.
11. The transit of any consignment of plants, substances or preparations listed in Schedules II and III through Bhutan shall be prohibited, whether or not the consignment is

removed from the conveyance in which it is carried, unless a copy of the export authorization for consignment is produced to the competent authorities.

12. Any free port or free trade zone shall be subject to the same conditions and supervision as elsewhere in Bhutan.

Licit Possession and Use

13. The possession, for any purpose, of the plants, substances and preparations listed in Schedules II and III shall be prohibited except as authorized by this Act, made there under, or any other laws in force.
14. Any person and any enterprise holding, for professional purposes, any plants, substances and preparations listed in Schedule II and Schedule III shall be required to keep them under the conditions to be laid down by the competent authority so as to prevent theft or any other diversion.

Advertising

15. Any advertising of substances and preparations listed in Schedules II and III shall be prohibited except, with the written approval of the competent authority in scientific or professional publications aimed at researchers or health professionals.
16. The distribution or dispensing to individuals of samples of substances or preparations listed in Schedules II and III shall be prohibited.

Precursors

17. The manufacture, wholesale trading or distribution, and import or export of substances listed in Schedule IV shall be subject to the provisions of this chapter and the Rules and Regulations.
18. Manufacturers, importers, exporters, wholesalers and retailers shall maintain a register containing particulars of all acquisitions or transfers of substances listed in Schedule IV.
19. Manufacturers, importers, exporters, wholesalers and retailers shall be required to notify the competent authority of any suspect order or operation, specifically as regards of quantity of the substance purchased or ordered, the repetition of such orders and purchases, or the modes of payment or transport used.
20. An export or import authorization shall be denied if there are reasonable grounds to suspect that the consignment is destined for the illicit manufacture of narcotic drugs or psychotropic substances.

Medical and Scientific Research and Teaching

21. For purposes of medical or scientific research, teaching or forensic work, the competent authority may, without requesting the licences referred to in section 8, authorize an individual to produce, manufacture, acquire, import, use or hold plants, substances and preparations listed in Schedules I,

II and III in quantities not exceeding those strictly required for the purpose in question.

Records

22. The beneficiary of the authorization shall enter in a register, which he shall keep for five years, the quantities of plants, substances and preparations that he imports, acquires, manufactures, uses and destroys. He shall also enter the dates of the operations and the names of his suppliers. He shall furnish the competent authority with an annual report on the quantities used or destroyed and those held in stock.

Statistical Returns

23. Private and Government enterprises engaged in operations involving the plants, substances and preparations covered by this Act shall furnish to the competent authority statistical returns as prescribed in respect of their activities.

Estimates

24. The persons and enterprises referred in section 23 shall be required, at the beginning of each year, to make an inventory of the plants, substances and preparations listed in Schedules II and III held by them and to compare the total quantities in stock at the time of the previous inventory, calculated together with those entered over the previous year and the total quantities withdrawn during this year, with those held at the time of the latest inventory.

Reports

25. The Bhutan Narcotic Control Agency shall submit reports as and when required to the relevant agencies including International Narcotic Control Board (INCB).

Inspections

26. Any person, private or public enterprise, Government enterprise, medical institution or scientific institution engaging in any activity or operation involving plants, substances or preparations covered by this Act shall be controlled and monitored by the competent authority, who shall, in particular, arrange for inspectors to make ordinary inspections of the establishments, premises, stocks and records at least once every two years and extraordinary inspections at any time.
27. Such control, monitoring and inspections shall extend to the compartments containing the first-aid kits of public transport conveyances engaged in international travel.
28. When it becomes apparent before, during or after an inspection that a criminal offence against this Act or the Penal Code of Bhutan may have been committed, inspectors shall report the matter to the Royal Bhutan Police.
29. Authorised officers may enter premises, make seizures and take samples wherever the operations referred to in this section are being carried out and such operations may be carried out in accordance with the Civil and Criminal Procedure Code of Bhutan.
30. Persons, enterprises or establishments involved must provide the inspectors and the Royal Bhutan Police with all necessary assistance in carrying out their duties, in particular by

facilitating the inspection of their professional premises and of all documents relating to their professional activities.

CHAPTER FOUR

SPECIAL PROVISIONS

31. Carriage of limited quantities, as specified in the Rules and Regulations, by any international conveyance in the First-Aid Kits and for emergencies shall not be considered as a contravention under the provisions of this Act.
32. Exceptionally, and notwithstanding any provision of this Act, the Board may authorise import of narcotic drugs and psychotropic substances to meet a public emergency.
33. The possession by international travellers or patients of small quantities of preparations containing narcotic drugs and psychotropic substances for personnel use shall be permitted, provided that it is established that the preparations have been obtained under prescription from a registered and qualified medical practitioner, and do not exceed the quantity mentioned in the prescription.
34. Use of controlled substances in industry for purposes other than medical or scientific is permitted provided that the licensee:
 - a) Ensures by appropriate methods of denaturing or by other means that the drugs so used are not liable to be abused or have ill effects and that the harmful substances cannot in practice be recovered; and

- b) Includes in the statistical information furnished by them the amount of each drug so used.

