

# **Law on Campaign against Intoxicants, Drugs and their Control**

## **Chapter 1**

### **General Provisions**

#### **Basis**

##### **Article 1:**

This Law is enacted pursuant to Article (7) of the Constitution of Afghanistan for the purpose of combating intoxicants, narcotics substances and their control.

#### **Objectives**

##### **Article 2:**

The objectives of this law are:

- 1- To prevent the cultivation of opium poppy, cannabis plants, and coca bush, and other plants that may produce narcotic substances.
- 2- To prevent production, procurement, process, purchase and sale, stocking, distribution, commissioning, import, export, transportation (traffic), supply, use, storage and concealing of narcotic, or psychotropic substances.
- 3- To regulate and control narcotic drugs, psychotropic substances, chemical precursors, and equipment used in the manufacture, production, or processing of narcotic drugs and psychotropic substances, in order to prevent their use for illicit purposes and to ensure their use for medical, scientific, research and industrial purposes in accordance with the provisions of the law.
- 4- To punish the perpetrators of crimes of trafficking intoxicants and narcotic substances.
- 5- To provide coordination between the governmental and non-governmental agencies in combating intoxicant, narcotics and to monitor and evaluate the implementation of the National Narcotics Control Strategy.
- 6- To encourage farmers to cultivate licit crops instead of opium poppy, coca bush, and cannabis plants and other plants that may produce narcotic substances.
- 7- To attract cooperation and assistance from non-governmental national and international organizations in the task of combating intoxicants and narcotic drugs, psychotropic substances, and the chemical precursors and equipments used in production, manufacturing, and processing thereof.

#### **Ban on Cultivation of Drug Producing Crops and Relevant Activities**

##### **Article 3:**

(1) Any person who without permit or license conducts the following acts shall be considered culpable of drug trafficking and be punished in accordance with the provisions of this law:

- 1- Cultivation of drug-producing plants or production, preparation, process, purchase, sell, keep, distribute, commissioning, import and export, traffic, supply, use, storage, and conceal of any substance or mixture containing one of the ingredients shown on the annexed Tables (1, 2 and 3) to this law.
- 2- Practices and activities contained in clause (1) of this Article as relate to all chemical substances or precursors for using in cultivation, production and illegal compounding of the narcotic or anesthetic substances, which are shown on annexed Table (4) to this law.

(2) Possession, purchase, sell, and traffic of opium and cannabis may took place only if the intention of usage is not including circumstances prohibited by this law.

#### **Lead Agency**

##### **Article 4:**

Ministry of Counter-Narcotics as the lead agency shall, in consultation with other relevant ministries and agencies, be responsible for coordination of affairs related to combating intoxicants and narcotics and implementation of the provisions of this law and the National Narcotics Control Strategy, and is required to take necessary measures through the relevant central and provincial offices.

## **Definitions**

### **Article 5:**

The following terms used in this law signify the subsequent meanings:

1- "Narcotic Drug" means plants, substances or compounds classified as such in Tables 1, 2, 3, and 4 annexed to this law.

2- "Drug Trafficking" means cultivation of seeds of drug producing plants or production, preparation, process, purchase, sell, keep, distribution, commissioning, import and export, transport, supply, demand, storage, and conceal of any substances or compounds, which includes one of the substances set forth in the annexed Table 1, 2, and 3 to this law, or activities relating to any chemical substance or precursor contained in the annexed Table 4 to this law, for the purpose of using them in illegal cultivation, production, and compounding of narcotic or psychotropic substances.

3- "Intoxicants Traffic" means production, preparation, process, purchase, sell, stock, disseminate, commissioning, import&export, transport, supply, demand, storage and concealment.

4- "Controlled delivery" means allowing the transportation and passage of illicit or suspected consignments of prohibited articles, including drugs, precursors, equipments, laboratories and further relevant articles with the knowledge and supervision of the competent law enforcement authorities, in an effort to identify persons and establish witnesses against those involved in smuggling from Afghanistan to one or more other countries under a specific regulation.

5- "Drug addict" means a person who uses one or more drugs continuously and is dependant to them.

6- "Precursor" means a substance used in drug production or process as classified under Table 4 of this law.

7- "Psychotropic substance" means a drug included in the annexed Tables 1, 2 and 3 to this law, which are incorporated in the 1971 Convention on Psychotropic Substances.

8- "Regulated drugs" are defined as all plants and substances, including their chemical preparations, derivatives and chemical precursors attached to the annexed tables of this law, that is derived from the United Nations International Convention on Controlling Psychotropic Drugs in 1971.

9- "Compound" means a determinable amount of drugs mixed into another substance included in the annexed Tables to this law.

10- "Medical use" means consumption or usage of the drugs under a medical prescription included in the annexed Tables to this law and as prescribed by the international conventions.

11- "Medical prescription" means a written document signed by a licensed physician, based on which specified amount of regulated drug is prescribed to a patient.

12- "Covert Operation" means the carrying out of activities by the detective authorities through persecution, use of informants, covert surveillance, and exchange of intelligence information with other relevant law enforcement and similar agencies for identifying and arrest of suspects.

13- "Undercover Operation" means carrying out of covert operations and use of fake identification by the police to infiltrate the criminal groups for the arrest of drug and intoxicant related traffickers, during which the identity of police is concealed from third parties.

14- "License" means an official document granted by the Narcotics Committee for the purpose of carrying out activities set forth in Article (3) of this law.

15- "Permit" means written official document granted by the Narcotics Committee for carrying out the activities set forth in Article (3) of this law, prior to engagement therein.

16- "Tapping or Electronic Surveillance" means surveillance of people or a group or listening in secret to private conversations for specified period by an assignee, or use of technical equipment authorized by the competent court, including the followings:

- Surveillance of public and private places by an assignee through use of technical means;

- Wiretapping of communications;
  - Opening of postal mail;
  - Inspection of bank accounts, registration books, records and documents of other financial activities.
- 17- "Possession" means the ability to exert control over an object, including cases where the person does not have physical contact with the object, but potentially exercise control over it or through others.
- 18- "Distribution" is the transfer or attempt to transfer intoxicants or narcotics from one person to another.
- 19- "Bribe" means to demand, offer, promise, or acceptance of money or anything of material or moral value directly or indirectly to a person or entity, with the following purposes:
- influencing an official act.
  - influencing a public official to do or avoid doing a lawful act.
  - influencing a witnesses, or the course of detection, investigation and trial proceedings.
  - compelling a witness to be absent from course of detection, investigation or trial.
  - Influencing any agency, commission, committee or officer authorized by the law to hear and record the testimony of witnesses.

### **Classification of Narcotic Drugs**

#### **Article 6:**

Regulated drugs include the plants and substances specified in the annexed Tables (1), (2) and (3), including chemical derivatives and precursors shown in the annexed Table (4) to this law, which are classified as follows:

Table 1: includes prohibited plants and substances that are not used medically.

Table 2: includes plants and substances that are used medically, and are strictly controlled.

Table 3: includes plants and substances that are used medically, and are strictly controlled.

Table 4: includes chemical precursors, that are used for production and processing of narcotics and psychotropic drugs.

