

Annex 1

List of participants¹

WHO Advisory Group Meeting on Policies, Legislation and
Programmes on Dependence and Harmful Use of Drugs and Alcohol
Harvard University, Cambridge, MA, USA
31 January 1992 - February 1994

Participants

Dr S. W. Acuda, Chairman, Department of Psychiatry, University of Zimbabwe,
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¹The following persons were invited, either as participants or observers, but were unable to attend:
Professor A. Uchtenhagen, University of Zurich, Zurich, Switzerland; Mr H. S. Okun, Member, International
Narcotics Control Board, Vienna, Austria.

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Annex 2

Summary of legislation

This Annex contains the results of the comparative survey of legislation, and covers legal provisions governing various forms of treatment. The material is divided into three categories, as follows: (A2.1) compulsory civil commitment; (A2.2) treatment associated with the criminal justice system; (A2.3) compulsory reporting, registration, testing, and surveillance in the community. The countries and jurisdictions surveyed are listed alphabetically, information for each being presented in a standard format using a series of headings. In this way comparisons can readily be made between different countries and jurisdictions. For several countries the complete text of legislation was not available, in which case we reviewed either legislative summaries in the *International digest of health legislation* published by WHO (up to first quarter 1999 publication), or noted information from credible sources, e.g. country survey respondents. The summary of legislation does not purport to be comprehensive.

A2.1 Compulsory civil commitment

Australia (New South Wales)

Legislation: Two acts are reported to be in force.

Intoxicated Persons Act.

Note: It is reported that the Intoxicated Persons Act provides for the supervision of an intoxicated person in a safe environment (proclaimed place) for a period of up to eight hours, but is infrequently used.

Mental Health Act 1990.

Note: It is reported that: (i) the New South Wales Mental Health Act 1990 provides for the involuntary admission of a person mentally disordered from alcohol and other drugs for a temporary period of four days, and specifically excludes intoxication and the effects of intoxicating substances on behaviour as a reason for defining a person as mentally ill; and (ii) a person cannot be permissibly confined to a mental institution or be subject to Community Counselling or Community Treatment Orders taken out by a magistrate under the Act for the effects of the use of intoxicating substances.

Australia (Queensland)

Legislation: Liquor Act 1992 (Act No 21 of 1992).

1. *Grounds:* Appears to a Council that a person ordinarily resident in its community area, because of consumption of liquor: (a) endangers, or is likely to endanger, the life, safety or well-being of the person's family or another person ordinarily resident in the community area; or (b) threatens, or is likely to threaten, the peace and good order of the community area; or (c) endangers or is likely to endanger, the person's own health or well-being.
2. *Application:* Council may issue to the person a notice to show cause on a day at a time and place specified in the notice, why the person should not be subject to a prohibition order. Cause may be shown by oral or written submission made in person by the person called on to show cause. If the person called on by the notice does not show cause sufficient in the Council's opinion why the person should not be subject to a prohibition order, the Council may make and direct the issue of such an order in relation to that person.
3. *Decision-making authority:* Council. The Council must give a copy of the prohibition order to the person to whom it relates, and such order must be exhibited on a conspicuous place in its community area and remain so exhibited for as long as it has effect.
4. *Medical examination:* See paragraph 2 above.
5. *Treatment programme:* A prohibition order prohibits: (a) the person to whom it related from consuming, or having in possession or control, liquor in the community area of the Council that made the order; and (b) all persons from supplying liquor to the person to whom it related so as to put the person in contravention of the order. A person to whom a prohibition order relates C in the community area of the Council that made the order C must not consume liquor or have liquor in possession or control. A person must not supply liquor to another knowing that other to be a person to whom a prohibition order relates so as to put that person in contravention of the order.
6. *Length of stay:* A prohibition order has effect for a period of one year starting on the day on which it is made, or for a shorter period specified in the order, unless it is sooner rescinded on appeal.
7. *Appeal:* A person to whom a prohibition order relates may appeal against its making to a Magistrate Court. The Court may: (a) require the appellant and the Council that made the order to give to the Court such information as the

Court considers necessary for a proper determination of the appeal; and (b) confirm the order, rescind the order, or vary the order, as it considers just. An appeal must be made in writing within 21 days after the prohibition order is given to the person to whom the order relates. The making of an appeal does not affect the operation of the order to which it relates. On determination of an appeal, the Court must cause notification of its decision to be given to the appellant and to the Council that made the order. The Court's decision does not prevent the making of another prohibition order in relation to the appellant at a subsequent time. The Court's decision does not prevent the making of another prohibition order in relation to the appellant at a subsequent time.

8. *Periodic review*: See paragraph 7 above. (Court's decision regarding appellant's appeal does not prevent the making of another prohibition order in relation to the appellant at a subsequent time.)
9. *Discharge procedure(s)*: See paragraph 6 above.
10. *Harm reduction*: See paragraph 1 above.
11. *Non-discrimination*: Not stated.

Austria

Legislation: Three laws are in force.

- A. *319 Federal Act of 3 July 1980 Amending the Narcotics Drugs Act 1980.*

Note: This Act amends the Narcotic Drugs Act 1951 and adds new provisions requiring district administrative authorities (public health officers) to order drug- addicted persons into treatment.

1. *Grounds*: Persons who on account of misuse of narcotic drugs require medical treatment or health supervision.
2. *Application*: District administrative authority.
3. *Decision-making authority*: The district administrative authority must order treatment for persons (including minors) abusing drugs, schoolchildren, and persons in military service.

Section 9 (2) provides that, if the medical opinion indicates that a person is drug- addicted and that medical treatment is essential on account of such addiction, the district administrative authority must order the addicted person to undergo such disintoxication treatment as is practicable and reasonable in

the circumstances and ensure that this treatment is applied and supervised. If medical treatment or health supervision on account of drug abuse is also indicated in the case of any other person, the district administrative authority, with the consent of the person concerned, must order such medical treatment or health supervision as is practicable and reasonable in the circumstance. In the case of a minor, the consent of the parent or guardian must likewise be required. Section 9 (3) provides that, if in addition or as a sole measure, advice or care by a recognized institution or association is indicated, the district administrative authority must promote such advice or care.

Under Section 10 (1) if there are definite grounds for the presumption that a schoolchild is abusing drugs, the principal of the school must order an examination by the school medical officer. If the presumption is confirmed, and in the absence of arrangements for appropriate medical treatment, or if the examination by the school medical officer is refused by the child or by the parent or guardian, the principal of the school must notify the district administrative authority.

Under Section 10 (2) if the examination of person liable for military service gives grounds for the presumption of drug abuse, the military authorities must notify the facts of the case to the district administrative authority instead of bringing a charge. For both schoolchildren and military persons, the district administrative authority must proceed under the provisions of Section 9, summarized above.

4. *Medical examination:* Under Section 9 (1), if there are definite grounds for the presumption that a person is abusing drugs, the district administrative authority, as health authority, must direct that a medical opinion be obtained from a physician adequately acquainted with questions of drug abuse. The person concerned must submit to the medical examination necessary in this connection. For schoolchildren, see paragraph 3 above.
5. *Treatment programme:* For the duration of this condition, such persons, who on account of misuse of narcotic drugs require medical treatment or health supervision, must submit to the necessary and, in the circumstances, practicable and reasonable treatment or supervision. In the case of minors, the parents or guardians must, as a part of their responsibility for care and education, ensure that the minor submits to the necessary and, in the circumstances, practicable and reasonable medical treatment or supervision.

The Federal Minister of Health and Environmental Protection shall promulgate by Order (see Decree of 14 September 1981, below) the institutions and associations recognized for advising and attending to persons with respect to the abuse of narcotic drugs.

6. *Length of stay*: Indefinite, as long as the said situation prevails. See paragraph 5 above.
 7. *Appeal*: Not stated.
 8. *Periodic review*: Not stated.
 9. *Discharge procedure(s)*: Not stated.
 10. *Harm reduction*: Not stated.
 11. *Non-discrimination*: Not stated.
- B. *Federal Ministry of Health and Environmental Protection Supplement B Zl. IV-51.551/50-2/80, Application of the Narcotic Drugs Act Amendment 1980 by the District Administrative Authorities as Public Health Authorities, 6 November 1980.*

Note: "Section 3 provides that the purpose of this Order is to provide to the intermediate federal administrative authorities appropriate executory instructions reflecting the intentions of the legislator, on the application of the amendments to the Narcotic Drugs Act 1980". It provides, under Sections 8 and 9:

Section 8: This concerns persons who, on account of abuse of narcotic drugs, require medical treatment or health supervision, and places them under an obligation, for the duration of this condition, to submit to the necessary and, in the circumstances, practicable and reasonable treatment or supervision. Parents or guardians of minors who require such treatment or health supervision shall, as a part of their responsibility for care and education, ensure that the minor submits to the treatment or supervision in question [minors are defined as persons who have not yet completed their 19th year].

With regard to the phrase "in the circumstances, practicable and reasonable treatment or supervision" see the observations on Section 9 below.