CHAPTER FIVE

EDUCATIONAL MEASURES

- 35. The Royal Government shall ensure that individual citizen particularly young people are:
 - a) Informed and educated on the dangers of substance abuse through traditional institutions of family, educational institutions, local and religious community, as well as through effective awareness campaigns.
 - b) Provided with preventive support and protection through those institutions.
 - c) Provided with life skills education so they can better understand themselves and choose against drug abuse, including through religious and moral education programmes.
 - d) Enabled to reduce the risk of drug abuse, through early detection and counselling services.
 - e) Provided with alternative recreational activities and other useful vocational opportunities to promote social integration.

CHAPTER SIX

TREATMENT AND REHABILITATION

Early Detection and Diagnosis

36. The Board shall ensure the establishment of institutions with adequate and appropriate facilities for early detection of drug users with special focus on high-risk individuals. These institutions may include mobile camps and out-reach services with appropriate testing facilities.

Treatment and Rehabilitation

37. The Board shall ensure the establishment of institutions with adequate and appropriate facilities for treatment and rehabilitation services for drug dependent persons and users as approved treatment centres for the purposes of this Act. The quality and range of services offered by such institutions shall be reviewed from time to time by a committee constituted by the Board for the purpose.
38. The Board shall ensure the provision for treatment, rehabilitation and social reintegration of drug dependent persons. Such provisions shall include psychosocial interventions, counselling and detoxification.
39. The Board shall ensure staffing of such institutions with adequate and appropriate personnel to deliver quality services and care.

40. The Board shall establish a treatment assessment panel for the purposes of this Act. The panel shall consist of at least 3 persons appointed by the Board, of which one shall have legal qualifications and experience, and the others knowledge of the medical, psychosocial and other problems connected with drug abuse and addiction.
41. The Board shall constitute committees to maintain quality, standards and range of services offered by such institutions and these shall be reviewed from time to time for effective delivery of services.

Voluntary Submission for Treatment

42. Notwithstanding section 161 of the Civil and Criminal Procedure Code of Bhutan, any person who has committed an offence only against section 500 of the Penal Code of Bhutan, shall not be prosecuted for that offence or identified to the public, provided the person voluntarily presents to an approved treatment centre before being arrested or charged for that offence, and then undertakes and successfully completes the treatment without committing any further offence.

Treatment, if Charged Only for Possession for Personal Use

43. Notwithstanding section 202 of the Civil and Criminal Procedure Code of Bhutan, where a person has been charged only with an offence against section 500 of the Penal Code of Bhutan, the court before which the person has been charged shall, as soon as practicable after arrest, order the person to report to an approved treatment centre. If the person undertakes and successfully completes the treatment without

committing any further offence, the Court may allow the prosecution to be withdrawn.

Treatment, if Charged with Other Offences

44. Where the Court finds any offence other than an offence against section 500 of the Penal Code of Bhutan proved against any person, and the Court considers that the person may have been under the influence of a narcotic drug or psychotropic substance at the time of the offence, or motivated to commit the offence by a desire either to use the substance or obtain resources to enable its use, the Court may order that the person submit for assessment by a treatment assessment panel designated by the Court and comprising such members as prescribed by Rules and Regulations.
45. Where the panel recommends that the person undergo treatment at an approved treatment centre, the Court may order that the person, during two years or such shorter period as the Court may specify, submit himself or herself to the treatment specified in the order, or for other treatment as directed from time to time by the panel. The Court may specify conditions relating to the supervision of the person, including attendance at a treatment centre, and periodic attendance before a panel for review and evaluation of treatment and progress.

Suspension from Penal Sanctions

46. Where an order has been made under section 44 and the person promises to undertake and complete the treatment, the Court may at the same time also order that any or all the

penalties and sanctions imposed in respect of the offence be suspended.

Discharge of Penal Sanctions

47. Where a person completes treatment ordered under section 44 to the satisfaction of a panel, and commits no further offence of any description within two years from the date of his or her conviction, any penalties or sanctions made by the Court in respect of the offence may be discharged by order if the Court is satisfied that it is in the public interest to make such an order. The Court shall not make such an order unless it is also satisfied, following consideration of the report of a panel, that the person is fit to return to everyday responsibilities and functions.

Revocation of Suspension Orders

48. Where the person does not complete the course of treatment as ordered to the satisfaction of the panel, the Court may, on the recommendation of the panel, revoke the order of suspension made under section 46.
49. In that event, time spent in treatment shall count as time towards the discharge of any relevant penalty or sanction orders made under this or any other law.

Offences in Relation to Treatment Orders

50. Any person who, without reasonable excuse, refuses or fails to comply with a treatment order, to inform the person in

charge of a treatment centre attended by the person pursuant to such an order of any change in the person's address, to appear before a panel as ordered, or to attend a treatment centre for assessment or treatment as ordered, commits an offence.

