

THE FIGHT AGAINST THE PHENOMENON OF THE USE OF DANGEROUS SUBSTANCES LAW, 5773-2013

This is an unofficial translation for information purposes only

Chapter One: Definitions and Presumptions

- Definitions
1. In this law -
- "Possession" - is as defined in Section 34X of the Penal Law;
- "dangerous substance" - a substance intended for the use of person, by way of eating, drinking, chewing, injection, infusion, smoking or sniffing, and in respect of which a reasonable assumption exists that its use is likely to lead to a breach of public order or a breach of the peace of the public, the security or health of the public, similarly to damage caused as the result of the use of a dangerous drug;
- "Substance"- includes a preparation, compound, mixture, or solution of a substance and the salts thereof;
- "The Penal Law"- the Penal Law, 5737-1937;
- "The Director"- and "dangerous drug" - as they are defined in the Dangerous Drugs Ordinance [New Version], 5733-1973;
- "The Dangerous Drugs Ordinance"- the Dangerous Drugs Ordinance [New Version], 5733-1973;
- "Medicinal product" "- as such is defined in the Pharmacists Ordinance [New Version], 5741-1981.
- Presumptions
2. (a) A substance that is intended for the use of a person, by way of eating, drinking, chewing, injection, infusion, smoking or sniffing, and in respect of which one of the following applies, shall be deemed to be a dangerous substance:
- (1) The obligations with the respect to it have not been complied with as to the marking of a product pursuant to the Public health Ordinance (Food) [New Version], 5743-1983, pursuant to the Pharmacists Ordinance [New Version], 5741-1981, or pursuant to the Consumer Protection Law, 5741-1981, as the case may be, to the effect that the marking is not evidence as to all its ingredients;
- (2) According to the publicity surrounding its use it causes similar effects to the user as those caused as a result of the use of a dangerous drug.
- (b) A substance shall not be deemed a dangerous substance if the person in possession of it has proved that the substance is being lawfully manufactured or imported for the use of a person, unless he is proposing to use it for a purpose that is different to that for which it is intended.

Chapter Two: Powers of Seizure and Destruction of a Dangerous Substance - Temporary Provision

- Powers of entry, search and seizure
3. (a) If a policeman has a reasonable basis for assuming that a person is in possession of a dangerous substance, he may take any one of the following actions:
- (1) Enter, at any reasonable time, a place in which he has a reasonable basis for assuming that such person is in possession of the dangerous substance, except for a place used as a residence, and carry out a search of such place;
 - (2) Seize the dangerous substance, including its packaging.
- (b) The provisions of Sections 26 to 29 and 45 of the Criminal Law Procedure Ordinance (Arrest and Search) [New Version], 5729-1969 shall apply, *mutatis mutandis*, to a search under this Section.
- Decision as to destruction of a dangerous substance
4. (a) Where a policeman has seized a dangerous substance pursuant to the provisions of Section 3, he shall issue, to whoever was in possession of it, a summons to appear before a police officer within seven days of the time that is stipulated, for the purpose of stating his case before a decision is made as to destruction of the dangerous substance.
- (b) A police officer shall order the destruction of a substance seized as stated in subsection (a) after the person who was in possession of the said substance has appeared before him or after the expiration of the period stated in that subsection, whichever is the earlier, unless he is satisfied that the substance is not a dangerous substance.
- (c) Where a police officer has ordered the destruction of the substance, the possessor may apply to the Magistrates Court in a civil proceeding, within 30 days; the Court may order the cancellation of the decision to destroy the substance or its return to the possessor, if it has found that in all the circumstances, and *inter alia* from the substance's packaging, from the place at which it was seized and from the circumstances under it was being held, it appears that the substance is not a dangerous substance.
- (d) Where a police officer has ordered the destruction of a substance seized under subsection (b), the destruction of the substance shall be carried out by whoever is duly empowered to do so in the Israel Police, on a date that shall not precede the expiration of thirty days from the date of the said instruction.
- (e) In this section, "police officer" means an officer of the rank of Inspector and above.