### **Establishing of High Counter Intoxicants and Narcotics Commission**

#### **Article 7:**

For better implementation of the provisions of this law and effective combat against narcotics, a high counter intoxicants and narcotics commission shall be established in the capital as follows:

(1) – The central high counter narcotics commission shall consist of the following:

- 1- Counter-Narcotics Minister as head,
- 2- Deputy Interior Minister on Counter Narcotics as deputy,
- 3- Deputy Attorney General as member,
- 4- Deputy Finance Minister for Customs, as member,
- 5- Deputy Justice Minister as member,
- 6- Deputy Health Minister as member,
- 7- Deputy Information and Culture Minister as member,
- 8- Deputy Hajj and Endowment Minister as member,
- 9- Deputy Agriculture, Livestock and Food Minister as member,
- 10- Deputy Director of Local Governance Organs as member,
- 11- Deputy National Security Directorate as member

(2) – The High Counter Intoxicants and Narcotics Commission can establish its sub-counter narcotics commission in the level of, provinces, districts and villages.

### **Duties and Authorities of the Commissions**

#### **Article 8:**

(1) The high commission for counter-intoxicants and narcotics at the country level shall have the following duties:

- 1- To implement the National Narcotics Control Strategy and its review.
- 2- To take necessary measures for reducing demand of narcotic substances.
- 3- To coordinate activities in order to prevent the cultivation of drugs and their fields eradication.
- 4- To launch advocacy programs for combating narcotics.
- 5- To set the stage for treatment of drug addicts.
- 6- To implement alternative livelihood programs, to ensure their effectiveness, and preparing the base for public active participation.
- 7- To assign sub-committees for better implementation of the provisions of this law, when required.
- 8- To recommend amendments to the provisions of this law.
- 9- To provide performance reports to the Council of Ministers.

(2) Provincial and district counter-narcotics commissions shall have the following duties:

- 1- To implement the National Narcotics Control Strategy.
- 2- To take necessary measures for reducing demand of narcotic substances.
- 3- To coordinate activities in order to prevent the cultivation of drugs and their field eradication.
- 4- To launch advocacy programs for combating narcotics.
- 5- To take appropriate measures for treatment of drug addicts.
- 6- To implement alternative livelihood programs, to ensure their effectiveness and preparing the base for public active participation.
- 7- To provide recommendation on review of the National Narcotics Control Strategy to the High Counter-Narcotics Commission.
- 8- To provide relevant performance reports to the High Counter-Narcotics Commission.

(3) The commission for counter-narcotics at village level shall cooperate with the District Counter-narcotics Commission in order to achieve the objectives set forth in paragraph (2) of this Article.

### **Drug Regulatory Committee**

#### **Article 9:**

(1) To include or delete the regulated drugs shown on the annexed Table (1), (2), (3) and (4), or their transfer from one Table to another, and to grant activity permits or licenses stated in Article (3) of this law, a Drug Regulatory Committee is hereby established with the following composition:

- 1- One medical and one pharmaceutical specialist from the Ministry of Public Health;
- 2- One specialist from the Ministry of Counter-Narcotics;
- 3- One customs specialist from the Ministry of Finance.
- 4- One specialist from the Ministry of Interior.

(2) Members of the Drug Regulatory Committee mentioned in paragraph 1 of this Article shall be appointed by their respective Ministries for a period of (4) year. The head of the Drug Regulatory Committee shall be appointed by the Minister of Counter-Narcotics from amongst the Committee members.

(3) Drug Regulatory Committee shall take its decisions by majority votes of members and recorded in a special book.

(4) In case any member of the Drug Regulatory Committee fails to carry out his/her duties in a satisfactory manner, substitute of the person maybe requested by the Minister of Counter Narcotics.

(5) The administrative costs of Drug Regulatory Committee and its secretariat shall be financed through the budget of Ministry of Counter Narcotics.

(6) Members of the Drug Regulatory Committee shall be entitled to remuneration from Ministry of Counter-Narcotics.

(7) The Drug Regulatory Committee shall hereinafter be referred to as “Committee”.

## **Duties of Drug Regulatory Committee**

### **Article 10:**

- (1) The classifications of regulated drugs shown on the annexed Tables (1), (2), (3) and (4) and their inclusions, deletions, or transfers from one Table to another, shall be accomplished in line with the amendments or additions made by the United Nations Commission on Narcotics. Plants and substances shall have their international names recorded in the annexed Tables, and if not possible, under their commercial, scientific, or common names.
- (2) Drug Regulatory Committee may not include an internationally regulated substance in a Table subject to a regime, less strict than that required under the United Nations conventions for the substance in question.
- (3) The Committee shall not transfer any of the substances in annexed table (1) to tables (2) and (3) of this law, unless the transfer is in accordance to the provisions of (1) of this article.
- (4) The inclusions, deletions or transfers of regulated substances from one Table to another in accordance with paragraphs (1), (2), and (3) of this Article shall be valid immediately after being published in the Official Gazette.
- (5) The compounding of regulated narcotics substance shall be subject to the prohibitive and punitive provisions to which it belongs. If the compound contains two or more regulated narcotics substances, it shall be subject to the conditions governing the most strictly controlled substance, unless provided otherwise in this law.
- (6) If a compound containing a substance listed in Tables (2), (3) or (4) of this law, is compounded in a way that the danger of misuse is not conceivable, and the substance cannot be easily diverted to other substances for illicit use or abuse, the Committee may exempt the substance from certain controlling measures set forth in this law.
- (7) If a substance listed in the attached Tables (2) and (3) of this law and its compound have medical use, it shall be made subject to the provisions applicable to all substances and preparations intended for human or veterinary medicine, provided that such provisions are not incompatible with this law.
- (8) The Committee shall be obligated to submit quarterly and annual reports on its activities to Minister of Counter Narcotics. The Minister of Counter Narcotics may issue necessary instructions in order to provide the required information to the Drug Regulatory Committee, in accordance with the provisions of this law.

## **Granting Licenses**

### **Article 11:**

- (1) The Committee may grant a permit or license only to the government institutions for activities stated in Article (3) of this law for the purpose of treatment, medical and scientific research, promotion of education, and industrial purposes.
- (2) The Committee may grant license to other requesting individuals for preparation, process, purchase, sell, storage, distribution, commissioning, import and export, transport, traffic, supply, storage or use of certain amount of the substances or compounds shown on the annexed Tables (1), (2) and (3) of this law and serving the purposes stated in paragraph (1) of this Article.
- (3) The terms and conditions for issuing license or permit stated in clauses (1) and (2) of this Article shall be organized by separate regulation.
- (4) In case of contradiction between the provisions stated in paragraph (3) of this Article and the international conventions to which Afghanistan has adhered, the provisions of the international conventions shall have preference.

## Chapter - Two

### Counter Narcotics Crimes Agencies

#### **Counter Narcotic Police and Their responsibilities:**

##### **Article 12:**

- (1) Counter narcotics police shall be specifically bound for discovery of narcotics-related crimes and arrest of the suspects.
- (2) Counter narcotics police shall hand over the arrested suspects, seized drugs and other evidences received in connection with the seized narcotics to the relevant authorities, in accordance with the provisions of Articles (15, 16, 17 and 18) of this law.