51. A drug dependent person who submits voluntarily and released temporarily from centre, shall be provided with after-care, follow-up treatment and supervision.
52. This Act shall, considering a drug dependent person as a victim of unfortunate circumstances, be provided with the option to avail treatment, rehabilitation and social reform or criminal charges and confinement.
53. A drug dependent person who escapes and recommits an offence for the second time shall be put to stricter charges and confinement.

Compulsory confinement

54. A drug dependent person refusing to comply under the voluntary submission program shall be compulsorily confined to criminal custody.

Compulsory Submission

55. A drug dependent person charged with an offence shall be submitted compulsorily to treatment and rehabilitation.

Confidentiality of Records

56. The person dealing with drug dependent persons shall maintain confidentiality of records under the voluntary submission program, breaching of which shall constitute an offence chargeable under appropriate law of the land. This shall not prevent the communication of protected information to and between members of the Review Committee appointed under the section 57, or to and between persons directly involved in the treatment and rehabilitation of protected information in the course of treatment.

Appointment of Review Committee

57. The Board shall appoint a Review Committee to review the drug dependence and users and for other functions as are conferred upon it by this Act or the Regulations made there under.

Legal Custody:

58. A drug dependent person or drug user shall be deemed to be in legal custody:
- a) While he is confined in, or is being taken to or from, an approved institution;
 - b) While he is for any other reason outside an approved institution in the custody or under the control of an officer of the approved institution; or
 - c) While he is being taken to any place to which he is required or authorized under this Act to be taken, or is kept in custody

in pursuance of any such requirement or authorization.

CHAPTER SEVEN

NARCOTICS CONTROL BOARD

59. The Royal Government shall constitute a “Narcotics Control Board” to take all such measures for the purpose of preventing and combating the abuse and illicit trafficking, and to regulate the use of narcotic drugs, psychotropic substances and other controlled substances.

Appointment of the Board Members

60. The Board members shall be appointed by the Royal Government from amongst relevant ministries, departments and agencies and the Board shall be chaired by a relevant Cabinet Minister.

Powers of the Board

61. The Board may exercise such powers as necessary for the prevention of drugs abuse, the control of drugs, precursors and other controlled substances, and the treatment, rehabilitation and social reintegration of drug abusers. The Board may also:
- a) Designate agencies to administer and duly enforce the provisions of this Act.
 - b) Authorise designated officials of any Agency, in coordination with the relevant law enforcement agencies, to search, arrest and detain any person, premises, conveyance and properties if

it has reason to believe that an offence has been committed against any provisions of this Act, in accordance with Civil and Criminal Procedure Code of Bhutan.

- c) Provide strategic guidance and direction to Bhutan Narcotic Control Agency (BNCA) and other designated agencies, relating to the effective implementation of this Act.
- d) Fulfil obligations under the International Conventions or Treaties or Agreements to the fullest extent possible.
- e) Order review of services for education and prevention, early detection, treatment, rehabilitation, after-care and social re-integration of drug dependent persons and drug users thereof.
- f) Approve rules submitted by the relevant agencies.
- g) Amend the Schedules by addition or deletion of a drug, precursor or other substance, or in the case of a drug, transferring it from one Schedule to another taking into account classification decisions made by the United Nations Commission on Narcotic Drugs.
- h) The Board may, if it deems necessary to do so for the efficient discharge of any of its functions, constitute committees for consideration of any particular matter under the provisions of

this Act, and may for that purpose co-opt any person to assist a committee.

Functions of the Board

62. The Board shall have the following functions and responsibilities:

- a) Providing effective leadership and coordination in implementing Bhutan's national drug control strategy;
- b) Reviewing, approving and keeping up to date Bhutan's national drug control strategy for the prevention, reduction and eradication of drug abuse and its root causes, illicit drug supply and drug-related crime;
- c) Enabling, enlisting and fostering the widest measure of community awareness, responsibility-taking and sharing, support and action by parents, local communities, religious communities, institutions, employers, societies, organizations and self-help groups, in proactively initiating and carrying out drug abuse prevention and reduction initiatives;
- d) Propose amendments to this Act as and when necessary to the Parliament.

Procedures of the Board

63. The Board shall regulate its own procedure as follows:

- a) Except for Ex-officio members, all other members, shall serve for a term of three years and be eligible to serve for a second term.

- b) In case of vacancy, the Royal Government shall appoint another person to fill the vacancy.
- c) If any member of the Board is unable by reason of illness or other sufficient cause to perform the duties of his office, the Royal Government may appoint another person in his place.
- d) The Board shall meet at least thrice a year. Additional meeting may be convened as and when required.
- e) The Chairman shall convene the meeting and in the absence of the Chairman, the Vice Chairman shall convene the Board meeting. At every meeting of the Board at which he is present, the Chairman shall preside, and in his absence, a member of the Board appointed by those present shall preside.
- f) The Member Secretary shall maintain records of the proceedings. The minutes of all meetings of the Board shall be dated and signed by the Chairman.
- g) The Board may appoint such committees as it considers necessary to advise it on such matters as the Board may refer to them.
- h) A committee appointed by the Board may consist of members or non members, or both, provided that a member of the Board shall be the Chairman.