Section 9: On the subject of this Section, report of the Committee on Health and Environmental Protection (420d.B.XV.GP) states the following:

"The health authority must be in a position, in the case in question, to establish the existence of an obligation to submit to

medical treatment or supervision. Section 9 therefore provides that, if there are definite grounds for the presumption that a person is abusing drugs, the health authority shall direct that a medical opinion be obtained regarding that person. This medical opinion cannot be given by any physician, but must be obtained from a physician adequately acquainted with questions of drug abuse. The obligation to submit to the examination is hence superimposed on the obligation to undergo treatment referred to in Section 8.

If the suspicion of drug abuse is confirmed by the medical examination, Section 9 (2) makes a distinction in the case of the person examined between an addict and a person who, although he has consumed a narcotic drug, cannot yet be regarded as addicted. In the first case the health authority must order the application and supervision of a practicable and reasonable disintoxication treatment, and in the second case only medical treatment or supervision. In the latter case, in accordance with penal procedures the consent of the person concerned C and as appropriate also of the guardian C shall be required, a provision which shall not apply in the case of addiction. Should in addition or as a sole measure social care appear necessary, the health authority shall [also] institute such care."

Section 9(1) provides that the district administrative authority shall obtain a medical opinion in respect of a person, if there are definite grounds for the presumption that the person in question is abusing drugs. In the context of Section 9 and of the other provisions of the Narcotic Drugs Act, only *concrete* facts coming to the notice of the district administrative authority may be regarded as "definite grounds".

C. *Decree of 14 September 1981 of the Federal Minister Of Health and Environmental Protection on Drug-Addiction Counselling.*

This Decree, issued pursuant to the Narcotic Drugs Act 1980, provides in Section 1 that the following are authorized for the purpose of the counselling and care of persons in cases of abuse of addictive drugs: (a) services of regional bodies whose function it is to provide for the counselling and care of drug-dependent persons or drug-abusers; and (b) hospital departments or outpatient clinics of hospitals, or hospitals operating as independent outpatient clinics, whose function is to provide for the counselling and care of drug-dependent persons or drug-users. In addition, the Decree recognizes institutions and associations in several regions (e.g. Burgenland, Salzburg,

Vorarlberg) of Austria as authorized to deliver counselling and related services.

Bahrain

Legislation: State of Bahrain Centres of Health Psychiatric Hospital, Working Policy For Drug and Alcohol Unit, dated 1 July 1987.

Note: A draft mental health law is awaiting approval.

The Ministry of Health reports that the drug rehabilitation unit at the Psychiatric Hospital is designated as the only treatment centre on the island by Amiree Decrees No. 6, 1971 and No. 4, 1973, and Ministerial Order No. 15 of 1983. The Ministry also reports that any other hospital, health centre or private practitioner is prohibited from treating alcohol- or drug-abuse patients.

The Working Policy For Drug and Alcohol Unit applies to persons who are alcohol- or drug-dependent and who receive services in the Psychiatric Hospital, the only officially approved centre for the treatment of dependence in Bahrain.

The Hospital provides services on an outpatient, inpatient and day-patient basis for a 2-4 week period. Referrals come from all sources, including self-referrals.

An outpatient clinic is regularly held by the unit team twice weekly. Emergency cases are assessed immediately. Treatment of outpatients should be restricted to initial assessment of cases only. Unit policy is against maintenance therapy; no narcotic prescriptions should therefore be given on an outpatient basis.

The majority of cases are treated as inpatients. Patients with dependence problems should initially be treated as inpatients. If no vacant beds are available, the patient can be treated on a day-patient basis. The average duration of inpatient treatment is 2-4 weeks. During their treatment, inpatients are expected to comply with all items of the treatment contract.

Day-patient treatment provides an alternative option when there are no vacant beds in the unit. Patients receiving treatment as day-patients must report to the unit social workers at 9 a.m. They should then attend the group therapy session between 9.30 a.m. and 11.00 a.m. before receiving their prescribed medication. They are then advised not to remain in the hospital grounds. Follow-up services include supportive services, care during relapses, and psychiatric services.

Bangladesh

Legislation: Narcotic Drugs and Psychotropic Substances Control Act, 1990. Act No. XX of 1990¹.

Notes:

- (a) This Act applies to both drugs and alcohol. Alcohol is a Class B Narcotic, under the First Schedule. There is no separate legislation on alcohol dependence.
- (b) The Mental Health Act of Bangladesh has been drafted and put before the Ministry of Health and Family Welfare for subsequent review by the Ministry of Law and by Parliament and consideration by the National Parliamentary Assembly. It is reported (C. Rabbani, personal communication, 1994) that treatment for drug abuse and alcohol dependence is provided for under the proposed mental health act.

The Narcotic Drugs and Psychotropic Substances Control Act, 1990 repeals the following: Opium Act, 1857; Opium Act, 1878; Excise Act, 1909; Dangerous Drugs Act, 1930; Opium Smoking Act, 1932; and the Narcotics Control Ordinance, 1989 (Ordinance No. XIX of 1989).

The Act provides that no person shall possess or use any alcohol; and that no person shall drink alcohol without a permit issued under this Act. However, a permit may be granted to a Muslim to drink alcohol on a written prescription given by a physician not below the rank of Civil Surgeon or an Associate Professor of Medicine of a Medical College but only for the purpose of medical treatment. A prescription given under this provision must specify the name of the disease for which the drinking of alcohol has been considered necessary for treatment purposes and the physician must include a certificate to that effect in the prescription. Notwithstanding these provisions, any foreign citizen may drink alcohol in a licensed bar.

1. *Grounds:* Person often remains in a state of abnormalcy for being addicted to narcotics and his treatment is urgently necessary to bring him back to normal life.

"Narcotics" means any narcotic drugs or psychotropic substances or any other substance mentioned in the First Schedule.

¹ Unofficial English translation by Department of Narcotics Control (Official text in Bangla).

"Alcohol" means "spirit and any kind of liquor or wine and includes any liquid containing more than five per cent of alcohol."

Note: First Schedule B-Class Narcotics include alcohol, all kinds of wine and liquor, rectified spirit, any medicine or liquid manufactured with rectified spirit, beer or any liquid containing more than 5% alcohol. Other B-Class Narcotics include L.S.D., barbiturates, amphetamines, and methaqualone.

"Narcotics-addict" means a person physically or mentally dependent on narcotics or a person who habitually takes narcotics.

2. *Application:* If the Director General or any officer authorized by the Director General becomes aware of a person fulfilling the above-stated grounds, the Director General or aforesaid officer may direct the addicted person by a notice in writing to submit himself for treatment by a competent physician or at a narcotics-addiction treatment centre within seven days from the date of receipt of such notice.

If the person is not able to understand the meaning of the notice, it must be served on the guardian or custodian and the person upon whom such notice is served is required to produce the narcotic-addicted person before any physician or narcotics-addiction treatment centre for treatment.

If the person does not comply with the instructions in the written notice within seven days of receipt of the notice, the officer issuing the notice may apply to the District Magistrate or Chief Metropolitan Magistrate to order the compulsory treatment of the narcotics-addicted person.

"Director General" means the Director General appointed under this Act.

"Narcotics-addiction Treatment Centre" means a narcotics-addiction treatment centre established or so declared under this Act.

"Physician" means a registered dentist and registered medical practitioner as defined in [specified sections] of the Medical and Dental Council Act, 1980, and includes registered veterinary practitioners.

3. *Decision-making authority:* Upon receipt of the application the District Magistrate or the Chief Metropolitan Magistrate must direct the narcotics-addicted person or his custodian or guardian as the case may be by notice in writing to show cause within seven days from receipt of the notice, by appearance in person or through a representative, as to why the narcotics-addicted person will not be sent to a particular physician or narcotics-addiction treatment centre for compulsory treatment.

If cause is shown within the specified time the District Magistrate or the Chief Metropolitan Magistrate, within a period not exceeding 15 days, may after hearing the narcotics-addicted person or his custodian or guardian or his representative by an order direct the compulsory treatment of the narcotics-addicted person by the physician or at the narcotics-addiction treatment centre as may be mentioned in the order. Alternatively, the District magistrate or the Chief Metropolitan Magistrate may reject the application.

If no cause is shown by the narcotics-addicted person within the stipulated period, then the District Magistrate or the Chief Metropolitan Magistrate must either order the compulsory treatment of the narcotics-addicted person or reject the application.

If the narcotics-addicted person does not appear or is not produced within seven days from the service of notice before the physician or the narcotics-addiction treatment centre for treatment as mentioned in the order, the officer making the application may if necessary apply force to produce the narcotics-addicted person before the physician or to the narcotics-addiction treatment centre for treatment.

4. *Medical examination:* If it appears to any physician that any person under his treatment is addicted to narcotics and requires treatment he must advise the addicted person about such treatment and must also inform the Director General in writing regarding the necessity of such treatment. Moreover, while making any investigation or search under this Act, any officer who has reasons to believe that any person has concealed any narcotics in any part of his body may, after recording the grounds for such belief, order the person to submit himself for X-ray or any other examination including urine examination and if such person refuses to comply with the order, the officer passing the order may take any measure including use of force to compel the person to comply with the order.
5. *Treatment programme:* The Government may establish one or more narcotics-addiction treatment centres for the purposes of this Act. Also, the Government may declare any Government hospital or health centre, including a jail hospital, as a Narcotics Addiction Treatment Centre, by notification in the official gazette.

All expenses for any compulsory treatment are to be paid by the Government.