#### **Counter Narcotic Units:**

##### **Article 13:**

- (1) Special Counter Narcotics Unit and Narcotics Elimination Unit shall be established within the framework of Ministry of Interior for the purposes of arresting the involved persons in drug trafficking, seizing of illegal drugs and resorting to proportionate force (during the operations including against those who prevent the operations).
- (2) Special Counter Narcotics Unit and Narcotics Elimination Unit shall immediately hand over the arrested suspects and seized evidences related to illegal drugs to the counter narcotics police in accordance with the provision of Article 15 of this law.
- (3) Special Counter Narcotics Unit and Narcotics Elimination Unit may destroy the poppy and marijuana fields on site, laboratories and relevant equipment after taking photos and samples.

#### **Other Authorities for Seizure and Arrest**

##### **Article 14:**

- (1) The following authorities may also arrest suspects of drug trafficking and seize illegal drugs, equipment and substances used in the processing of the narcotics:
  - 1- Border and other police forces
  - 2- National security directorate officials
  - 3- Customs officials
- (2) Authorities stated in paragraph (1) of this Article shall immediately hand over the arrested suspects and relevant seized equipment and related documents to the local Counter Narcotics Police. The local counter narcotics police shall immediately submit a report of the incident to the Central Counter Narcotics Police Administration of Ministry of Counter Narcotics, Attorney General Office and High Counter-narcotics Commission.
- (3) Counter Narcotics Police shall submit the suspects of the crimes stated in paragraphs 1, 2 and 3, clause 1 of Article 18 of this law to the Special Counter Narcotics Prosecution office for investigations and filing of a claim.
- (4) In case the amount of drugs corresponding to the amounts stated in sub-paragraphs 1, 2 and 3, clause 1 of Article 18 of this law, is seized outside Kabul province and the perpetrators are arrested, local Counter Narcotics Police shall be obligated to prepare a report within (72) hours after the discovery and arresting and submit it to the local primary prosecution, and transfer the perpetrator along with evidences within (12) days of the arrest to the Central Counter Narcotics Police Administration in Kabul.
- (5) In case the amount of the drug is less than that stated in sub-paragraphs 1, 2 and 3, clause 1 of Article 18 of this law, the authorities mentioned in paragraph 1 of this article shall be obligated to submit the case

to the local related prosecution office within (72) for investigation and filing of a claim according to the proceedings of the law.

(6) The detention period of the suspects under paragraph 4 of this article shall be (7) days from the date of arrival in Kabul, and the Counter Narcotics Police are in this case obligated to handover the suspect to the Special Prosecution office within the mentioned period for investigation and filing of a claim, otherwise the offenders shall be prosecuted.

### **Content of Counter Narcotics Report**

#### **Article 15:**

(1) The report of seized narcotics shall contain the following information:

- 1- Name of the organization and person responsible for the seizure.
- 2- Type and amount of the seized narcotics and physical description including packaging of drugs.
- 3- Date, time and place of the seizure.
- 4- Name, date of birth, address, signature, fingerprints and the photo of the suspect.
- 5- Identity and fingerprints of the witnesses if possible.
- 6- A factual description of the circumstances of the seizure.
- 7- Other information deemed necessary.

(2) The report stated in paragraph 1 of this article shall be signed by the official in charge of seizure and a member of Counter Narcotics Police (if any), and each shall keep a copy of the report.

### **Destruction of Illegal Drugs and Preservation of Evidence**

#### **Article 16:**

The illegal drugs seized shall be destroyed in accordance with the following procedures:

- 1- All drugs seized shall be turned over to the custody of the Counter Narcotics Police as soon as possible.
- 2- The entire amount of the drugs seized shall be weighed and photographed after primary testing and samples shall be sent for laboratory tests. Samples and photos shall be kept until the final verdict of the court.
- 3- The remaining amount of drugs shall be weighed to ensure that it is not less than the original amount seized.
- 4- The prosecutor shall recommend destroying of seized drugs after they have been photographed, sampled, and reweighed to the competent court, and the court shall issue a written order for destroying.
- 5- The proceeding stated in paragraphs 2, 3 and 4 of this article shall be carried out in the presence of representatives of Ministry of Counter Narcotics, Counter Narcotics Police office and the competent prosecutor.
- 6- Representatives of Counter Narcotics Police and Prosecution Office shall be obligated to prepare a precise report on the proceeding stated in this Articles, should be signed, recorded and preserved in the relevant office.
7. Counter narcotics police, in a short period of time destroys the narcotics openly mentioned in this article, in the presence of representatives of prosecution office and counter narcotics ministry.
8. The proceedings relevant to submission, receiving and destroying of the seized narcotics should be managed according to the special procedures which are stated by higher commission of counter narcotics.

### **Authority of Counter Narcotics Prosecution Office**

#### **Article 17:**

- (1) The Special Narcotic Crimes Prosecution Office is particularly authorized to investigate and indict against narcotics trafficking crimes stated in paragraph (1) of the article 18 of this law and relevant crimes.

- (2) If the amount of narcotic is less than what stated in clauses (1, 2, 3) of paragraph (1) of the article 18 of this law; the authority of investigation and indictment shall be under discretion of the provincial prosecution office where its seized

### **Authority of the Counter Narcotics and intoxicant crimes Court**

#### **Article 18:**

(1) The Primary Counter Narcotics and intoxicant crimes Court shall have authority to deal with intoxicant and drug trafficking crimes in the country, in the following situations.

1- When the amount of heroin, morphine, cocaine or any other derivatives from these substances is (2) kg or more,

2- When the quantity of opium or every compound of this substance is (10) kg or more,

3- When the quantity of cannabis or its derivatives contained in annexed Table 1, 2, 3 and 4 to this law (with the exception of heroin, morphine, cocaine, and opium) is more than 50 kg,

4 – When the quantity of intoxicant drinks is 50 liters or more.

(2) The Counter Narcotic Appeal Court has authority over appellate issues of the crimes stated in paragraph (1) of this Article.

(3) In case, the quantity of narcotic or its compound is less than the quantities under paragraph (1) of this Article, the Public security Tribunals of Primary Courts in the center and provinces shall have primary authority to deal with cases, according to the law,

(4) The Provincial Appeal Courts shall have authority over appellate issues of the crimes stated in paragraph (3) of this Article.

(5) The Provincial Counter Narcotic Courts and provincial courts shall have authority over all other crimes committed under paragraph (1 and 3) of this Article.

(6) The Public security Tribunal of Supreme Court shall have authority to deal with the narcotic crimes at the appealing (to the Supreme Court) stage.

### **Confiscation of Assets**

#### **Article 19:**

(1) Funds and properties acquired from committing narcotics crime, or used and intended to use for committing the crime shall be confiscated.

(2) No person shall own and take possession of moveable and immoveable properties or incomes earned directly or indirectly through committing the crimes specified in this law.