- i) The quorum for the board meetings shall be two third of its members.
- j) Any decision taken by the Board shall be based on simple majority but in case of equal votes, the Chairman shall have a casting vote.
- k) The remunerations and allowances for the Board members shall be as per the prevailing rules of the Royal Government.
- l) The Royal Government shall provide adequate funds to meet the expenses of the Board to carry out its mandates. The budget shall be administered by the agency.

CHAPTER EIGHT

BHUTAN NARCOTICS CONTROL AGENCY

Establishment of the Agency

64. The Royal Government hereby establishes the Bhutan Narcotic Control agency.

Head of the Agency

65. The Royal Government shall appoint a person as the Executive Director of the agency possessing extensive qualifications and experience. The Executive Director shall be responsible to the Board, and be the Member Secretary to the Board.

Staff of the Agency

66. The agency may employ such staff as the Board may consider necessary for the efficient performance of the Agency's functions.
67. The staff of the agency shall be appointed upon such terms and conditions of service as the Board may determine. Staff of the agency may also be seconded from other agencies.

Powers of the Agency

68. The agency may acquire information from any agency designated by the Board relating to the implementation or enforcement of the provisions of this Act.

Functions of the Agency

69. The agency shall have the following functions:
- a) Serving as the Secretariat to the board, ensuring that any decisions of the Board are implemented and carrying out such other activities as the Board may assign;
 - b) Under the guidance and direction of Board, developing, proposing, revising and implementing Bhutan's national drug control strategy for the prevention, reduction and eradication of drug abuse and its root causes, illicit drug supply and drug-related crime;

- c) Strengthening operational skills and know-how of the Government agencies, public and private sector organizations and the community, together with analysis and research geared to the prevention and eradication of drug abuse;
- d) Improving international cooperation against drug and precursor trafficking;
- e) Strengthening cooperation between Bhutan's health, welfare, education, social reintegration, law enforcement, criminal justice and penal agencies, in drug prevention and control, and in reducing drug abuse and its root causes, illicit drug supply and drug-related crime;
- f) Duly administering and enforcing the provisions of this Act to the extent designated by the board, facilitating the due administration and enforcement of the provisions of this Act by the authorized agencies, and referring for investigation and appropriate action, any complaint or alleged or suspected contravention of any provision of this Act;
- g) Monitor the enforcement of the provisions under this Act.

CHAPTER NINE

ENFORCEMENT MEASURES

Search, Seizure, Arrest and Detention

70. Any authorised official shall have the powers to search, seize, arrest and detain in accordance with the provisions of the Civil and Criminal Procedure Code of Bhutan in respect of offences against this Act and relevant offences of the Penal Code of Bhutan.

71. No woman shall be searched under this Act except by a woman and if that is impossible, in the presence of a woman.

Sample-Taking of Seized Substances

72. Samples shall be taken by the authorized official of any seized substance as prescribed under the Rules and Regulations. The authorised official shall ensure that all materials evidence relating to the seizure is collected and processed, and that all items of evidentiary value are stored in secure and appropriate conditions for the prevention of loss, theft, or any other form of misappropriation.

Confiscation

73. The Court may order confiscation of any property derived directly or indirectly through the commission a criminal offence against this Act or a relevant offence in the Penal

Code of Bhutan and of any instrumentality used in the commission of such offence.

Forfeiture

74. The Court may order the forfeiture of any property which has been seized if it is satisfied that the property directly or indirectly represents any person's proceeds or is intended by any person for use in illicit trafficking.

75. In case of forfeiture of property seized under this Act, the forfeiting officer shall forthwith give notice in writing of the forfeiture to the owner. However, the notice shall not be required to be given when forfeiture is made in presence of the offender or the owner or his agent, or in case of conveyances in presence of the owner, master, captain or driver thereof.

76. Any person having an interest in any property ordered to be forfeited under section 74 may apply to the Court within 49 days of the giving of notice under section 75 for an order discharging or varying the forfeiture order to protect his interest in the property. The court may make such an order if it is satisfied that the applicant did not know and had no reason to suspect that the property directly or indirectly

represented any person's proceeds or was intended by any person for use in illicit trafficking.

Disposal

77. The drugs and precursors seized or confiscated or forfeited under the provisions of this Act shall be disposed off in the presence of the members of the Narcotic Control Board and/or the officials of the authorised agencies.
78. Disposal may include using such drugs to meet the health care needs of Bhutan, provided the drug is one listed in Schedules II or III.
79. Anything, other than drugs which are forfeited under this Act shall be disposed in such manner as is considered appropriate by the Board on case-by-case basis as per the prevailing rules of the Royal Government.
80. Unless conservation of the entire seizure of drugs and precursors is essential for the purposes of trial and any appeal, the court shall order disposal of the bulk as soon as possible after seizure.