6. *Length of stay:* Not stated.
7. *Appeal:* Not stated
8. *Periodic review:* Not stated.

9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated; however, see paragraph 4, above.

Bolivia

Legislation: Two separate provisions are in force: (a) Law No. 1008 of 19 July 1988 on the Regime Applicable to Coca and Controlled Substances; and (b) Supreme Decree No. 22099: Regulations in application of Law No. 1008, 28 December 1988.

Note: It is reported (A. Alemi Rojo, personal communication, 1994) that policies, laws and regulations on the treatment of minors using drugs and alcohol are being developed, because of the abuse of inhalants and cocaine by some children in Bolivia. For diversion to treatment under the criminal justice system, see section A2.2.

A. *Law No. 1008 of 19 July 1988 on the Regime Applicable to Coca and Controlled Substances.*

1. *Grounds*: Consumer of controlled substance.

"Possession" means the illicit holding of controlled substance, raw materials or seeds of plants from which controlled substances can be extracted.

"Dangerous or controlled substances" means natural or synthetic drugs listed in schedules I, II, III, IV and V of the annex to the present Law and those that may in future appear in the official schedules of the Ministry of Public Health.

"Rehabilitation" means the biopsychosocial readjustment of the consumer to, or his reintegration in, the normal activity of society.

"Chemical dependence or drug dependence" means the psychic and/or physical state resulting from the interaction between a human being and a natural or synthetic drug, the characteristics of which are alterations in behaviour and other reactions caused by the need and impulse to ingest the natural or synthetic drug, periodically or constantly, with the object of again experiencing its effects and sometimes to avoid the malaise produced by withdrawal of the drug.

"Drug" means any substance capable of altering physical, psychic, physiological and/or biological structures or functions, whether or not causing dependence and/or tolerance.

"Physical dependence" means the state of adaptation to the drug, which, when administration thereof is interrupted, causes physical and/or somatic disorders.

"Psychic dependence" means the state in which a drug produces a sensation of satisfaction and a psychic impulse to take the drug periodically or constantly owing to the pleasure that it gives or in order to avoid malaise.

2. *Application:* By judicial order, or by family members, or voluntarily.
3. *Decision-making authority:* Upon judicial order (see paragraph 4 below)

Note: Consumers who are under 16 years of age shall be immediately brought before the juvenile court, which must determine the measures to be taken for their rehabilitation. The parents or persons responsible for the minors in question shall cooperate in this task.

4. *Medical examination:* The institutes mentioned (in paragraph 5 below) must evaluate the condition of drug-dependent persons or drug addicts brought to the establishment, and provide all technical information required by a competent authority.
5. *Treatment programme:* Institutes and centres must diagnose and treat any consumer detained by judicial order, as well as any person whose detention is requested by family members or voluntarily.

The State will set up institutes and centres for research, prevention, treatment and rehabilitation related to chemical, physical and psychic dependence (drug dependence) and for the treatment, rehabilitation and social reintegration of consumers of controlled substances. Private centres can be empowered to function with the same objective, subject to prior authorization from the Department of Mental Health of the Ministry of Social Welfare and Public Health and to supervision by the National Council for Controlled Substances.

Notes: The Ministry of Social Welfare and Public Health, in agreement with the National Council Against Drug Abuse and Illicit Traffic, must issue regulations on the organization of institutes for research on drug dependence, the selection of their staff, and their functions and responsibilities.

6. *Length of stay:* (a) Voluntary: A person who presents himself voluntarily for treatment cannot be compelled to remain in detention unless his condition constitutes a serious danger to his health or leads to a proclivity to commit antisocial and criminal acts. (b) Compulsory: A person who has been compulsorily detained because he is a dependent consumer or because of other aggravating objective circumstances must remain in detention or be subjected

to compulsory treatment for the entire period which the specialist doctor considers necessary, subject to confirmation by an expert.

7. *Appeal*: Not stated.
 8. *Periodic review*: The duration of treatment is determined by a specialist doctor following a review of the case.
 9. *Discharge procedure(s)*: See paragraph 6 above.
 10. *Harm reduction*: Not stated.
 11. *Non-discrimination*: Article 35 of the Regulations (see below) reads as follows: The State and private enterprises shall not discriminate in the provision of employment to rehabilitated and socially readjusted persons.
- B. *Supreme Decree No. 22099: Regulations in application of Law No. 1008 on the Regime Applicable to Coca and Controlled Substances, 28 December 1988.*

Aims and objectives:

Article 1. The aim of the present instrument is to establish regulations in application of the provisions of Law No. 1008 on the Regime Applicable to Coca and Controlled Substances.

Article 2. The objectives are to promote and facilitate the application of the Law in accordance with paragraph 1 of Article 96 of the Political Constitution of the State.

Treatment, rehabilitation and social reintegration:

Article 35. The State and private enterprises shall not discriminate in the provision of employment to rehabilitated and socially readjusted persons.

Article 36. It is deemed to be in the public interest that non-profit-making civil societies, associations and foundations should be constituted for prevention, rehabilitation and scientific research in respect of the matters to which this Law refers. Their functioning shall be subject to special regulations and to the provisions of the second paragraph of Article 136 of Law No. 1008.

Article 37. The National Council against the Abuse of and Illicit Traffic in Drugs, through its competent organs, shall develop plans and programmes for prevention, treatment, rehabilitation and social reintegration, and for

combating the illicit consumption of narcotic drugs and psychotropic substances.

Article 38. The Ministries of the Interior, Migration and Justice, National Defence, Aviation, Education and Culture, and Information, and the Armed Forces, the National Police and the Universities and other public and private institutions shall, in their plans and programmes for curricular studies, include subjects relating to the prevention of the abuse of narcotic drugs and psychotropic substances.

Article 39. Drug abuse shall be included as a compulsory subject for study in the curricula of education programmes from basic to higher level.

Article 40. The National Council against the Abuse of and Illicit Traffic in Drugs shall present to the educational community programmes transmitted through the mass media to provide information on treatment, rehabilitation and social reintegration.

Article 41. An interdisciplinary committee shall be set up in each educational community with the participation of teachers and parents and in collaboration with departmental prevention committees to promote and disseminate comprehensive knowledge of the phenomenon of drug abuse and its treatment.

Article 42. Institutes for treatment and rehabilitation shall be under the control and supervision of the Ministry of Social Welfare and Public Health.

Article 43. The country's health department shall be responsible for supervising the functioning of the treatment, rehabilitation and social reintegration centres.

Article 44. When juvenile courts order compulsory internment of minors for treatment and rehabilitation in specialized health centres, administered by the Ministry of Social Welfare and Public Health, the social aspects shall be attended to by the competent bodies.

Article 45. The National Board for Social Solidarity and Development, through its organ for the protection of minors, shall define and implement rehabilitation policies for drug-dependent juveniles in cooperation with the National Council for Prevention and Rehabilitation.

Article 46. Departmental rehabilitation centres for drug-dependent juveniles shall be established, operating subject to the regulations laid down by the National Council for Prevention and Rehabilitation.

Article 47. Minors under 16 years of age who commit acts defined as offences under Law No. 1008 shall be committed for treatment as decided by the legally appointed specialized authority.

Article 48. The content and methods of preventive information must be based on a knowledge of national realities in respect of the drug-abuse problem and the recommendations of the United Nations and the specialized agencies of the United Nations system.

Article 49. Public information related to problems concerning the illicit traffic in and abuse of drugs shall be in conformity with the norms of journalistic ethics, aiming at preventive education and avoiding the distortion of facts and values. Violators shall be punished in accordance with Article 79 of Law No. 1008.

Article 50. The social communication media shall transmit educational and preventive messages, as provided in the second paragraph of Article 142 of Law No. 1008.

Article 51. The public transmission of information showing minors and identifying them with acts relating to drug trafficking or consumption is prohibited.

Canada (British Columbia)

Legislation: Heroin Treatment Act, 1979 (Chapter 166 of the Revised Statutes of British Columbia).

Note: This Act is reported to be in process of being repealed.

1. *Grounds:* In need of treatment for narcotic dependence.

"Narcotic" is defined as heroin (diacetyl morphine) and other derivatives of opium, opium, methadone (6-dimethylamino-4,4-diphenyl-3-heptanone), any substance with morphine-like properties that is prescribed by regulation and anything that contains any of these substances.

"Dependence" is defined, in relation to a narcotic, as a state of psychological or physical dependence, or both, on a narcotic following its use on a periodic or continuous basis.

2. *Application:* The director in charge of an area coordinating centre applies to the court for an order declaring that the person is in need of treatment for narcotic dependence.