(3) The prosecutor shall prepare the reason for confiscation of properties inserted in paragraph (1) of this Article and submit it to the authorized court.

(4) Properties for confiscation shall include the following:

1- Installations, vehicles, materials, equipments and other assets moveable or immoveable, funds or any other goods used directly or indirectly, or intended for committing the crime.

2- Funds and goods (moveable and immoveable) or any other incomes earned directly or indirectly as a result of the criminal acts mentioned in this law.

3- Salaries or other privileges received by the legal or natural persons in connection with the criminal acts mentioned in this law.

(5) If the funds and properties mentioned in paragraph (4) of this Article is unattainable, order shall be issued for seizure of equivalent fund and properties.

(6) In case the funds and properties confiscated, under paragraph (4) of this Article are transferred to another person, they shall be confiscated if the transferee is aware of the source of funds and properties acquired through committing of crimes under this law.

(7) Funds and properties given to another person as gratuities shall be confiscated even though the transferee is not aware of their origin.

(8) The transferee who is unaware of the source of incomes and properties earned as a result of committing crimes under this law, the person shall have the right to present reasons of unawareness to the court.

(9) Goods and materials are not protectable or are perishable shall be put in auction at the recommendation of the prosecutor and order of the court, and their price shall be deposited in the bank, and in case of confiscation the funds shall be transferred in revenue account of government.

## Chapter 3

### Search, Seizure and Detection Methods

#### **Implementing the Provisions of this Chapter**

##### **Article 20:**

The provision of this chapter is applicable only with respect to detection of crimes due to smuggling of narcotic, investigating, bringing lawsuit and trial of perpetrators.

#### **Search of Dwelling and Possession**

##### **Article 21:**

Police can search the possession and dwelling of the suspect, according to this law.

#### **Searching of the Person**

##### **Article 22:**

(1) Police can search a person in case there is justified reason that items and evidence related to narcotic crime are hidden in body and clothes of the suspect.

(2) Bodily search shall take place by the same sex, and examining interior parts of the body shall be conducted by the assigned medical person after authorization from court. Confirmation of the court in emergencies shall be received after examination. In case the person consents to internal body search, the matter shall be registered at the scene without authorization of court.

(3) During the search the items related to committing of crime shall be seized. The reasons and process of the search, name of the judge and other authorizing people, if any, and description of the seized items shall be registered and forwarded for subsequent legal proceedings.

#### **Covert and Confidential Detective Activities**

##### **Article 23:**

(1) Police can execute detection and covert activities during the course of work and investigation for gathering evidence, documents and other required information which include the following:

1- Recording of conversations in public areas.

2- Fixed or mobile surveillance by using electronic and photographic equipment or without it.

3- Collecting information as relates to the use, supply and transfer of long-range communication means and transmissions according to written instruction of the Attorney General.

4- Hand over and controlled delivery of narcotic, based on official written agreement between the offering and receiving countries, or international treaties to which Afghanistan has acceded.

(2) For infiltrating the narcotic groups of perpetrators, and arresting criminal suspects according to this law, police can carry out covert activities with prior permission of Attorney General.

#### **Electronic Surveillance**

##### **Article 24:**

(1) The court can authorize wiretapping by electronic equipment in case securing evidences are not possible without such communication or it causes difficulties, and if evidence of the crime already exist.

(2) Police can collect evidence, documents and other necessary information related to perpetration of crimes of narcotic by use of detection methods and electronic surveillance with permission of the prosecutor and authorized court, which may be included the following:

- 1- Recording secret and obvious conversations by using and installing electronic or photographic devices in the residences or private properties.
  - 2- Tapping calls including information and internet transmissions, conversations and information transmitted by communication companies, electronic means or media, or providers of computer other electronic and technology services.
  - 3- Auditing of banking accounts or records and wire transfers.
  - 4- Opening and inspection of parcel and posts.
- (3) The confidentiality of conversations, letters and communications between the accused and legal representative shall be observed in all cases mentioned in this Article.

### **Prohibition on Disclosure of Communication Contents**

#### **Article 25:**

- (1) The tasked or electronic communications service provider shall not divulge the contents of a communication message to any person or institution other than the receiver, except the following cases:
- 1- Instances where this law allows divulgence of communication.
  - 2- With the permission of sender or receiver.
  - 3- To the person assigned and employed for sending messages to the ideal place, or the person whose installation is used for the intended purpose.
  - 4- The message has fallen accidentally to the hand of relevant service providers, and seems to be linked to committing a crime, provided that the mentioned information is disclosed to a judicial and justice authority.
- (2) Eavesdrop, disclosure or use of a message during performing duty to an employee, official or representative of service provider, either through wired or wireless electronic communications is not illegal.

### **Validity and Non-validity of Communication Contents**

#### **Article 26:**

- (1) When the disclosure of wired or wireless messages breaches the provisions of this law, none of its part shall be valid as evidence during detection, investigation, or trial with official authorities.
- (2) The consent of one of the parties or order of an authorized court for monitoring or inspection of communication message shall be considered as authorization for wiretapping.

### **Reasons and conditions for wiretapping:**

#### **Article 27:**

- (1) Wiretapping of message based on recommendation of the prosecutor and order of authorized court shall take place under the following conditions:
- 1- Suspects and other persons are involved in committing crimes related to narcotic.
  - 2- Suspects and other persons use a special communication device or place in connection with crimes of narcotics.
  - 3- The mail and wired or wireless communications messages of the suspect are wiretapped by telephone or sighted in that place.
- (2) The time period for wiretapping shall be included in the recommendation.
- (3) In case the recommendation for extension of prior order, the outcome of wiretapping or logical explanation for not acquiring relevant outcomes shall be included in the request.

### **Written and Oral Permission for Wiretapping**

#### **Article 28:**

(1) Recommendation to allow wiretapping shall be in writing, and it can be requested orally in emergencies, and the recommendation for wiretapping shall contain enough information to justify its use.

(2) The court issuing order shall include all the terms and limitations for wiretapping or the covert electronic monitoring in the approved order. The oral emergency permission for wiretapping shall contain the same information and justification which apply to recommendation for written permission. Following the grant of oral permission, a written recommendation shall be prepared as soon as possible along with the exigency.

### **Details of Eavesdropping Order**

#### **Article 29:**

The wired, wireless or electronic wiretapping requires the following:

- 1- Mentioning the identification of person whose communication is wiretapped, in case it is known.
- 2- Mentioning the nature, location or the place where wiretapping is permitted.
- 3- Explaining the type of wiretapping and the crime for which it relates.
- 4- Mentioning the name of office which has wiretapping permission and the person who approved the recommendation.
- 5- The time period for wiretapping and explanation whether wiretapping after contact should be immediately cut off or not.

### **Validation Period of Wiretapping**

#### **Article 30:**

The order for wiretapping shall be valid until achievement of the objectives therein, or (60) days from the date of issued permission.

In case of proven need for wiretapping, this order may be extended for another (60) days period, in accordance with the provision in Article 27 of this law.