CHAPTER TEN

SPECIAL INVESTIGATIVE TECHNIQUES

Controlled Delivery and Undercover Operations

81. Authorized agencies upon approval shall take necessary measures to allow for the appropriate use of controlled delivery and undercover operations within Bhutan, and at the international level on the basis of the agreement or arrangements mutually consented to, with a view to identifying persons involved in the offences under this Act and gathering appropriate information and evidence to take action against them.
82. Controlled delivery and undercover operations shall be made on case-by-case basis taking into consideration, where relevant, the financial arrangement and understandings with respect to the exercise of jurisdiction by the countries concerned.
83. Illicit consignment whose controlled delivery is agreed to may, with the consent of the country concerned be intercepted and allowed to continue with the narcotic drug, psychotropic substance or precursor intact or removed or replaced in part.

Protection and Rewards

84. In cases of serious nature or when required for the security and sovereignty of the country, no witness in any criminal proceedings shall be obliged to disclose the name and address of any informant or undercover agent.

85. Anyone who informs the authorized agency of the transaction or use of narcotic drugs which leads to the proving of a criminal offence and of the offender the informant shall be rewarded as specified in the Rules and Regulations.
86. This section should not apply to any person whose duties relate to the due administration or the enforcement of this Act.

CHAPTER ELEVEN

DRUG RELATED MONEY LAUNDERING REGULATORY MEASURES

87. The Board may order appropriate measures to control and prevent the laundering of proceeds of crime including illicit trafficking.
88. The Board may propose to the Royal Government such measures as establishing a Drug Intelligence Unit and establishing legal mechanisms to identify, trace, freeze, seize, confiscate or forfeit the proceeds of crime whether located in Bhutan or abroad.
89. The Board may direct Royal Monetary Authority or Central Bank to furnish or share information on fictitious and suspicious transactions of money to facilitate investigation of suspected drug related money-laundering cases, to verify customer identity, establish and maintain customer records, establish and maintain internal reporting procedures, and train staff to recognise and report to the competent authority on any suspected money-laundering.

CHAPTER TWELVE

REGULATORY AND CRIMINAL OFFENCES

Non Compliance with Licence

90. Manufacture, production, sale, export, import, storage, distribution, transportation, transshipment of narcotic drugs and psychotropic substances for medical and scientific purposes in contravention of the terms or conditions of a license shall be liable to cancellation of the licence and seizure of goods or a fine equivalent to a national daily wage for a maximum of 5 years, or both.

Record Keeping Failure

91. Not keeping records of quantity, date, supplier and recipients and manufactured and quantities held in stock shall be liable to cancellation of the licence, and seizure of goods or a fine equivalent to a national daily wage for a maximum of one year.
92. Not maintaining records of statistical returns of production or manufacture of drugs, utilization of drugs for the manufacture of other drugs, consumption of drugs, imports and exports of drugs, seizures of drugs shall be liable to cancellation of the licence and seizure of goods, or a fine equivalent to a national daily wage for a maximum of two years.

Packaging and labelling failure

93. Not indicating warning and indications on the packages, labels and the accompanying leaflet of any packages of the

controlled drugs shall be liable to seizure of the goods or a fine equivalent to a national daily wage for a maximum of one year.

Illicit precursor trafficking

94. A defendant shall be guilty of the offence of illegal transaction of controlled substances, if the defendant unlawfully, imports, exports, sells, purchases or transports any precursor.

Illicit activities involving equipment and materials

95. A defendant shall be guilty of an offence, if the defendant manufactures transports or distributes any equipment or material knowing that it is to be used in or for the unlawful cultivation, production or manufacture of drugs.

Money Laundering

96. A defendant shall be guilty of the offence of money laundering if the defendant knowingly uses any proceed of crime.

Prohibition of the Cultivation of Plants in Schedule I

97. Cultivation of opium poppy and coca bush shall be an offence.

98. Cultivation and domestication of cannabis shall be an offence. Harvesting or collection of cannabis shall be prohibited,

except for production of fibre and animal feed.

99. The owner, operator, or occupier, under whatever title, of land for agricultural or other use shall be required to destroy any opium poppies, coca bushes or cannabis plants found growing there.