Note: The following provisions govern attendance at area coordinating centres:

- (a) Where a peace officer believes on reasonable grounds that a person is dependent on a narcotic, he may give the person a written notice specifying a date and time, not less than 24 hours or more than 48 hours from the time of the giving of the notice, at which the person is required to attend and submit to examination at the area coordinating centre specified in the notice.
- (b) The director of the area coordinating centre specified in a notice under (a) has an absolute discretion, at the request of a person to whom the notice was given, or on his own initiative, to give the person a written notice requiring the person to attend and submit to examination at the area coordinating centre at a specified later date or time.
- (c) Where a person does not comply with a notice given to him under (a) or (b) the [coordinating control] commission may apply *ex parte* to a judge for a warrant authorizing a peace officer to take the person into custody and to take him to an area coordinating centre, and the judge may, if it appears to him that the notice was given to the person in accordance with (a) or (b) and that the person has not complied with the notice, issue the warrant.
- (d) In an application under (c):
 - (i) a certificate signed by the peace officer or by a director of an area coordinating centre that he gave the written notice to the person; and
 - (ii) a certificate signed by the director of an area coordinating centre that the person named in the notice has not attended at the area coordinating centre is proof, in the absence of evidence to the contrary, that the person has not complied with the notice.
- (e) A certificate given under (d) is evidence of the statements contained in the certificate without proof of the signature of the official character of the person appearing to have signed the certificate.

The following provisions apply to the detention of patients:

- (a) Where the Act authorizes or requires that a patient be detained, a peace officer may, without a warrant, take him to a treatment centre for detention.
 - (b) A director may, in writing, consent to the absence of a detained patient from a treatment centre, where the absence is necessary for medical reasons.
 - (c) The director may require as a condition of his consent under (b) that the patient be accompanied by an escort, and the escort must direct and supervise the patient during the patient's absence from the treatment centre.
3. *Decision-making authority:* Supreme Court.
4. *Medical examination:* An evaluation panel must be set up, as follows:
- (a) The Lieutenant Governor in Council must compile for each area coordinating centre a list of persons consisting of medical practitioners, psychologists registered under the Psychologists Act and other persons eligible to sit on an evaluation panel, and the Lieutenant Governor in Council must designate one person on the list to act as chairman and one as vice-chairman of the panel.
 - (b) An evaluation panel must be formed at the call of the chairman or vice-chairman from the list referred to in (a) and must have a membership of at least two medical practitioners and one other member, and may, but need not, include the chairman or vice-chairman designated under (a).

The provisions governing the medical examination itself are as follows:

- (a) Where a person attends at an area coordinating centre for examination, an evaluation panel for the area coordinating centre must at once conduct a medical and psychological examination of him and may detain him for a period of 72 hours, or a lesser time as the director in charge of the area coordinating centre orders.
- (b) Within 60 hours after a person is admitted to an area coordinating centre for examination, the evaluation panel must report in writing to the director in charge of the area coordinating centre as to whether the person is or is not in need of treatment for narcotic dependence and where, in its opinion, treatment is needed, make recommendations to the director respecting the treatment.

- (c) In an examination of a person it is not necessary for all the members of the evaluation panel to personally examine him, nor is it necessary for those members who examine him to be present at the same time, and in forming their opinion and making their report and recommendations under this section they may rely on analyses and tests carried out at the direction of a member of the evaluation panel by an employee of the commission or another person.
- (d) The director in charge of an area coordinating centre must at once on its receipt give a person examined a copy of the report of any recommendations made by the evaluation panel.
- (e) Where a person examined consents in writing to treatment, the director in charge of an area coordinating centre may commit him to treatment at once without an application to the court.
- (f) Where the members sitting as the evaluation panel have unanimously reported that a person examined is in need of treatment and the person is not committed under (e), the director in charge of the area coordinating centre must apply to the court for an order declaring that the person is in need of treatment for narcotic dependence.
- (g) Notice stating the time and place of the application must be served personally on the person who is the subject of the application.
- (h) Where on hearing an application under these provisions the court is satisfied that the person is in need of treatment for narcotic dependence, it must commit him for treatment.

5. *Treatment programme:*

- (a) A director must develop programmes for the treatment of patients, and the programmes may be designed for the treatment of patients generally, or for the treatment of an individual patient.
- (b) A treatment programme for a patient must last for three consecutive years and may include some or all of the following:
 - (i) where a director directs, detention in a treatment centre for a period not exceeding six consecutive months;
 - (ii) attendance at a treatment clinic at times and over periods, not exceeding one year in total, as a director requires;
 - (iii) supervision and direction of a kind and of a duration a director requires.

- (c) Detention is limited to a total of six months.
 - (d) The Director for the time being in charge of a patient's treatment programme may change the treatment, but he may not shorten or rescind a requirement for detention or change a direction of the board of review (see paragraph 8).
6. *Length of Stay:* See paragraph 5 above.
7. *Appeal:* An appeal may be made to the Court of Appeal against an order of the Supreme Court.
8. *Periodic review:*
- (a) The Lieutenant Governor in Council must appoint a board of review of not less than five members of whom at least one must be a medical practitioner and must appoint one of the members as chairman.
 - (b) A member is appointed for a term of three years.
 - (c) A quorum of the board is one medical practitioner and two other members.
- The Board may, on the application of the director, and after hearing the director and the patient, direct that the duration of a patient's treatment under Section 5 be extended beyond the six months referred to therein as needed for the care of the patient.
9. *Discharge procedure(s):* See paragraph 5 above.

Canada (Nova Scotia)

Legislation: Narcotic Drug Addicts Act, 1924.

Note: It is reported (D.P. Holland, personal communication, 1993) that the involuntary approach to treatment, as envisioned by this Act, is not employed in any Canadian province or territory. The Province of Nova Scotia Department of Health, Drug Dependency Services Division (DDSD) has recommended to the Nova Scotia Department of Health that it should not utilize the Narcotic Drug Addicts Act for any purpose because it is considered by the DDSD to be outdated and not in keeping with contemporary philosophies and approaches to treatment; this applies, in particular, to the provisions of Section 3 of the Act which speak of treating addicts until they

are cured. This goal is of interest to DDSD commentators who believe that there is no known cure for addiction, only recovery from it.

1. *Grounds:* Person who is an "addict".

"Addict" means any person addicted to the improper use of cocaine, opium, or their derivatives, or any other narcotic drug which for the time being is included in the schedule to the Narcotic Control Act.

Note: It is reported that a bill is before the Federal House of Commons which repeals the Narcotic Control Act as well as certain schedules of the Food and Drug Act and incorporates some of their provisions into new legislation.

2. *Application:* The Minister of Health and Fitness or other person charged with the administration of laws relating to public health in the Province.

Where the Minister is credibly informed that an addict is resident within the Province of Nova Scotia, he may give notice in writing to such addict requiring him to consult a legally qualified medical practitioner and to submit himself for treatment, within such time as the Minister may prescribe, and to continue such treatment until cured.

Should the addict fail to submit himself to such treatment within the time prescribed by the Minister, or to continue the treatment until cured, or should the treatment fail to effect a cure, the Minister may report the circumstances to any justice, whereupon the justice may cause such inquiries to be made as he may think fit.

3. *Decision-making authority:* Any justice. If in his judgement it appears desirable in the public interest that the addict be committed to an institution for treatment, he may make such order as he may see fit for the detention and treatment of such person in any hospital, jail, or place of detention in the Province of Nova Scotia.

"Justice" means a justice of the peace and includes two or more justices, if two or more justices act or have jurisdiction, and also a judge of the provincial court or any person having the power or authority of two or more justices of the peace.

4. *Medical examination:* See paragraph 2 above.
5. *Treatment programme:* Every hospital, jail or place of detention designated by regulations of the Governor in Council is required to make effective provision for the examination, treatment, and detention of such addicts as may be committed to such institution by any justice.

6. *Length of stay*: Indefinite; treatment is continued until the addict is cured.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Canada (Prince Edward Island)

Legislation: The Addiction Services Act, dated 24 April 1981.

Note: This Act repeals the Addiction Foundation of Prince Edward Island Act.

A person who is an alcoholic or drug abuser may at any time voluntarily submit to a treatment programme as an inpatient or an outpatient in a treatment facility. A person voluntarily entering a treatment programme shall be medically examined and assessed in accordance with the procedures prescribed by the Minister of Health and Social Services and a treatment programme will be developed for his care and rehabilitation.

1. *Grounds*:
 - (a) Fourteen day appropriate care and treatment: Person in a public place in or apparently in an intoxicated condition. A peace officer may take that person into custody. If it appears to a peace officer that the person may be in need of remedial treatment by reason of the abuse of alcohol or drugs, the peace officer must take that person to a treatment facility designated by the Minister of Health and Social Services.
 - (b) Treatment order: Where the Director is satisfied that: (i) a person taken into custody, under the grounds in paragraph 1 (a) above, is a chronic alcoholic; (ii) the person is in need of long-term care and rehabilitation; and (iii) no arrangements have been made for the voluntary treatment of that person, or if made are not likely to be adhered to by that person, he (i.e. the Director) may apply to a provincial court judge for a treatment order.

"Alcoholic" means a person who suffers from alcoholism.

"Alcoholism" means a condition of psychic or physical dependence on or addiction to alcohol.

"Director" means Director of Addiction Services, who assists and advises the Minister of Health and Social Services in the discharge of his responsibilities under this Act.

"Drug" means a substance other than alcohol that is capable of inducing states of euphoria, hallucinations or intoxication.

"Drug abuse" means the abuse of or addiction to a drug.

"Drug abuser" means a person who abuses or is addicted to a drug.

"Treatment centre" or "treatment facility" means a place in which treatment services are provided and includes a centre or facility operated by, or an agency approved by, the Minister of Health and Social Services.