### **Applicability of Permission**

#### **Article 31:**

Permission for wiretapping, targeted telephone number or changed telephone number shall be used within 60 days. In case of mobile phone, the permission for targeted telephone or changed telephone number, or each telephone number which subsequently used with the same serial number, shall be applicable within the authorized duration of (60) days.

### **Interception of Criminal Conversations**

#### **Article 32:**

Monitoring personnel may listen only to criminal conversations, but the interception shall stop when the parties engage in non-criminal conversations.

### **Safekeeping of Intercepted Documents**

#### **Article 33:**

The intercepted documents shall be sealed in a container and delivered within (30) days of the authorized interception period to the issuing court of interception order, for protection of the recordings and to ensure that the contents are not unlawfully disclosed.

### **Disclosure of Interception and Wiretapping**

## **Article 34:**

(1) No provider of wired or wireless electronic communication services, officer, employee or legal agent shall disclose the existence of any interception or wiretapping devices used to accomplish the interception or wiretapping for which the person received authorization by court order under this Article, except in exigencies and prior authorization of the Attorney General.

(2) Police and prosecutor, who listen to the intercepted wire or wireless communications relating to offenses other than those specified in the permission order, can disclose the contents and evidences derived there from to the judicial authorities, and disclosed it under oath in a proceeding, and for the judge to find on subsequent application that the contents were intercepted in accordance with this Article and the original order. In case conversations on other offenses are being monitored, the court shall be notified to include the new offenses into the original application for interception order. If no extension order is obtained and use of the evidences is needed in future proceeding, an order should be obtained as soon as practicable pursuant to this Article.

(3) Disclosure of information obtained pursuant to this law shall be authorized in the following conditions:

1- To the police and prosecutor for performance of their official duties,

2- For receiving permission and giving testimony under oath.

(4) Information regarding offenses other than those authorized in the order may be disclosed to other law enforcement officers with a court authorization.

(5) Police and prosecutor may disclose intercepted information to other law enforcement, intelligence, protective, immigration, national defense, or national security officials, if the information includes intelligence or counter-espionage, in order to facilitate their performance of official duties.

(6) Police, prosecutor or other relevant authorities engaged in carrying out official duties, may disclose the contents of intercepted documents and evidences derived there from to foreign or domestic investigative or law enforcement officers, if such disclosure is appropriate for official performance of the receiving or disclosing officers.

Foreign justice and judicial may use or disclose the information or evidences to the extent appropriate for performance of their official duties.

(7) Police, prosecutor or other relevant authorities engaged in drug-related official duties may disclose the contents of intercepted documents and evidences, for preventive measures and reaction, to the government officials of foreign country, when the information indicate a real and sever terror, and destructive attack by a foreign power or its representative, secret agents or intelligence in Afghanistan or any other place.

The foreign authorities may use it in line with the joint guidelines to be adopted by the Office of the Attorney General and National Directorate of Security.

## **Article 35**

### **Order to cover interception or surveillance approaches, tools and techniques:**

The interception order for drug crimes issued by the court could be written on that in certain conditions the sealed order may not be divulged until investigation is ended or another order is issued by the court. It could also be written in the order that the methods, tools and techniques interception or surveillance shall not be uncovered.

## **Article 36**

### **Permission for entering to install interception device:**

In the court order issued for wiretapping, police and prosecutor are given permission to secretly enter the location which will be under surveillance to install/replace recording equipment or change its battery.

### **Article 37**

#### **Interdiction to disclose wiretapping equipments**

- 1- Communication providers are bounded based on the interception order to allow prosecutor and police officer to have access to communication information while transferring or sooner and fully assist them in installing or connecting the necessary technical equipments of wiretapping or recording.
- 2- Communication providers, their employees and agents can not divulge installation of wiretapping equipments.

### **Article 38:**

#### **Informants**

1. On the purpose of detecting narcotic crime through intelligence information and related evidence police may use the informants.
2. Informants with permission of police may maintain a relationship with other persons in order to acquire information about illegal activities and gathering evidences and may use detection techniques described in this Article.
3. Informants without the prior permission of police can not participate in the detection of narcotic traffic crime. If the informants commit violation against the responsible sources guidance they shall be legally prosecuted for their committed crimes in accordance with the law .
3. 4. Giving the permission for informants to acquire information or participate in crimes shall be accomplished in written order by the legal authorities as for as possible the type of actions that informant may accomplish or participate in that shall be specify in the mentioned permission and their activities is being appointed by the responsible authorities.
4. 5. The identity of an informant may be withheld by an order from a court where there is reasonable cause to believe that identifying the informant will subject him to danger or compromise lawful investigations. The order issued by the court may provide in appropriate circumstances that the order be sealed and not be disclosed to another party until the conclusion of the investigation or until further order of the court, and that the methods, means, and techniques used in the investigation remain secret.
5. 6. An informant may testify in court.
6. 7. Informants shall be recruited in accordance with special procedures established by the Ministry of Interior.

### **Article 39:**

## **Undercover Operations**

- (1) Police and prosecutor may conduct undercover or covert operations during and in connection with investigations to gather intelligence information and evidence relevant to the commission of drug-and Intoxicating drinks trafficking offenses. Methods and techniques for undercover operations shall be set forth in a separate regulation.
- (2) Intelligence information includes information relevant to the detection and prevention of drug- and Intoxicating drinks trafficking offenses. The source of intelligence information may be protected and kept confidential.

## **Article 40:** **Validity of evidence and documents**

Evidence properly gained through the use of authorized covert and overt methods of wiretapping and covert surveillance of electronic communications or use of informants and covert operations included in this chapter shall be valid in all steps of detection, investigation and trial.

## **Chapter Four**

### **Article 41:** **Penalties for cultivation**

- (1) Any person who cultivates opium or coca in a one- acre land, taking into consideration the circumstances he shall be sentenced to up to 3 months imprisonment.
- (2) Any person who cultivates opium or coca in a land more than one Jerib, he shall be sentenced to imprisonment of ten days for each additional Beswa (one fourth of acre) in addition to imprisonment mentioned in paragraph (1) of this law.
- (3) Any person who cultivates cannabis in a one-acre land, taking into consideration the circumstances he shall be sentenced to up to 2 months of imprisonment.
- (4) Any person who cultivates cannabis in a land more than one acre, he shall be sentenced to imprisonment of 5 days for each additional Beswa – one fourth of acre - in addition to the punishment mentioned in paragraph( 3) of this article.
- (5) Whoever, encourages, motivates, compels another person to cultivate opium, cannabis and coca or facilitates or organizes them shall be sentenced to twice amount of punishment prescribed in paragraphs (1, 2, 3 and 4) of this article, taking into consideration the circumstances.
- (6) In the cases stated in paragraphs (1, 2, 3 and 4) of this article, beside the punishments listed in this article, the cultivation of poppy, cannabis, coca and other plants which produce narcotics shall be destroyed and the cultivator or the person involved in shall not entitled to compensation.

- (7) Destruction of farms of the plants that produce drugs in such a manner that causes side affects to health or environment, shall not be allowed without agreement of Ministry of Public Health and National Administration of Environment Protection.