Chapter Three: A substance, distribution of which is prohibited

- Urgent declaration 5. (a) Where the Director is of the view that a dangerous substance must be added to the list of dangerous drugs contained in the First Schedule to the Dangerous Drugs Ordinance (in this Law - the Dangerous Drugs Schedule), owing to the immediate necessity of prohibiting the distribution to the public of that substance, he may declare it to be a substance whose distribution is prohibited (in this Chapter - prohibited for distribution substance).
- (b) The Director shall not issue such a declaration as stated in subsection (a) (in this Chapter - urgent declaration) until after he has consulted with the Chairman of the National Authority for the War on Drugs and Misuse of Alcohol, or whoever he has empowered for such purpose, and with the Inspector General of the Israel Police, or whoever he has empowered for such purpose.
- Validity of urgent declaration 6. (a) An urgent declaration shall come into force upon its publication in *Reshumot*; the declaration shall also be published on the internet websites of the Ministry of Health and the Israel Police.
- (b) An urgent declaration shall remain in force for a period of not exceeding 12 months, but the Director may extend its validity on one occasion for a further three months, for reasons that shall be recorded, and the provision of subsection (a) with regard to publication shall apply.
- (c) Notwithstanding the provisions of subsection (b), where a prohibited for distribution substance has been added to the Dangerous Drugs Schedule, the validity of the urgent declaration shall expire on the date of the entry into force of the said addition.
- (d) Where a substance has been declared to be a prohibited for distribution substance and has not been added to the Dangerous Drugs Schedule, the Director shall not again declare it to be a prohibited for distribution substance, other than with the approval of the Labor Welfare and Health Committee of the Knesset.
- Prohibition of distribution 7. (a) A person shall not manufacture a prohibited for distribution substance, nor sell it, nor present it for sale, shall not import, export, supply, or trade in it, nor engage in any other transaction with it, nor possess it with the object of engaging in any of the aforesaid actions; a person who contravenes the provisions of this section shall be liable to three years imprisonment.
- (b) A person who acts as stated in subsection (a) shall be presumed to be aware that the substance is a prohibited for distribution substance, and if he pleads in his defense that he was not aware of this - the onus of proof shall be upon him.
- Enticement of a minor to a prohibited for distribution substance 8. A person who commits one of the following acts shall be liable to five years imprisonment:
- (1) Gives a prohibited for distribution substance to a minor;

(2) Instigates a minor to obtain a prohibited for distribution substance or to use it.

Application of provisions of the Dangerous Drugs Ordinance

9. (a) The provisions under Sections 22 to 24 of the Dangerous Drugs Ordinance shall apply *mutatis mutandis* in relation to an offence under Section 8, and with the following variation: in Section 24 of the Dangerous Drugs Ordinance, Paragraph (3) shall be read as follows: "has invited a minor to a place that is mainly intended for the obtaining of prohibited for distribution substances";
- (b) The provisions of Sections 28, 31 to 36 and 37 of the Dangerous Drugs Ordinance shall apply, *mutatis mutandis* in relation to offences under Section 7 and 8.

Chapter Four: Miscellaneous Provisions

Saving of laws

10. The provisions of this Law have been enacted in order to add to the provisions of any Law and not to derogate from them.

Implementation and enforcement

11. (a) The Minister of Public Security is charged with implementation of the provisions of this Law, and with the exception of Sections 5 and 6, he may, with the agreement of the Minister of Justice, make regulations for the enforcement thereof.
- (b) The Minister of Health is charged with implementation of Sections 5 and 6, and he may, with the agreement of the Minister of Justice, make regulations for the enforcement thereof.

Commencement and entry into force

12. (a) This Law shall come into force seven days after its publication (hereinafter - the Commencement Date).
- (b) The provisions of Chapter Two shall remain in force for three years from the Commencement Date.

Report to the Knesset

13. Once in every six months from the Commencement Date a report as detailed hereunder shall be delivered to the Labor Welfare and Health Committee of the Knesset:
- (1) A report to the Minister of the Interior as to -
- (a) The exercise of the powers of seizure and destruction of a dangerous substance under Chapter Two, including the frequency of the exercise of such powers and the amount of dangerous substances seized and destroyed pursuant thereto;
- (b) Indictments filed by the Police Prosecutor under Sections 7 and 8 and as to the penalties imposed in such proceedings which ended in a conviction.
- (2) A report of the Minister of Health as to urgent declarations under Section 5, the extension of their validity under Section 6, and as to prohibited for distribution substances not added to the Dangerous Drugs Schedule.