"Treatment services" means a broad range of emergency, outpatient, and inpatient services provided by a regional community organization and includes: (i) detoxification; (ii) medical examination and diagnostic assessment; (iii) development of a treatment plan for each person participating in a treatment programme; (iv) short-term residential care; (v) rehabilitation measures; (vi) counselling; (vii) follow-up and support; (viii) maintenance of records; and (ix) evaluation of modes of treatment.

2. *Application:*

(a) Fourteen day appropriate care and treatment: The Lieutenant Governor shall appoint an Addiction Review Board, composed of three members one of whom is to be a Supreme Court Judge (the chairman), and one who is a physician. A person in respect of whom a certificate is issued (see paragraph 4 below) or any person on his behalf may apply to the chairman of the Board to inquire into whether or not the person is in need of treatment by reason of his abuse of alcohol or drugs and should be detained in the interests of his own safety or the safety of others.

Upon receipt of an application, the chairman must call a meeting of the Board and the Board must within five days of the receipt of the application, hold a hearing and conduct such inquiry as it considers necessary to reach a decision. The person in respect of whom the medical certificate is issued must be given notice of the time and place of the hearing and is entitled to be heard and to make representations to the Board personally or by legal counsel or other representative and may call witnesses. Hearings under this section shall be closed to the public unless the applicant otherwise requests. The chairman must determine matters of procedure in the conduct of hearings. At the conclusion of the hearing the Board must give its decision and if so required by the applicant, the chairman shall prepare a written report of the decision and the reasons therefore.

(b) Treatment Order: Director.

3. *Decision-making authority:*

(a) Fourteen day appropriate care and treatment: Not stated.

(b) Treatment order: provincial court judge. Notice of an application for a treatment order must be given to the person in respect of whom the application is made. The provincial court judge, after hearing the evidence of a physician who has examined the person and any other evidence of the person's addiction to or use of alcohol and any evidence of the Director and the person concerned, if satisfied as to the matter referred to [in grounds noted in paragraph 1 above] may make a treatment order that the person named in the order, for a term designated in the order not exceeding six months, attend at or be detained in a long-term treatment facility for chronic alcoholics or such other facility as may be designated in the order. A treatment order is sufficient authority for the detention or treatment of the person named therein in accordance with its terms.

4. *Medical examination:*

(a) Fourteen day appropriate care and treatment: A person taken to a treatment facility pursuant to grounds in paragraph 1 above, must be medically examined and assessed in accordance with procedures prescribed by the Minister and may be detained for that purpose in the facility for a period not exceeding 72 hours. Where after medical examination of a person brought to a treatment facility, if satisfied to the following, a physician may issue a certificate to that effect: (a) the person is in need of treatment by reason of his abuse of alcohol or drugs; (b) the person should be detained in the interests of his own safety or the safety of others; and (c) no arrangements have been made for the voluntary treatment of the person, or if made, are unlikely to be adhered to. The certificate issued must indicate the following: (a) the reasons for and period of detention; (b) the name and address of the chairman of the Addiction Review Board; and (c) that the person in respect of whom it is issued has the right to apply for a review under Section 9 of the Act (see paragraph 8 below). A copy of a certificate issued by a physician must be given to the person in respect of whom it is issued and a copy must be sent to the Director of Addiction Services, who is to assist and advise the Minister in the discharge of duties under this Act.

(b) Treatment Order: Not stated.

5. *Treatment programme:*

(a) Fourteen day appropriate care and treatment: A certificate issued (pursuant to paragraph 4 above) is sufficient authority for the detention in the treatment facility of the person named in the certificate for a period of not more than fourteen days and for the provision of appropriate care and treatment. Where, after medical examination of a person brought to a treatment facility pursuant to the ground stated above a physician is satisfied that the person requires hospital treatment that cannot be supplied in the treatment facility, the supervisor of the treatment facility must arrange for the transfer of the person to a public hospital for treatment. A person so

transferred must be returned to the treatment facility upon the conclusion of his hospital treatment. In respect of a person so transferred the administrator of the public hospital has, in addition to the powers conferred on him by the legislation under which the hospital operates, the powers and responsibilities of a supervisor of a treatment facility in respect of the custody and control of that person.

(b) Treatment order: Not stated.

6. *Length of stay:*

(a) Fourteen day appropriate care and treatment: Not more than 14 days.

(b) Treatment order: Not exceeding six months.

7. *Appeal:* The Lieutenant Governor in Council appoints an Addiction Review Board, composed of three members, one of whom is a Supreme Court judge and acts as chairman, and one is a physician. A person in respect of whom a certificate is issued or any person on his behalf may apply to the chairman of the Board to inquire into whether or not the person is in need of treatment by reason of his abuse of alcohol or drugs and should be detained in the interests of his own safety or the safety of others. On receipt of an application, the chairman must call a meeting of the Board, and the Board must, within five days of the receipt of the application, hold a hearing and conduct such inquiry as it considers necessary to reach a decision. The person in respect of whom a certificate is issued must be given notice of the time and place of the hearing and is entitled to be heard and to make representations to the Board personally or by legal counsel or other representative and may call witnesses. Hearings are closed to the public unless the applicant otherwise requests. The chairman must determine matters of procedure in the conduct of the hearings. At the conclusion of the hearing, the Board must give its decision and if required by the applicant the chairman must prepare a written report of the decision and the reasons therefore. The supervisor of a treatment centre must implement the decision of the Board.

8. *Periodic review:* Addiction Review Board, composed of three members, one of whom is a Supreme Court judge and acts as chairman, and one is a physician. See paragraph 7 above.

9. *Discharge procedure(s):* There are two procedures.

(a) Fourteen day appropriate care and treatment: A person detained in a treatment facility pursuant to Section 6 of the Act, i.e. involving a peace officer intervening to take a person in need of remedial treatment by reason of alcohol or drugs to a designated treatment facility (as defined above), may be released at any time by the supervisor, if, in his opinion: (a) he has recovered sufficient capacity that, if released, he is unlikely to be a danger, nuisance or

disturbance to others; (b) a person capable of doing so undertakes to take care of him upon his release; or (c) further detention therein will not benefit him.

(b) Not stated.

10. *Harm reduction:* Not stated.

11. *Non-discrimination/patients' rights:* Any person employed in a treatment facility or engaged in the administration of this Act must preserve secrecy with respect to all matters that come to his knowledge in the course of his employment and the information contained in the files and records relating to the treatment of any person under this Act shall not be disclosed except at the request or with the consent of that person.

China (Federal)

Legislation: Two laws in force: (a) Measures for the control of Narcotic Drugs, 1987; and (b) Measures for the Control of Psychotropic Drugs, 1988.

Note: The Law of the People's Republic of China on the Protection of Disabled Persons was adopted at the seventeenth Meeting of the Standing Committee of the Seventh National People's Congress on 28 December 1990. Disabled persons means those with visual, hearing, speech or physical disabilities, mental retardation, mental disorder, multiple disabilities and/or other disabilities. The criteria for the classification of disabilities must be determined by the State Council. Drug dependence is not expressly mentioned in the Law.

Article 13 (responsibilities) of Chapter II (Rehabilitation) requires the state and society to adopt measures of rehabilitation to help disabled persons regain normal functions or compensate for lost functions, thus enhancing their ability to participate in social life.

Article 14 (guiding principle) of Chapter II provides that the work of rehabilitation shall, depending on the actual conditions, combine modern rehabilitation techniques with traditional Chinese techniques, with rehabilitation institutions as the core and community-based rehabilitation as the basis and relying on the families of disabled persons for support. Emphasis must be placed on rehabilitation projects which are practical, easy to implement and broadly beneficial. Efforts must also be made in the fields of research, exploration and the application of new rehabilitation technology so as to provide a more effective rehabilitation service for disabled persons. The government and departments concerned should establish in a planned way medical rehabilitation departments (sections) in hospitals, set up appropriate

special institutions for rehabilitation and carry out clinical practice and training, scientific research, and personnel training, and provide technical guidance in the field of rehabilitation. The People's Government and the departments concerned at various levels should organize and guide urban and rural community service networks, medical prevention and health-care networks, organizations and families of disabled persons and other social forces in carrying out community-based rehabilitation.

- A. *Measures for the Control of Narcotic Drugs (promulgated by the State Council of the People's Republic of China on 28 November 1987).*

Note: Article 1 provides that these measures are formulated under the Medicine Administration Law of the People's Republic of China, for the purpose of tightening control over narcotic drug so as to ensure their safe use in medical treatment units, medical colleges and medical research institutions.

"Narcotic drugs" means those drugs that may cause dependence and addiction after continuous administration. Narcotic drugs include opium, cocaine, marijuana, synthetic anaesthetic drugs and those defined by the Ministry of Public Health as dependence-producing drugs, anaesthetic raw herbs and the products made from them.

- B. *Measures for the Control of Psychotropic Drugs (approved by the twenty-fifth Executive Meeting of the State Council on 15 November 1988 and promulgated by Decree No. 24 of the State Council of the People's Republic of China on 27 December 1988 and effective as of the date of promulgation).*

Note: Article 1 provides that these measures are formulated under the Medicine Administration Law of the People's Republic of China, in order to further control psychotropic drugs. "Psychotropic drugs" means those drugs that produce a direct effect on the central nervous system so as to excite or soothe the senses and may cause drug dependence as a result of continued use.

