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Appendix A

In 2013, two reforms were made to the death penalty regime.

Murder

Murder is defined in Section 300 of the Penal Code (Cap 224, 2008 Rev Ed), which provides that:

Murder

300. Except in the cases hereinafter excepted culpable homicide is murder —

- (a) if the act by which the death is caused is done with the intention of causing death
- (b) if it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused;
- (c) if it is done with the intention of causing bodily injury to any person, and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death; or
- (d) if the person committing the act knows that it is so imminently dangerous that it must in all probability cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death, or such injury as aforesaid.

Before 2013, the Mandatory Death Penalty applied to all murder offences under Section 300 of the Penal Code. After the amendments, the Mandatory Death Penalty applies only for Section 300(a) of the Penal Code. For offences under Section 300(b) – (d) of the Penal Code, judges are given the discretion to determine whether to impose the death penalty OR imprisonment for one's natural life AND caning.

Drug Trafficking, Importing and Export of Controlled Drugs

Drug Trafficking is defined under Section 5 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) as:

Trafficking in controlled drugs

5. —(1) Except as authorised by this Act, it shall be an offence for a person, on his own behalf or on behalf of any other person, whether or not that other person is in Singapore —

- (a) to traffic in a controlled drug;
- (b) to offer to traffic in a controlled drug; or
- (c) to do or offer to do any act preparatory to or for the purpose of trafficking in a controlled drug.

(2) For the purposes of this Act, a person commits the offence of trafficking in a controlled drug if he has in his possession that drug for the purpose of trafficking.

Under the Second Schedule of the Misuse of Drugs Act, the death penalty is attracted when the offender commits the following:

- Unauthorised manufacture of morphine, or any salt of morphine, ester of morphine or salt of ester of morphine;
- Unauthorised manufacture of diamorphine or any salt of diamorphine;
- Unauthorised manufacture of cocaine or any salt of cocaine;
- Unauthorised manufacture of methamphetamine or any salt of methamphetamine;

Traffics or imports/exports without authorisation, more than,

- 30 grammes of Morphine or 1200 grammes of opium;
- 15 grammes of Diamorphine;
- 30 grammes of Cocaine;
- 500 grammes of Cannabis;
- 1000 grammes of cannabis mixture;
- 200 grammes of cannabis resin;
- 250 grammes of methamphetamine;

Drug Importation and Export of controlled drugs is set out under Section 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) as:

Drug Importation and Export of controlled drugs is set out under Section 7 of the Misuse of Drugs Act (Cap 185, 2008 Rev Ed) as:

Import and export of controlled drugs

7. Except as authorised by this Act, it shall be an offence for a person to import into or export from Singapore a controlled drug.

Under the Second Schedule of the Misuse of Drugs Act, the death penalty is attracted if the offender imports or exports more than:

Previously, the mandatory death penalty applied to drug trafficking, importation and export of the above drugs. After the 2013 amendments, the mandatory death penalty still applies to the drug trafficking, importation and export of the above drugs unless:

- The offender's role was only of a drug courier **AND** that
- The offender was suffering from an abnormality of mind at the time of commission of the offence **OR;**
- The Public Prosecutor has granted him a certificate of co-operation because he had **substantively assisted in disrupting drug trafficking activities within or outside Singapore.**

If these two conditions are met, the judge is given to discretion to determine whether the offender should be given the death sentence OR life imprisonment with minimum 15 strokes of the cane. This is set out in Section 33B of the Misuse of Drugs Act which provides that:

Discretion of court not to impose sentence of death in certain circumstances

33B.—(1) Where a person commits or attempts to commit an offence under section 5(1) or 7, being an offence punishable with death under the sixth column of the Second Schedule, and he is convicted thereof, the court —

(a) may, if the person satisfies the requirements of subsection (2), instead of imposing the death penalty, sentence the person to imprisonment for life and, if the person is sentenced to life imprisonment, he shall also be sentenced to caning of not less than 15 strokes; or

(b) shall, if the person satisfies the requirements of subsection (3), instead of imposing the death penalty, sentence the person to imprisonment for life.

(2) The requirements referred to in subsection (1)(a) are as follows:

(a) the person convicted proves, on a balance of probabilities, that his involvement in the offence under section 5(1) or 7 was restricted —

- (i) to transporting, sending or delivering a controlled drug;
- (ii) to offering to transport, send or deliver a controlled drug;
- (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
- (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) the Public Prosecutor certifies to any court that, in his determination, the person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities within or outside Singapore.

(3) The requirements referred to in subsection (1)(b) are that the person convicted proves, on a balance of probabilities, that —

(a) his involvement in the offence under section 5(1) or 7 was restricted —

- (i) to transporting, sending or delivering a controlled drug;
- (ii) to offering to transport, send or deliver a controlled drug;
- (iii) to doing or offering to do any act preparatory to or for the purpose of his transporting, sending or delivering a controlled drug; or
- (iv) to any combination of activities in sub-paragraphs (i), (ii) and (iii); and

(b) he was suffering from such abnormality of mind (whether arising from a condition of arrested or retarded development of mind or any inherent causes or induced by disease or injury) as substantially impaired his mental responsibility for his acts and omissions in relation to the offence under section 5(1) or 7.

(4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

Appendix B1

On 18th July 2014, inmate Tang Hai Liang, 36, and Foong Chee Peng, 48 were executed. Both inmates were convicted of trafficking in a controlled drug.

Source: Press Release, Central Narcotics Bureau

http://www.cnb.gov.sg/newsroom/current/news_details/14-07-18/Execution_of_convicted_drug_traffickers.aspx

On 17th April 2015, inmate Muhammad bin Kadar was executed. He was convicted of a charge of intentional murder, which carried the mandatory death penalty.

Source: <http://www.channelnewsasia.com/news/singapore/convicted-murderer-who/1790984.html>

Appendix B2

This estimate is based on our research on, LawNet, a legal research site in Singapore.

Appendix C

Section 33B (4) of the Misuse of Drugs Act provides that

(4) The determination of whether or not any person has substantively assisted the Central Narcotics Bureau in disrupting drug trafficking activities shall be at the sole discretion of the Public Prosecutor and no action or proceeding shall lie against the Public Prosecutor in relation to any such determination unless it is proved to the court that the determination was done in bad faith or with malice.

Appendix D

The Singapore Prison Service has an Annual Statistics Release report, which details the number of executions that has taken place in that particular year, and the previous years before. The most recent report can be downloaded on their website (<http://www.sps.gov.sg/news-about-us/news/2015-singapore-prison-service-annual-statistics-release-0>).