**Article 42:**

**Punishments for smuggling Heroin, Morphine and Cocaine**

- (1) Whoever commits a drug trafficking offense involving the following quantities of heroin, morphine, or cocaine, or any mixture containing those substances, shall be sentenced as follows:
1. Six months up to one year of imprisonment for trafficking less than 10 grams of heroin, morphine and cocaine.
  2. More than one year up to three years of imprisonment for trafficking more than 10 grams and less than 100 grams of heroin, morphine and cocaine.
  3. More than 3 years up to five years of imprisonment for trafficking more than 100 grams and less than 500 grams of heroin, morphine and cocaine
  4. More than 5 years up to 10 years of imprisonment for trafficking more than 500g and less than 1kg of heroin, morphine and cocaine.
  5. If the amount exceeds 1kg, the perpetrator shall be sentenced to one year of imprisonment for each additional 500g in addition to ten years of imprisonment.
- (2) In situations mentioned in point 5, paragraph (1) of this article, the period of imprisonment shall not exceed 20 years.

**Article 43:**

**Punishment for smuggling Opium**

1. Whoever commits a drug trafficking offense involving the following quantities of opium or any mixture containing that substance shall be sentenced as follows, taking into consideration the circumstances:
1. For less than 10 grams of opium, imprisonment for up to two months.
  2. For more than 10 grams and less than 100g of opium, imprisonment for two to six months.
  3. For more than 100g and less than 500g of opium, imprisonment for six months up to one year.
  4. For more than 500g and less than 1kg of opium, imprisonment of more than one year up to three years.
  5. For more than 1kg and less than 5kg of opium, imprisonment for three to eight years.

6. For more than 5kg of opium, in addition to eight years of imprisonment, six months of imprisonment for each additional 500 grams.
7. In cases mentioned in point 6, paragraph (1) of this article the period of imprisonment shall not exceed 20 years.

### **Punishment for Consuming Intoxicant Drinks**

#### **Article 44:**

Whoever consumes intoxicant drinks, the Islamic prescribed punishment shall be applied upon her/his according to Anafies' jurisprudence.

**The circumstance for implementation of Had for the person who drinks alcohol shall be accomplish in accordance to the Jurisprudence of Ahnaf Religious sects as follows.**

- 1- **Whenever the intoxicant drinker is using rave on his speech and most of his/her speech is out of order.**
- 2- **If he/she confesses explicitly before a judge or two or more than two just men testify against him/her.**
- 3- **If the intoxicant drinker is wise, mature and free and able to realize that what he is drinking is alcohol.**
4. **When the intoxicant drunkard recovers, the judge shall punish him/her to lashing of 80 times, the lashing shall apply on all parts of body except the head and face, the penalty of flogging shall be inflicted for men in stand position and for women in sitting position.**
5. **The extra and winter wear cloths shall taken off from the convicted body.**

### **Punishment for Smuggling of Intoxicant drinks**

#### **Article 45**

Whoever commits smuggling intoxicant drinks involving its any substance shall be sentenced as follows, taking into consideration the below circumstances and amount:

- 1- **For less than 1 liter of intoxicant drink, imprisonment up to two month.**
- 2- **For 1 liter up to 10 liters of intoxicant drink, imprisonment of two up to six months.**
- 3- **For 10 liters up to 50 liters of intoxicant drink, imprisonment of more than six months up to one year.**

- 4- For 50 liters up to 100 liters of intoxicant drink, imprisonment of more than one year up to 3 years.**
  - 5- For 100 liters up to 500 liters of intoxicant drink, imprisonment of more than 3 years up to 8 years**
  - 6- If the amount of alcohols exceeds from 500 liters in addition of 8 years imprisonments he/she shall be punished for each 50 liters of exceeding intoxicant drink for six months of imprisonment.**
- (2)- In circumstances mentioned in sub-paragraph six of paragraph of one this article the duration of imprisonments shall not exceed 20 years of imprisonment**

### **Punishment for hashish trafficking:**

#### **Article 46:**

1. Whoever commits hashish trafficking offense involving the following quantities shall be sentenced as follows:
  - a. Less than 10 grams of hashish, imprisonment for up to one month.
  - b. More than 10 grams up to 100 grams of hashish, imprisonment for more than one month up to two months
  - c. More than 100 grams up to 500 grams of hashish, imprisonment for more than two months up to three months
  - d. More than 500 grams up to 1kg of hashish, imprisonment for more than three months up to six months.
  - e. More than 1kg up to 5kg of hashish, imprisonment for more than six months up to one year.
  - f. More than 5kg of hashish, in addition to one year imprisonment, for each additional 500 grams imprisonment of three months.
2. In conditions mentioned in paragraph 2, subparagraph 6 of this article the term of imprisonment shall not exceed 10 years.

#### **Article 47:**

### **Punishment for Trafficking of Substances or any Mixture Containing Substances listed in Tables of this law**

1. Whoever commits a drug trafficking offense involving the substances or any mixture containing substances listed in Tables 1 through 4 of this law, with the exception of heroin, morphine, cocaine, hashish and opium shall be sentenced as follows:
  - (i) Less than 250 grams, imprisonment for up to one month.

- (ii) More than 250 grams up to 500g, imprisonment for more than one month up to three months.
- (iii) More than 500g up to 1 kg, imprisonment for more than three months up to 1 year.
- (iv) More than 1kg up to 5kg, imprisonment for more than one year up to three years.
- (v) More than 5kg , in addition to three years imprisonment, for each additional 500 grams imprisonment for three months.

2. In conditions mentioned in paragraph 2, subparagraph 5 of this article the period of imprisonment shall not exceed 10 years.

#### **Article 48:**

**Duration of responsibility for investigation and filing a lawsuit in** counter-narcotics crimes is lesser

In conditions mentioned in subparagraphs 1, paragraphs 1 of articles 44 and 45 of this law, the prosecutor is responsible to complete investigation of the case and file a lawsuit against the accused as soon as possible so that the time of investigation and filing a lawsuit should not exceed the period of imprisonment.

#### **Article 49:**

##### **Punishments of two or more perpetrators**

If two or more individuals commit a drug and Intoxicating drinks trafficking crime, in accordance with circumstances, each perpetrator shall be sentenced to maximum penalty prescribed for the committed crime.

#### **Article 50:**

##### **Punishment for federation, partnership and commencement to commit crime**

1. If a person associates with other person/s to commit crimes listed in this law, articles 49 to 52 of Penal Code is applicable on him.

2. If a person agrees with other person/s in the commission of offenses mentioned in this law or influence or compel other person/s or with his knowledge helps them by providing equipments, facilities and supplies and as a result of this agreement, influence, compulsion or assistance the crime takes place, s/he shall be sentenced to the same punishment as prescribed for the main perpetrator.

Paragraph 5 of article 41 shall be exempted from provision of this article.

3. If a person starts committing crimes listed in this law, the articles (29, 30, 31, 32, and 33) of the penal code is applicable on him.

#### **Article 51:**

##### **Punishment for owner and lessee**

1. Whoever as a owner, tenant or lessee or their legal representative rents or leases the land, building, vehicle or other properties or take them for rent or lease or lets others to use them for purpose of committing crimes listed in this law, in accordance to circumstances shall be sentenced to maximum punishment prescribed for main perpetrator of the crime.