China (Hong Kong Special Administrative Region)

Legislation: Drug Addicts Treatment and Rehabilitation Ordinance, Chapter 326 of the Revised Edition 1989 (Ordinance No. 34 of 1960).

Note:² On 1 July 1997, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, adopted on 4 April 1990 by the Seventh National People's Congress of the People's Republic of China at its Third Session, came into effect. The Basic Law prescribes the systems (e.g. social, economic and legislative) to be practised in the Hong Kong Special Administrative Region in order to ensure the implementation of the basic policies of the People's Republic of China regarding Hong Kong. One of the general principles (Article 8) of the Basic Law is that the laws previously in force in Hong Kong, including the common law, rules of equity, ordinances, subordinate legislation and customary law, must be maintained, except for any that contravene the Basic Law, and subject to any amendment by the legislature of the Hong Kong Special Administrative Region.

1. *Grounds:* Any person, or a young person, who is an addict and should be receiving treatment for his addiction.

"Addict" means a person who, by reason of his addiction to drugs or to intoxicants, is dangerous either to himself or to others or is incapable of managing himself or his affairs or of ordinary proper conduct or is in serious danger of physical or mental disorder.

"Board" means the Addiction Treatment Centre Appeal Board appointed in accordance with the provisions of Section 14.

"Centre" means any institution declared to be an Addiction Treatment Centre in accordance with the provisions of Section 3.

"Patient" means a person who is undergoing treatment in a centre or who has left the centre but is still legally liable to be detained in such centre.

"Superintendent" means the superintendent or an assistant superintendent of a centre appointed in accordance with the provisions of Section 4.

"Visitor" means an Addiction Treatment Centre visitor appointed in accordance with the provisions of Section 5.

² See in References: Hong Kong (1984); Hong Kong (1990).

"Young person" means a person who has not attained the age of 18 years.

2. *Application:* Any person, or if a young person, his parent or guardian on his behalf, who is of the opinion that such person is an addict and should be receiving treatment for his addiction, and [who] applies in the prescribed form to the superintendent of a centre for admission to the centre may be admitted by the superintendent as a patient. The application must contain the following:
(a) an "undertaking" by the applicant that the person named: (i) if required by the superintendent will remain and may be detained in the centre or in any other centre to which he may be transferred, for a period not exceeding six months or, in the case of a young person, 12 months from the date of his first admission to the centre in accordance with such application form; (ii) will submit himself to such treatment as may be prescribed by the superintendent of the centre to which he is detained; (iii) will obey all lawful orders given to him by the superintendent or by any person authorized by the superintendent; and (iv) may be visited only by such persons and at such times as are permitted by the superintendent; and (b) an acknowledgement by the person completing the application form that the person named in the application form may be detained against his will in the centre named in the application form or in any other centre to which he may be transferred for a period not exceeding six months or, in the case of a young person, for a period not exceeding 12 months from the date of his first admission to a centre in accordance with such application form and may be forcibly retaken by the superintendent or by any police officer if he absents himself from the centre without the permission of the superintendent, and may contain such other matters as may be prescribed.
3. *Decision-making authority:* Superintendent of a centre.
4. *Medical examination:* Not stated.
5. *Treatment programme:* The Governor may by order declare any place which is the property of the Government to be an Addiction Treatment Centre for the detention, custody, treatment, care and rehabilitation of addicts. The Governor may also declare nongovernment property to be an Addiction Treatment Centre. The Governor may appoint to be superintendent or an assistant superintendent: (a) a medical practitioner; or (b) any other person, if he is satisfied adequate arrangements have been made for treatment of the patients in a centre by a medical practitioner.

As a condition of reception into the centre, the superintendent may, if he believes the person has sufficient means to pay the costs of treatment, require the person completing the application form to enter into a bond to pay to the Government, or others entitled, the proper costs of maintenance and treatment of the person named in the application form so long as he is detained in the centre.

6. *Length of stay:* For a period of six months, or in the case of a young person, 12 months from the date of his first admission to a centre.
7. *Appeal:* There are two main provisions.

(a) **Addiction Treatment Centre Appeal Board:** An Addiction Treatment Centre Appeal Board, of not more than four members appointed by the Governor, is established to hear and determine appeals under Section 16. The Board consists of:

- (i) the Director of Health or the Deputy Director of Health as Chairman;
- (ii) the Secretary for Security or his representative and the Director of Social Welfare or his representative, *ex officio*. Members hold office as specified by the Governor and may be reappointed or removed at the pleasure of the Governor. Unless otherwise fixed by the Board, the quorum is three; it makes standing orders governing its procedures and discharge of its duties.

The Board has the following powers:

- (i) to hear, receive and examine evidence on oath; and
- (ii) to summon any person to attend the hearing of any appeal to give evidence and to produce any document or any other thing in his possession and to examine him as a witness or to require him to produce any book, documents or other thing in his possession, subject to all just exceptions.
- (iii) Any person who is summoned as a witness or to produce a book, document or other thing at a hearing of any appeal, who refuses or neglects to do so or to answer any question put to him by or with the concurrence of the Chairman of the Board is guilty of an offence and is liable on summary conviction to a fine of HK\$5000, and to imprisonment for six months. No person shall be bound to incriminate himself and every witness shall, in respect of any evidence given by him before the Board, be entitled to the same privileges to which he would be entitled if giving evidence before a court of justice.

(b) **Appeal procedures:** A patient, or in the case of a patient who is a young person his parent or guardian, may appeal in writing to the Board against detention and on appeal the Board may dismiss the appeal or may allow the appeal upon such conditions as the Board may consider necessary; and if the appeal is allowed by the Board, it must order the patient to be discharged from the centre and the superintendent must discharge the patient.

Any visitor (see paragraph 11 below) may appeal to the Board on behalf of any patient and on such appeal, the Board is empowered to deal with the appeal as if it were an appeal by the patient.

8. *Periodic review:* Addiction Treatment Centre Appeal Board.
See paragraph 7 above.
9. *Discharge procedure(s):* (1) A superintendent in his absolute discretion may discharge any patient from a centre and on such discharge the liability (obligation) of the patient to be detained in the centre ceases. (2) A notice of discharge must be served on the patient or, in the case of a patient who is a young person, on his parent or guardian. (3) A patient on whom a notice is served under subsection (2) above, must leave the centre immediately, or where a notice is served under that subsection on the parent or guardian of a patient who is a young person, the parent or guardian must remove the patient from the centre within 48 hours of such service. (4) If a patient has escaped from a centre and has not been retaken and conveyed to and detained in the centre from which he escaped within a period of 90 days from the date on which he escaped, he shall be deemed to have been discharged in accordance with the provisions of subsection (1) on the expiry of such period of 90 days. Any bond entered into concerning the patient may be forfeited in such event.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* Three provisions apply:
 - (a) Offence against a patient: Under Section 18, any attendant, nurse, servant or other person employed in a centre who ill-treats or wilfully neglects any patient in the centre is guilty of an offence and is liable on summary conviction to a fine of HK\$10,000 and to imprisonment for two years.
 - (b) Protection of addicts: Under Section 19, no statement or admission made by an addict for the purpose of being admitted to a centre and no statement or admission made by a patient in a centre shall be admissible as evidence against the maker of the statement or admission in any proceedings against him under the Dangerous Drugs Ordinance.
 - (c) Section 5 of the Ordinance provides for the appointment, by the Governor, of Addiction Treatment Centre visitors for each centre. Two or more visitors shall at least once a month, together, inspect every part of the centre of which they are visitors and must see so far as circumstances permit, every patient therein and the application or the transfer order for the admission of every patient admitted since the last visitation of visitors and shall see if they so require, the application or the transfer order for the admission of every other patient and shall enter in a book to be kept for that purpose any

comment which they may deem proper on the management and condition of the centre and of the patients who are resident. A copy of every comment entered in regard to centres which are not the property of the Government must be sent by the superintendent to the Director of Health within 48 hours of entry in the book.

Note: Section 20 of the Ordinance provides for the protection of persons carrying out the provisions of this Ordinance, as follows: (1) No superintendent or other person employed in a centre who has purported to act in accordance with the provisions of this Ordinance shall be liable to any civil or criminal proceedings, whether on the ground of want of jurisdiction or on any other ground, unless he has acted in bad faith or without reasonable care. (2) No proceedings, civil or criminal, shall be brought against any person in any court in respect of any action by such person purported to be in accordance with the provisions of this Ordinance, without the leave of the court and leave shall not be given unless the court is satisfied that there is substantial ground for the contention that the person, against whom it is sought to bring the proceedings, has acted in bad faith or without reasonable care. (3) Notice of any application under subsection (2) above shall be given to the person against whom it is sought to bring the proceedings and that person is entitled to be heard against the application.

China (Macao Special Administrative Region)

Legislation: Decision No. 139/GM/90 of the Office of the Governor of 20 October 1990.

Note: The Decision of 20 October 1990 established the Macao Department for the Prevention and Treatment of Drug Dependence (GPTT) under the Secretary of Health and Social Affairs for the development of different responses in the field of prevention and treatment of drug dependence and the rehabilitation of drug-dependants. The GPTT is a specialized Government department responsible for the development of treatment and rehabilitation programmes in Macao. Since 1992, treatment and rehabilitation programmes for drug-dependants are offered by GPTT on a voluntary and confidential basis. The service is provided by psychiatrists, psychologists, social workers, and nurses.

