

THE NARCOTICS CONTROL LAWS OF BURMA

Definitions: The Narcotic Drugs Law, Law No. 5 of 1974, as amended in 1983 and 1988, includes under the definition of "narcotic drugs" in its section 2, subsection (a), any of the following substances: derivatives of the poppy, coca leaf and hemp; products prepared from the poppy, the coca leaf, and hemp; chemical substances that have the effect of narcotic drugs; narcotic drugs obtained by processing substances by chemical or other means; and manufactured pharmaceuticals and other items that are from time to time declared by the Government to be narcotic drugs. A list published by the Ministry of Health in 1974 declared as narcotic drugs such substances as benzylmorphine, codeine, concentrates of the poppy straw, ecgonine, heroin, and methadone.

Legitimate Industry Controls: Section 15 exempts from the provisions of the law necessary work with narcotic drugs carried out by the Government for purposes of pharmaceutical production, research, or any other purpose. Section 16 stipulates that the carrying out of such necessary work must be in accordance with law in the course of duty by organizations, personnel, or staff permitted by the Government for the purpose of undertaking work provided for in Section 15.

Prohibited Acts and Penalties: Chapters 2 through 9 of the Law (sects. 3-10) contain the acts prohibited by the law and penalties for contravention of its prohibitions.

The acts prohibited may be divided into two classes, according to the penalties prescribed. The first and comparatively less serious category of such acts consists of the following: cultivation (ch. 2), production (ch. 3), possession (ch. 5), transportation (ch. 6), and transfer (ch. 8). The second category of prohibited acts, which call for heavier penalties, contains: processing (ch. 4), import, export, and transaction with outside countries (ch. 7), and sale (ch. 9).

In the first category, Chapter 2 prohibits the cultivation, for purposes of producing a narcotic drug, of the poppy, the coca plant, hemp, or any other plant from which a narcotic drug can be extracted. Chapter 3 prohibits the production of narcotic drugs. Chapter 5 contains prohibitions on the possession of such drugs, except by permission of the Government. The prohibitions on possession extend also to any article used in the production, processing, use, or consumption of any narcotic drug. The transfer of narcotic drugs is prohibited by Chapter 3.

The above group of prohibited acts carry the following penalties: imprisonment for a term ranging from five to ten years, imposition of a fine of up to 10,000 kyats (US\$1,700), and the confiscation of the various items involved in the prohibited act. Under section 3, Chapter 2, it is provided that in addition to the penalties of imprisonment and fine, the narcotic drug plant fields are to be destroyed, and the implements and animals used in the cultivation of such plants are to be confiscated. Under section 4, subsection (a), in Chapter 3, an additional penalty is the confiscation of the narcotic drugs involved in the offense and of the paraphernalia used in the production of such drugs. Chapter 5 prescribes an additional penalty of having the drugs, paraphernalia, vehicles, land, and buildings involved in the offense confiscated. Similarly, offenders under Chapter 6 will have the drugs, packing materials, transporting equipment, vehicles and animals confiscated. Those with permission to own narcotic drugs who transfer them to anyone who does not have such permission will, in addition to the penalties of imprisonment and fine, have the drugs, as well as the implements, equipment, vehicles, and animals used in the transfer, confiscated.

Even more severe penalties are prescribed for the second category of prohibited acts, which are: processing (ch. 4), import, export and transaction with outside countries (ch. 7), and sale (ch. 9). Offenders under these provisions are liable to imprisonment for a term ranging from ten to an unlimited number of years and a fine of up to 50,000 kyats (US\$8,500), or capital punishment. Additionally, the confiscation of related items is prescribed.

The definition of processing, prohibited by the provisions of Chapter 4, is given in section 2, subsection (c), as being any act of processing the poppy, coca leaf, or hemp in a further stage into a narcotic drug by chemical or other suitable means. The prohibition against carrying out the import, export and transaction with foreign countries involving any narcotic drug is stated in Chapter 7.

Accessories and Attempts: Section 11, Chapter 10, deals with abetment in an offense, and provides that anyone who abets or attempts or conspires and collaborates in the commission of offenses under this Law is to be punished with the penalty prescribed for the offense itself.

Search and Arrest: The Law stipulates in this chapter that the rights, responsibilities, and procedures with regard to searches and arrests thereunder will be separately prescribed by rules. The chapter also provides that anyone who in the course of carrying out such search or arrest accepts or obtains, or consents to accept, a bribe or a narcotic drug, either for himself or for someone else, is liable to imprisonment for a term of from five to ten years.

Registration, Treatment and Punishment of Users: The Law provides in Chapter 12 (sect. 14) that addicts are to register themselves at Government centers and that the Government will make arrangements for their curative treatment. Failure to abide by instructions issued under this section may be punished with three to five years of imprisonment.

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November 1994