2. If the individual mentioned in paragraph 1 of this article gives to rent or leases his/her land, building, vehicle or property for licit activities, but these properties being used for the purpose of committing crimes listed in this law, and even though he/she knows that and he/she does not prevent the commission of them or does not inform relevant authorities, in accordance to circumstances, shall be sentenced to short or medium imprisonment.

#### **Article 52:**

##### **Punishment for Importation, usage or possession of equipment used in processing drugs**

1. Whoever imports or possesses equipments or materials used in or for the production and processing of drugs without having a license, in accordance to circumstances, shall be sentenced to long imprisonment for up to 10 years.

2. Whoever uses the equipment or materials listed in paragraph (1) of this article, in accordance to circumstances, shall be sentenced to long imprisonment, not less than 12 years.

3. Whoever lawfully imports equipment or materials listed in paragraph (1) of this article but uses them in the illicit production or processing of the regulated drugs, based on circumstances, shall be sentenced to long imprisonment, not less than 10 years.

4. Whenever, the offences listed in this article is committed by a legal person, in addition to the punishment prescribed for perpetrator and accomplices, the legal person, for the first time, is punished to suspend its operation for three months and its work license, in the second time, shall be invalidated.

#### **Article 53:**

##### **Punishment for corruption and intimidation in crimes related to drugs**

1. Whenever a public service official commits any of the following actions, in accordance to the status, shall be sentenced to long imprisonment, not more than 10 years:

1 Providing facilities and assistance in committing crimes listed in this law.

2. Causing any hindrances in the process of detection, investigation and trial of any crimes mentioned in this Law .

3. Whenever a public service official commits negligence in carrying out duties related to detection, investigation, trial of drugs and intoxicants trafficking suspects, in view of circumstances he/she shall be sentenced to imprisonment of up to two years.

4. Concealment of evidence related to the drug trafficking or destruction of the relevant documents and evidences.

2. whenever a public service official directly or indirectly requests, accepts and takes a bribe in the crimes related to trafficking of drugs and intoxicants, in addition to the prescribed imprisonment, shall be sentenced to three years imprisonment and return of the amount received in bribe to the owner.

3. Whenever a person threatens or hurts any public service official in relation to detection, investigation, or trial of any drugs and trafficking crimes, in accordance to circumstances s/he shall be punished by long imprisonment, not more than 10 years. In case, the public official dies because of the injury, the perpetrator shall be sentenced to death penalty.

4. Any person who receives or accepts any benefit for the purpose of impeding investigation or criminal trial of a drug trafficking offense or interfering in the investigation and criminal trial , in accordance to the status, shall be sentenced to long imprisonment, not more than five years, and shall relinquish the benefit.

5. Any person who threatens another person for the purpose of committing the following actions, in accordance to the status, shall be sentenced to long imprisonment, not more than eight years:

1- Commission of any crimes listed in this law or facilitating the commission of it.

2- Creating impede in the process of prosecution of drug related crimes.

6. The punishments stated in paragraph 1,2,3,4 and 5 of this article, shall be added to the punishments mentioned in chapter seven of the penal code in case the person has committed other crimes.

### **Punishment for the Use and Carrying Weapons**

#### **Article 54**

1. Whenever a person uses or causes the use of weapons in relation to one of drug trafficking offenses, according to circumstances, shall be punished to five up to ten years imprisonment.

2. Whoever a person carries or posses weapons in relation to any drug trafficking offense or is responsible for carrying the weapons for another person, in accordance with circumstances, shall be punished to three years up to five years imprisonment.

#### **Article 55:**

**Punishment for the person who mixes drugs and intoxicating drinks, who employs and allows using of drugs and intoxicating drinks**

Any person, who commits the following actions, taking into consideration the circumstances, shall be sentenced to long term imprisonment, not more than eight years:

1. Mixing of substances stated in tables 1, 2,3 and 4 attached to this law with food;
2. Employs or uses a child to commit a drug and intoxicating drinks trafficking offense; or
3. Allows the consumption of substances or any mixture containing substances stated in tables 1, 2, 3 and 4 in restaurants, hotels, cinemas, shops or any other premises

### **Punishment for illicit Prescription and Obtaining of Drugs**

#### **Article 56**

Any person, who commits the following actions, taking into consideration the circumstances, shall be punished to midterm imprisonment, not less than three years:

1. Prescription of a regulated drug by a doctor with the knowledge that the mentioned drug will be used illegally;
2. Selling and buying of regulated drugs using counterfeited prescriptions,

### **Punishment for illegal Consumption of drugs:**

#### **Article 57**

- (1) Any person who uses or possesses up to 5 grams of heroin, morphine and cocaine or 25 grams of opium or 50 grams of hashish and for the purpose of personal consumption, other than as authorized for medical treatment or by this law, if a medical examiner certifies his/her addiction, he/she shall be exempted from prosecution and shall be taken to an addicts treatment center.
- (2) If addiction of the person is certified by the responsible medical examiner, but the amount obtained exceeds the amount mentioned in paragraph (1) of this Article, the mentioned person shall be detained in drug treatment center by police and taking into consideration the circumstances, shall be punished based on the provisions of this law.
- (3) Detoxification or drug treatment centers officials shall report to the relevant court through the prosecution office every 15 days on the health condition of person/s mentioned in paragraph (2) of this article. On the basis of the report received, the court can abrogate or extend the period of detention and treatment in accordance with the circumstances.
- (4) In case of conviction to imprisonment or quarantine (Hujz), the period of detention in treatment center shall be counted for the period of imprisonment or quarantine (Hujz).

### **Punishment for organizers**

#### **Article 58**

Any person, who manages, controls, organizes, funds or guides more than two persons in commission of crimes stated in this law, shall be punished to twice maximum punishments

prescribed for the committed crime provided that the period of imprisonment does not exceed 20 years.

### **Punishment for the owner of Vehicles**

#### **Article 59**

- (1) Whoever intentionally conceal or transport more than 100 grams of heroin, cocaine, morphine or 1kg of opium, 5kg of hashish, 25liters of intoxicating drinks and primary chemical precursor used in manufacturing narcotic drugs or other substances listed in Tables 1, 2, 3 of this Law in his/her vehicle or if he/she agrees with doing so, in addition to the prescribed punishment mentioned in this Law, his/her vehicle shall also be confiscated.
- (2) Any vehicle seized in relation to a drug-trafficking offense shall be registered and officially handed over to the nearest customs office and following the completion of its confiscation in accordance with the provisions of the relevant law, it shall be placed on sale and the proceeds be deposited to the government treasury.

### **Punishment for Repeated offenders**

#### **Article 60**

Whoever has been convicted to punishment once for committing an offense stated in this law, commits drugs and intoxicating drinks related crime again, he/she shall be sentenced to the maximum penalty prescribed for that offense in this Law.