It is reported (M.I. Belo, personal communication, 1994) that an inpatient treatment centre was for many years the only facility available for the treatment of drug dependence in Macao. This centre received: (a) persons ordered by the court to attend on a compulsory basis: and (b) others who attended on a voluntary basis. It is further reported (M.I. Belo, personal communication, 1994) that "due to its low rate of success and effectiveness the centre was closed" in 1991. The GPTT treatment programme is a

voluntary outpatient service providing medical and psychological case management and family support based on long-term community reintegration. To complement the treatment provided in the outpatient centre, some other facilities are being established such as a day-care centre where group support programmes, and labour and social integration services are delivered.

Colombia

Legislation: Law 30 of 1986 (31 January) Adopting the National Narcotic Drugs Statute and enacting other provisions.

Note: See section A2.2 for summary of legislation on treatment associated with the criminal justice system.

1. *Grounds:* Persons who, without having committed any of the offences described in the Law, are affected by the consumption of dependence-producing drugs.

"Drug" means any substance which, when introduced into a living organism, alters its physiological functions.

"Narcotic drug" means a drug, not medically prescribed, which acts on the central nervous system, producing dependence.

"Psychotropic substance" means a drug which acts on the central nervous system, producing neuropsychophysiological effects.

"Abuse" means use by a person of a drug which is self-prescribed and taken for non-medical purposes.

"Psychological dependence" means repeated need to consume a drug, regardless of the consequences.

"Treatment" means the different methods of therapeutic intervention designed to counteract the effects produced by the drug.

"Rehabilitation" means activity leading to the useful reincorporation of a drug-dependent person in society.

2. *Application:* Such persons are to be sent to the establishments referred to in Articles 4 and 5 of Decree No. 1136 of 1970, in accordance with the procedures provided for in the Decree.

3. *Decision-making authority:* In accordance with Articles 4 and 5 of Decree No. 1136 of 1970, (admission to an establishment is subject to medical assessment).
4. *Medical examination:* See paragraph 3 above.
5. *Treatment programme:* The principal objective of the social and health measures for the treatment and rehabilitation of a drug-dependent person must be to return the individual as a useful member to the community. The programmes of the Ministry of Health must include services for the prevention of drug dependence and the treatment and rehabilitation of drug-dependent persons. Each quarter, the Ministry of Health must send the National Narcotic Drugs Council statistics regarding the number of persons cared for by such services in Colombia.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* The creation and operation of any public or private establishment for the prevention of drug dependence and the treatment or rehabilitation of drug-dependent person shall be subject to authorization and inspection by the Ministry of Health.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Czech Republic

Legislation: Two laws are in force.

Note: It is reported (K. Nespor and L. Csemy, personal joint communication, 1994) that general health legislation also provides for the involuntary treatment of persons who are dangerous to themselves or others because of mental illness (usually short-term); this usually applies to persons with alcohol-related or toxic psychoses.

- A. *Law of 28 March 1989 on the Protection Against Alcoholism and Other Drugs.*

Note: It is reported that this Law is not frequently used, and is applied less frequently than it was under previous political administrations. Revisions to this law are being considered by the Ministry of Health.

1. *Grounds:* Persons dependent on alcohol or other habit-forming drugs, if their state of health requires it. Such persons who do not want to undergo therapeutical preventive care voluntarily or refuse it or impede the care provided will be required to undergo ambulatory care; if ambulatory care is not appropriate or has proved to be ineffective, or if those persons refuse to undergo institutional care voluntarily, they shall be obliged to undergo such care. A requirement to undergo institutional care can be repeatedly imposed only if the dependence does not appear to be permanent and unlikely to be cured.

An individual suffering from dependence on alcohol or other habit-forming drugs means "a person who is unable to desist permanently from the immoderate or otherwise detrimental consumption of alcoholic drinks or of other habit-forming drugs, harming his health thereby or causing serious disruption of social relations."

2. *Application:* Not stated.
3. *Decision-making authority:* For ambulatory care, the Health Service Institute of the region to which the health service establishment providing ambulatory care belongs; to order or terminate institutional care, or to allow ambulatory care, the District National Committee. The decision concerning a requirement to undergo institutional care will be reviewed by a court if the proposal was made by the person concerned, by his guardian or by a person close to him.
4. *Medical examination:* Not stated as far as determining grounds for involuntary commitment is concerned. However, a person who is acting in such a way as to threaten people's life or health, or damage property is not authorized to consume alcoholic drinks or other habit-forming drugs when performing this activity or before its performance if he may still be under their influence during the activity. A person acting dangerously must undergo a test to detect the presence of alcohol or other habit-forming drugs. The presence of alcohol is detected by a breath test and, if this is positive, a blood test is carried out. The presence of habit-forming drugs is detected by the analysis of urine, saliva, or blood.
5. *Treatment programme:* Methods of preventing alcoholism and other toxicomania, include education, attendance in preventive treatment, social care, and the imposition of penalties under the provisions of the Law. A person dependent on alcohol or other habit-forming drugs is given therapeutic preventive care in health service establishments.

6. *Length of stay*: Not stated.
7. *Appeal*: Not stated.
8. *Periodic review*: See paragraph 3. The competent health service establishment, as decided by the District National Committee, to provide institutional care to a person must inform the National Committee if the person did not undergo the institutional care or hampered it or if such care had no curative effects. It must also inform the Committee of the termination of such care.
9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: See paragraph 1 above. Alcoholism and other toxicomania are negative phenomena which could cause immense social harm and pose a serious threat to the health of citizens. All organs and organizations as well as citizens selling goods or providing other services must protect citizens and society from the harmful effects of alcoholism and other toxicomania, and by eliminating their causes and consequences to create more favourable prerequisites for the further development of socialist society.
11. *Non-discrimination*: Not stated.

B. *Law No. 548/1991 of the Czech National Council.*

The provisions of Law No. 548/1991 amends Law No. 20/1966 on the protection of public health, as amended by Law No. 210/1990 of the Czech National Council and Law No. 425/1990 of the Slovak National Council. Law No. 548/1991 permits examinations and medical procedures without the patient's consent and involuntary placement of the patient in an establishment for the purposes of care and treatment, if the following conditions, specified in the Law, are met:

- (a) if the disease concerned is one covered by specific provisions under which compulsory treatment may be imposed;
- (b) if the person concerned shows symptoms of mental illness or intoxication that constitute a danger to himself or to those around him; or
- (c) if it is not possible, on account of the patient's state of health, to request his consent, and if an emergency intervention is required in order to protect his life or health.

Denmark

Legislation: Two laws are in force:

- A. *Law No. 349 of 14 May 1992 on the detention of drug-dependent persons undergoing treatment.*

Note: It is reported (Denmark, 1993) that a bill amending Law No. 349 is to be considered by the Danish Parliament no later than the sessional year 1996-1997.

1. *Grounds:* Drug-dependent person who chooses to enter into a treatment contract, when there are valid grounds for supposing that he will discontinue the agreed treatment; and it would be irresponsible not to keep the person concerned in detention for the following reasons: (1) the prospect of putting an end to his drug habit, or of substantially and decisively improving his condition, would be considerably reduced; and (2) the person concerned presents an immediate and considerable risk to himself and others.

Detention is permissible only in the absence of other more appropriate measures.
2. *Application:* Not stated.
3. *Decision-making authority:* It is reported (Denmark, 1993) that the county council decides whether the county in question is to make use of the provisions laid down in the Act. If such a decision has been made, the drug-dependent person and the institution may enter into a contract concerning such treatment before the treatment is commenced. If the drug-dependent person does not wish to enter into a contract involving detention as a possible measure, this will not limit the access of the drug-dependent person in question to other available treatment.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Not stated.
6. *Length of stay:* A contract on treatment involving detention as a possible measure may be entered into for a period not exceeding six months from the date of signature.
7. *Appeal:* Not stated

8. *Periodic review:* Not stated.
 9. *Discharge procedure(s):* No provision of the Law specifies that a drug-dependent person who has left an institution may be brought back to it for treatment, for example, with the help of police, nor do the provisions specify that the drug-dependent person may be brought to a different place.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination/patients' rights:* Isolation and the use of bonds are prohibited. The use of physical restraints may be authorized only if such action is necessary in order to prevent the drug-dependent person from exposing himself or others to an immediate risk of physical damage or damage to health.
- B. *Order No. 603 of 1 July 1992 on the detention of drug-dependent persons undergoing treatment.*

Note: This Order was promulgated by the Ministry of the Interior pursuant to Law No. 349 of 14 May 1992. The Order contains provisions for the enforcement and maintenance of detention; the conditions governing physical constraints and isolation; and the content of a report to be prepared when a person is placed in detention.

Ecuador

Legislation: Two items are in force: (a) Law No. 108 of 7 August 1990 on Narcotics and Psychotropic Substances; (b) Regulations No. 2145-A of 29 January 1991 for the application of Law No. 108 of 7 August 1990 on Narcotics and Psychotropic Substances.