Solicitation to Unlawfully Use Drugs or Controlled Substances

100. Solicitation by coercion or duress to unlawfully use any drug or controlled substance shall be an offence.

Unauthorised Advertising

101. Advertisement of controlled drugs to the public without authorization shall be an offence.

Aggravating Circumstances

102. In determining the nature and extent of any penalty to be ordered in relation to any person convicted of an offence against this Act and the Penal Code of Bhutan, the Court shall take into account whether:
 - a) The convicted offender belonged to an organized criminal syndicate, participated in other illegal activities facilitated by the offence; used violence or arms; committed the offence in the exercise of a public office or public duty; added any substance to the drugs which aggravated their danger to a user; or made use or took advantage of a minor or mentally handicapped person in committing the offence;

- b) The offence was committed by a health professional or person responsible for combating drug abuse or traffic; in a teaching or educational institution, a hospital or care institution, a social service facility or in other places to which school children or students resort for educational, sports or social activities, or in the immediate vicinity of such establishments and premises; in a penal institution or a military establishment;
 - c) The drug was supplied or offered to a minor, a mentally handicapped person or a person undergoing treatment, or when the use by such a person was facilitated.
103. Any offences not covered under this Act shall be dealt as per Penal Code of Bhutan

CHAPTER THIRTEEN

INTERNATIONAL COOPERATION

Extradition and Mutual Legal Assistance

104. The Board may propose to the Royal Government to incorporate or simplify procedures for extradition and mutual legal assistance.
105. The Board may propose to the Royal Government in serious crime casework and to designate an agency to make, receive, respond to or execute extradition and mutual legal assistance requests in accordance with national laws, regional and international conventions.

CHAPTER FOURTEEN

AMENDMENTS, AUTHORITATIVE TEXT AND DEFINITIONS

Amendments:

106. The Board shall review this Act from time to time to keep in line with the changing needs and situation and when necessary, propose amendments to the Parliament of Bhutan.

Authoritative Text

107. In case of conflict in the interpretation of any provision of the Act, the Dzongkha version shall be final and binding.

Definitions

108. Except where otherwise expressly indicated or where the context otherwise requires, the following definitions shall apply throughout the Act:

- i) "Addict" means a person addicted to any narcotic drug or psychotropic substance, and it is used synonymously with drug user.
- ii) "Agency" means the Bhutan Narcotics Control Agency established under this Act.
- iii) "Approved treatment centre" means a hospital, nursing home, hostel, health facility or other institution that the Royal Government may designate from time to time as an approved treatment centre to provide treatment for persons who are drug abusers or drug dependent.
- iv) "Board" means the Narcotics Control Board established under this Act.

- v) "Cannabis" means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted; by whatever name they may be designated.
- vi) "Cannabis plant" means any plant of the genus cannabis,
- vii) "Coca bush" means the plant of any species of the genus Erythroxylon.
- viii) "Competent authority" means Bhutan Narcotic Control Agency or any other authority designated by the Board for the purposes of implementing or enforcing provisions of this Act.
- ix) "Cultivation" means the cultivation of the opium poppy, coca bush or cannabis plant.
- x) "Controlled substances" means substances listed under Schedule V of this Act.
- xi) "Conveyance" means a conveyance of any description whatsoever and includes any aircraft, vehicle or vessel, or any means of transport including yaks, horses, mules, etc;
- xii) "Drug" means any substance listed in Schedule I, II or III, whether natural or synthetic.
- xiii) "Illicit trafficking" means to illicitly cultivate, sell, give, administer, purchase, transport, send, deliver, distribute, possess or use otherwise than for personal consumption, or to offer to do anything mentioned under this definition.

- xiv) "Import" and "export" mean in their respective connotations the physical transfer of drugs from one State to another State, or from one territory to another territory of the same State.
- xv) "Manufacture" means all processes, other than production, by which drugs may be obtained and includes refining as well as the transformation of drugs into other drugs.
- xvi) "Narcotic drug" means a substance listed in any of the Schedules annexed to the Single Convention on Narcotic Drugs, 1961, as amended.
- xvii) "Opium poppy" means the plant of the species *Papaver somniferum* L.
- xviii) "Precursor" means a substance listed in the annex to the United Nations Convention on Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988.
- xix) "Preparation" means a mixture, solid or liquid, containing a drug or precursor.
- xx) "Prescription" means a document bearing instruction for use of medicines written by a qualified medical or veterinary doctor or drungtsho.
- xxi) "Production" means the separation of opium, coca leaves, cannabis and cannabis resin from the plants from which they are obtained.
- xxii) "Psychotropic substance" means a substance listed in any of the Schedules annexed to the 1971 Convention on Psychotropic Substance.

- xxiii) “Treatment” includes medical treatment, therapy, or admission to an education or rehabilitation programme, social reintegration which is aimed at preventing drug abusers from further abusing drugs, and assisting drug-dependent persons to overcome their dependence.
- xxiv) “International Narcotic Control Board” means the board established by United Nations to implement United Nations Drug Control Programmes.
- xxv) “Schedules” means schedules listed under UN Conventions of 1961 and 1971.