### **Punishment for offender by public officials**

#### **Article 61**

Public official who does not follow the provisions of this law and the relevant regulations regarding issuance of licenses, authorizations or reporting, and facilitates for the issuance of a license or an authorization knowing that it will be abused, they shall be sentenced from one year up to two years of imprisonment based on circumstances. If the person repeats the violation, s/he shall be sentenced more than two years up to six years of imprisonment.

### **Interception and electronic surveillance offenses**

#### **Article 62**

Anybody who commits one of the following offenses shall be sentenced to imprisonment of 1 up to 5 years ; the situations which are allowed by this law are exempted from this provision:

1. To intercept wired and wireless or electronic communications.
2. To use any electronic, mechanical or other equipments to intercept any verbal communications.
3. To disclose the content of a wired, wireless or electronic communications to another person with the knowledge that these information have been obtained through interception of wired, wireless or electronic communications in contradiction with provisions of this law.

4. To use the content of a wired, wireless or electronic communications with the knowledge that these information have been obtained through interception of wired, wireless or electronic communications in contradiction with provisions of this law.
5. To disclose the content of a wired, wireless or electronic communications, which have been obtained through licit ways mentioned in this law, in the following circumstances:
  - With the knowledge that the relevant information has been obtained through interception related to investigation of a crime.
  - To disclose the relevant information with intention to hinder or interrupt in investigation of crime.
  - In case the relevant information has been obtained in relation to investigation of a crime.

### **Prohibition of the suspension of punishments**

#### **Article 63**

- (1) The provisions related to suspension of punishment enforcement provided in Penal Code, shall not apply to convicts of drug- and intoxicating drinks trafficking offenses stated in this law.
- (2) In the circumstances of applying reasons for mitigation of punishment extenuating circumstances judicial discretion, the punishment shall not be less than two third of the maximum of prescribed punishment in this Law.
- (3) The persons convicted by the special counter narcotics and intoxicant court shall spend two third of their imprisonment in the capital and the rest in the relevant provinces.

### **Cooperation with justice and judicial organs:**

#### **Article 64**

- (1) If a suspect cooperates with relevant agencies in disclosure or arrestment of other drugs crime perpetrators during detection or investigation process, in accordance to circumstances the prosecutor can request from court of up to 50% reduction in the minimum applicable sentence prescribed for this crime or the court shall order this.
- (2) If a person gives reliable information about the detection and disclosure of drug trafficking and its perpetrators or arrest them or cooperates in arresting them, he/she shall be appreciated and given money reward according to circumstances considering the quality and quantity of the drug by the Counter Narcotics police based on the guidelines set forth by Ministry of Interior.

## **Chapter Five**

### **Miscellaneous Provisions**

#### **Duties and responsibilities of ministries and agencies**

## **Duties and responsibilities:**

### **Article 65**

- (1) The Ministry of Counter Narcotics shall coordinate the Government of Afghanistan's counter-narcotics activities and programs in cooperation with the Ministries, independent bodies, and other relevant organizations.
- (2) The Minister for Counter Narcotics, assisted by other Ministries, bodies and institutions, shall prepare National Drug and intoxicating drinks Control Strategy (NDCS) and supervise its implementation.
- (3) Ministries, agencies and other relevant organizations shall be responsible for the implementation of this law and the National Drug and intoxicating Control Strategy in their respective areas of activity.
- (4) The concerned Ministries and organizations shall present a report, on a monthly basis or upon request, on their counter-narcotic and counter Intoxicating drinks activities to the Ministry of Counter Narcotics.
- (5) The Ministry of Counter Narcotics shall submit a quarterly report on the activities and performances of the relevant organizations in combating narcotic drugs and intoxicating drinks to the government.
- (6) The Ministry of Counter Narcotics shall coordinate the annual budget of the National Drug and intoxicating drinks Control Strategy with the Ministry of Finance. The Ministry of Counter Narcotics and the Ministry of Finance shall be jointly responsible for the management and implementation of the Counter Narcotics Trust Fund.
- (7) The General Department of National Security is obligated to regularly provide and send intelligence related, strategic and operational reports related to the crimes of drug and intoxicating drinks trafficking to the National Security Advisor, the Ministry of Counter Narcotics and the Ministry of Interior.
- (8) The Ministry of Public Health, in consultation with the Ministry of Counter Narcotics, shall establish, treatment (reduction in demand) and rehabilitation services center at the residential places for persons addicted to or dependant on narcotic drugs and/or psychotropic substances.
- (9) The Ministry of Education and Ministry of Higher Education shall, in consultation with the Ministry of Counter Narcotics, include illicit drug and intoxicating drinks use prevention related subjects into the curriculum of their educational institutions.
- (10) The Ministries of Culture and Information, Public Health, Religious Affairs (Hajj and Awqaf) and other relevant bodies shall, in consultation with the Ministry of Counter Narcotics, conduct public awareness campaigns against illegal drug cultivation, drug and intoxicating drinks production, trafficking., and use.

11 The Ministries of Agriculture, Irrigation and Livestock, Commerce and Industry, Rural Rehabilitation and Development and Interior shall adopt measures to:

1. Prevent the cultivation of opium poppy, cannabis, coca and other plants used in manufacturing narcotic drugs through possible legal means;
2. Persuade and encourage farmers to cultivate licit crops.
3. Provide assistance to farmers.
4. Marketing for the production of farmers in and out of the country

12 The Ministry of Foreign Affairs shall adopt measures in consultation with the Ministry of Counter Narcotics in order to achieve the following objectives :

1-Attract assistance from foreign and national NGOs and international organizations for farmers and to equip and expand hospitals and rehabilitation centers for drug addicts

2-Collect reports, publications and information material related to the struggle against drugs from regional and international organizations, and translate and distribute them;

3-Initiate efforts to negotiate agreements with other countries and organizations regarding co-operation in detection, investigation, arrest, prosecution, trial, and extradition of those suspected of drug smuggling in accordance with provisions of the law.

4-Negotiate agreements with other countries and international organizations for cooperation and technical and financial assistance to prevent opium, cannabis, and coca cultivation and to combat drug and intoxicating drinks trafficking in the country.

5. Work with the United Nations and other foreign sources to prevent the manufacture of tools, equipments and machinery used for producing and processing narcotic drugs and psychotropic substances.

6. Present an annual counter narcotics report to the Secretary-General of the United Nations on the implementation of the international conventions.

7. Exchange counters narcotics information with foreign countries and international organizations.

8. Establishing relations between the International Narcotics Control Board (INCB) and the Counter Narcotics Ministry and other relevant ministries and institutions.

9. Designate, in consultation with the Counter Narcotics Ministry, Drug Liaison Officers (DLO) in neighboring, regional and other interested countries.

10. Extend the necessary cooperation to the Counter Narcotics Ministry in holding regional and international conferences on counter-narcotic issues.

## **The processing of regulation and setting up rules and procedures**

### **Article 66**

The Ministry of Counter Narcotics may process regulations and set up rules and procedures for better implementation of this law.

## **Entry into Force**

### **Article 67**

This Law shall enter into force following its publication in the Official Gazette. With the enforcement of this law, the Counter Narcotics Law published in the Official Gazette No. 875 dated 15.11.1384 and other provisions contradicting this law shall be nullified.