SCHEDULE I

PROHIBITED SUBSTANCES AND PLANTS HAVING NO MEDICAL USE

This schedule comprises:

Schedule IV of the Single Convention on Narcotic Drugs, 1961;
Schedule I of the 1971 Convention on Psychotropic Substances

Schedule IV of the Single Convention on Narcotic Drugs, 1961

1. Acetorphine
2. Acetyl-alpha-methylfentanyl
3. Alpha-methylfentanyl
4. Alpha-methylthiofentanyl
5. Beta-hydroxyfentanyl
6. Beta-hydroxy-3-methylfentanyl
7. Cannabis, cannabis resin and extracts and tinctures of cannabis
8. Desomorphine
9. Etorphine
10. Heroin
11. 3-methylfentanyl
12. 3-methylthiofentanyl
13. MPPP
14. Para-fluorofentanyl
15. PEPAP
16. Thiofentanyl
17. Ketobemidone

Schedule I of the 1971 Convention on Psychotropic Substances

- | | |
|-------------------|------------------------------|
| 1. Brolamfetamine | 2. Cathinone |
| 3. DET | 4. DMA |
| 5. DMHP | 6. DMT |
| 7. DOET | 8. Eticyclidine |
| 9. Etryptamine | 10. <i>N</i> -hydroxy MDA |
| 11. (+)-LYSERGIDE | 12. MDE, <i>N</i> -ethyl MDA |
| 13. MDMA | 14. Mescaline |

- | | |
|-------------------------|----------------------|
| 15. Methcathinone | 16. 4-methylaminorex |
| 17. MMDA | 18. 4-MTA |
| 19. Parahexyl | 20. PMA |
| 21. Psilocine, psilocin | 22. Psilocybine |
| 23. Rolicyclidine | 24. STP, DOM |
| 25. Tenamfetamine | 26. Tenocyclidine |
27. Tetrahydrocannabinol, the following isomers and their stereochemical variants: 7,8,9,10-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[*b,d*]pyran-1-ol(9*R*,10*aR*)- 8,9,10,10a-tetrahydro-6,6,9- trimethyl-3- pentyl-6H-dibenzo[*b,d*]pyran-1-ol(6*aR*,9*R*, 10*aR*)-6a,9,10,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[*b,d*] pyran-1-ol(6*aR*,10*aR*)-6a,7,10,10a-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[*b,d*] pyran-1-ol 6a,7,8,9-tetrahydro-6,6,9-trimethyl-3-pentyl-6H-dibenzo[*b,d*] pyran-1-ol(6*aR*,10*aR*)-6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-9-methylene-3-pentyl-6H-dibenzo[*b,d*] pyran-1-ol
28. TMA

SCHEDULE II
STRICTLY CONTROLLED SUBSTANCES AND PLANTS
HAVING A MEDICAL USE

This schedule comprises:

- Schedule I of the Single Convention on Narcotic Drugs, 1961
- Schedule II of the Single Convention on Narcotic Drugs, 1961
- Schedule II of the 1971 Convention on Psychotropic Substances

Schedule I of the Single Convention on Narcotic Drugs, 1961 (except the substances included in Schedule IV)

- | | |
|-----------------------|-----------------------|
| 1. Acetylmethadol | 2. Alfentanil |
| 3. Allylprodine | 4. Alphacetylmethadol |
| 5. Alphameprodine | 6. Alphamethadol |
| 7. Alphaprodine | 8. Anileridine |
| 9. Benzethidine | 10. Benzylmorphine |
| 11. Betacetylmethadol | 12. Betameprodine |
| 13. Betamethadol | 14. Betaprodine |
| 15. Bezitramide | 16. Clonitazene |

- | | |
|--|--|
| 17. Coca leaf | 18. Cocaine |
| 19. Codoxime | 20. Concentrate of poppy straw (the material arising when poppy straw has entered into a process for the concentration of its alkaloids when such material is made available in trade) |
| 21. Dextromoramide | 22. Diampromide |
| 23. Diethylthiambutene | 24. Difenoxin |
| 25. Dihydroetorphine | 26. Dimenoxadol |
| 27. Dimepheptanol | 28. Dimethylthiambutene |
| 29. Dioxaphetyl butyrate | 30. Diphenoxylate |
| 31. Dipipanone | 32. Drotebanol |
| 33. Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine | |
| 34. Ethylmethylthiambutene | 35. Etonitazene |
| 36. Etoxidine | 37. Fentanyl |
| 38. Furethidine | 39. Hydrocodone |
| 40. Hydromorphenol | 41. Hydromorphone |
| 42. Hydroxypethidine | 43. Isomethadone |
| 44. Levomethorphan | 45. Levomoramide |
| 46. Levophenacymorphan | 47. Levorphanol |
| 48. Metazocine | 49. Methadone |
| 50. Methadone intermediate | 51. Methyl-desorphine |
| 52. Methyl-dihydromorphone | 53. Metopon |
| 54. Moramide intermediate | 55. Morpheridine |
| 56. Morphine | 57. Morphine- <i>N</i> -oxide |
| 58. Morphine methobromide and other pentavalent nitrogen morphine derivatives | |
| 59. Myrophine | 60. Nicomorphine |
| 61. Noracymethadol | 62. Norlevorphanol |
| 63. Normethadone | 64. Normorphine |
| 65. Norpipanone | 66. Opium |
| 67. Oxycodone | 68. Oxymorphone |
| 69. Pethidine | 70. Pethidine intermediate A |
| 71. Pethidine intermediate B | 72. Pethidine intermediate C |
| 73. Phenadoxone | 74. Phenampromide |
| 75. Phenazocine | 76. Phenomorphan |
| 77. Phenoperidine | 78. Piminodine |
| 79. Piritramide | 80. Proheptazine |
| 81. Properidine | 82. Racemethorphan |

- | | |
|------------------|-------------------|
| 83. Racemoramide | 84. Racemorphan |
| 85. Remifentanyl | 86. Sufentanyl |
| 87. Thebacon | 88. Thebaine |
| 89. Tilidine | 90. Trimeperidine |

**SCHEDULE III : CONTROLLED SUBSTANCES AND PLANTS
HAVING A MEDICAL USE**

This schedule comprises:

Schedule III of the Single Convention on Narcotic Drugs, 1961

Schedule III of the 1971 Convention on Psychotropic Substances

Schedule IV of the 1971 Convention on Psychotropic Substances

Schedule III of the Single Convention on Narcotic Drugs, 1961

- | | |
|-------------------------|------------------|
| 1. Acetyldihydrocodeine | 2. Codeine |
| 3. Dihydrocodeine | 4. Ethylmorphine |
| 5. Nicodine | 6. Nicodicodine |
| 7. Norcodeine | 8. Pholcodine |

Schedule III of the 1971 Convention on Psychotropic Substances

- | | |
|------------------|------------------|
| 1. Amobarbital | 2. Buprenorphine |
| 3. Butalbital | 4. Cathine |
| 5. Cyclobarbital | 6. Flunitrazepam |
| 7. Glutethimide | 8. Pentazocine |
| 9. Pentobarbital | |

Schedule IV of the 1971 Convention on Psychotropic Substances

- | | |
|----------------------|-----------------|
| 1. Allobarbital | 2. Alprazolam |
| 3. Amfepramone | 4. Aminorex |
| 5. Barbital | 6. Benzfetamine |
| 7. Bromazepam | 8. Brotizolam |
| 9. Butobarbital | 10. Camazepam |
| 11. Chlordiazepoxide | 12. Clobazam |
| 13. Clonazepam | 14. Clorazepate |
| 15. Clotiazepam | 16. Cloxazolam |

17. Delorazepam
19. Estazolam
21. Ethinamate
23. Ethyl loflazepate
25. Fenproporex
27. Flurazepam
29. Halazepam
31. Ketazolam
33. Loprazolam
35. Lormetazepam
37. Medazepam
39. Meprobamate
41. Methylphenobarbital
43. Midazolam
45. Nitrazepam
47. Oxazepam
49. Pemoline
51. Phenobarbital
53. Pinazepam
55. Prazepam
57. Secbutabarbital
59. Tetrazepam
61. Vinylbital
18. Diazepam
20. Ethchlorvynol
22. Etilamfetamine
24. Fencamfamin
26. Fludiazepam
28. GHB
30. Haloxazolam
32. Lefetamine
34. Lorazepam
36. Mazindol
38. Mefenorex
40. Mesocarb
42. Methyprylon
44. Nimetazepam
46. Nordazepam
48. Oxazolam
50. Phendimetrazine
52. Phentermine
54. Pipradrol
56. Pyrovalerone
58. Temazepam
60. Triazolam
62. Zolpidem

**SCHEDULE IV: SUBSTANCES FREQUENTLY USED IN THE
ILLCIT MANUFACTURE OF NARCOTIC DRUGS OR
PSYCHOTROPIC SUBSTANCES (PRECURSORS)**

This schedule comprises: Table I of the 1988 Convention
Table II of the 1988 Convention

Table I of the 1988 Convention

- | | |
|----------------------------|---|
| 1. Acetic anhydride | 2. <i>N</i> -acetylanthranilic acid |
| 3. Ephedrine | 4. Ergometrine |
| 5. Ergotamine | 6. Isosafrole |
| 7. Lysergic acid | 8. 3,4-methylenedioxyphenyl-2-
propanone |
| 9. Norephedrine | 11. 1-phenyl-2-propanone |
| 10. Potassium permanganate | 13. Pseudoephedrine |
| 12. Piperonal | |
| 14. Safrole | |

Table II of the 1988 Convention

- | | |
|------------------------|----------------------|
| 1. Acetone | 2. Anthranilic acid |
| 3. Hydrochloric acid | 4. Ethyl ether |
| 5. Methyl ethyl ketone | 6. Phenylacetic acid |
| 7. Piperidine | 8. Sulphuric acid |
| 9. Toluene | |

SCHEDULE V CONTROLLED SUBSTANCES