- A. *Law No. 108 of 7 August 1990 on Narcotics and Psychotropic Substances.*

Note: This Law covers prevention, education and information campaigns, illicit use of controlled substances and rehabilitation of affected persons ; compulsory examinations and treatment, cases involving minors and aliens; prohibition of detention of users; treatment of minors; health-care establishments; request for treatment; right to work.

- B. *Regulations No. 2145-A of 29 January 1991 for the application of Law No. 108 of 7 August 1990 on Narcotics and Psychotropic Substances.*

Note: The Regulations are divided into the following titles:³ I. Preliminary, organization; II. Prevention; III. The abuse of controlled substances and the rehabilitation of the persons affected; IV. The monitoring of production activities and traffic in respect of controlled substances; and VI. Preliminary procedures before trial.

Finland

Note: It is reported by the Ministry of Social Affairs and Health (J. Eskola, personal communication, 1993) that compulsory treatment is not favoured in Finland, and that only a few persons are admitted annually for such treatment, the results of which are perceived to be negative. Voluntary methods are considered to be more effective. However, provision is made for compulsory measures in the three acts summarized below.

Legislation: Three separate acts are in force: (a) Act on Welfare for Alcoholics and Drug Addicts of 17 January 1987; (b) Social Welfare Act; (c) Act on the Rehabilitation Allowance.

Note: Provisions on the treatment and rehabilitation of alcoholics and drug addicts are included in the Act on Welfare for Alcoholics and Drug Addicts, and the Social Welfare Act. Provisions governing the rehabilitation allowance granted in support of the rehabilitation of alcoholics and drug addicts are included in the Act on the Rehabilitation Allowance. The Act on Welfare for Alcoholics and Drug Addicts is an enabling law, under which local authorities are empowered to issue directives for its practical application. The use of regulations (i.e. subsidiary legislation) as a means of implementing acts is reportedly not common at the present time.

It is also reported that the legislation is being amended to bring it into line with the 1988 Convention. A new Narcotics Act is reported to be under consideration.

³ There is no title V in the English translation of the Regulations issued by the United Nations.

Germany (Bavaria)

Legislation: Law on the hospitalization of the mentally ill and their care (Hospitalization Law) of 20 April 1982.

1. *Grounds:* Those who are mentally ill or suffer from psychiatric disturbance due to mental deficiency or addiction and therefore present a substantial danger to public safety and order may, against their will or without their consent, be hospitalized in a psychiatric hospital or other suitable institution. Such hospitalization is also admissible, in particular, if a person poses a grave danger to his own life or health. Hospitalization may be ordered only if the danger cannot be averted by less drastic measures.
2. *Application:* Competent administrative authority of the district.
3. *Decision-making authority:* Local authority.
4. *Medical examination:* The expert opinion of a medical practitioner of the health authority is required, and the practitioner must also explain why hospitalization cannot be avoided through other remedies.
5. *Treatment programme:* Treatment is given in a psychiatric hospital or other suitable institution, such as an institution for alcohol-dependent or other addicted persons, which may be entirely unlike a psychiatric hospital in its structure. Hospitals are obliged to admit the person to be detained if they have the facilities necessary for keeping him in safe custody. The person detained is entitled to be treated as a patient and to receive the "necessary curative treatment".
6. *Length of stay:* Not to exceed six months.
7. *Appeal:* There is a "right of immediate appeal" against the court decision.
8. *Periodic review:* Every six months.
9. *Discharge procedure(s):* Sections 32–35.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Greece

Legislation: Five separate provisions are in force.

Note: It is reported that, in view of the enactment of Law 2161, in effect since 26 July 1993, Regulations A2b/3981 to 3984/87, noted below, are being revised.

For diversion to treatment from the criminal justice system, see section A2.2.

- A. *Law No. 1729 of 3 August 1987 on the control of traffic in narcotics and the protection of adolescents and other provisions.*
1. *Grounds:* Drug-dependent persons.

Note: The diagnosis of dependence must be made in accordance with the scientific criteria established by the Central Health Council (see Regulation No. A2b/3982 below).
 2. *Application:* Not stated.
 3. *Decision-making authority:* Court.
 4. *Medical examination:* Laboratory verification (toxicological analysis of body fluids) and a clinical examination (supplementary detailed examination). (See summary below of Ministry Regulation No. A2b/ik. 39827/87 of 7 October 1987, on scientific criteria applicable to diagnosis of dependence.)
 5. *Treatment programme:* Section 3 provides that the planning of measures against drug dependence must cover prevention and information; treatment; and rehabilitation. For the implementation of the programmes, the following will be established by joint decision of the Minister of Health, Social Welfare and Social Security and the Minister concerned: (a) counselling agencies, protection centres in an open setting for drug-dependent persons, and other similar units; (b) special detoxification units and therapeutic prison establishments; and (c) social rehabilitation units. The organization, functioning, etc., of these centres and units will be specified by the joint decisions mentioned above.
 6. *Length of stay:* Not stated.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Not stated.

9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.
- B. *Decision A2b/ik. 3981 of 7 October 1987 on counselling, support and treatment programmes.*

Note: This Decision implements Sections 12, 13, and 14 of Law No. 1729 of 3 August 1987 and provides for counselling, and support programmes for persons abusing narcotics but not dependent on them, as referred to in Section 12 of the Law. The programmes will be provided by psychotherapy units within the framework of the counselling agencies of the Ministry. They will include individual and group therapy and therapy in a family setting, on an outpatient basis, and a programme of treatment, recovery, and social reintegration for persons abusing narcotics and dependent on them.

- C. *Decision No. A2b/ik. 3982 of 7 October 1987 on approved scientific criteria applicable to diagnosis of dependence.*

Note: This Decision provides for medical tests. The test to determine whether narcotics have been used is a laboratory verification (toxicological analysis of body fluids) and a clinical examination (supplementary detailed examination).

Persons undergoing these tests will be declared dependent on narcotics if they meet at least three of the following criteria:

- they consume narcotics in greater quantities and for a longer period of time than they intended;
- they have made repeated voluntary attempts, without success, to reduce or control the consumption of narcotics;
- they spend a considerable part of their time in obtaining and consuming, or recovering from the effects of, narcotics;
- they are in a state of intoxication or display symptoms of the withdrawal syndrome from the drug, preventing satisfactory performance at work, school, etc.;
- they discontinue important social, professional, or study activities by reason of consumption of narcotics;
- they continue to consume narcotics although aware of the chronic or long term social, psychological, and physical problems thereby caused or aggravated;
- they require constantly increasing quantities of the substances consumed;
- they display characteristic symptoms of the syndrome; and

- they frequently resort to narcotics to attenuate or overcome the symptoms of the syndrome.

D. *Decision No. A2b/ik. 3983 of 7 October 1987*

Note: This Decision concerns the organization, function and management of the centres for treatment of dependent persons.

E. *Decision No. A2b/ik. 3984 of 7 October 1987 on the conditions applicable to pharmacological tests for the syndrome of withdrawal from drugs.*

Note: This Decision authorizes pharmacological tests for the syndrome of withdrawal from drugs in the following cases:

- the life of the person in question is at risk, or there is a risk of serious harm to health or of significant complications in a disease from which he is suffering;
- the test is indispensable for carrying out diagnostic or therapeutic procedures, for the emergency transport of the person concerned, or if indications of the syndrome preclude treatment for a disease;
- the person in question is pregnant; and
- the test is indispensable for the alleviation of acute symptoms displayed by the person concerned, provided that he is subsequently transported to a special therapeutic centre for detoxification.

Hungary

Legislation: Among legislation in force.

A. *Government Decree 22/1992 on the Local Self Governments.*

Note: It is reported (K. Szomor, personal communication, 1999) that local governments are responsible for the administration of health care and welfare care of the local communities. The notary can order compulsory treatment for the alcohol or drug addicted person, if necessary because of their behaviour with the family or environment.

B. *Decree 2/1994 of the Ministry of Welfare on the Professional and Operational Conditions of the Institutes offering personal care.*

Note: Social care, counselling, help for families, rehabilitation of drug addicts, therapeutic, occupational and social reintegration are covered in this Decree.

India (Federal)

Legislation: The Mental Health Act, 1987.

Note: Both the central government and the state governments may establish or maintain psychiatric hospitals or psychiatric nursing homes for the admission, treatment and care of mentally ill persons. Separate psychiatric hospitals and psychiatric nursing homes may be established or maintained for: (a) those who are under the age of sixteen years; (b) those who are addicted to alcohol or to other drugs which lead to behavioural changes in a person; (c) those who have been convicted of any offence; and (d) those belonging to such other class or category of persons as may be prescribed.

Indonesia

Legislation: Law No. 9 of 1976 on narcotics.

Note: This law is reported to be under revision.

1. *Grounds:* There are two categories of narcotic addicts, as follows:

(a) under-age narcotic addicts;

(b) adult narcotic addicts.

"Narcotic addict" is someone who utilizes narcotics and is in a state of dependence on narcotics, physically as well as mentally, resulting from the use or abuse of narcotics.

"Rehabilitation" is an endeavour to make a narcotic addict recover so that he regains his physical and mental health in order to readapt to his living environment and improve his dexterity, knowledge and skill.

2. *Application:* Parents or guardians are obliged to report an under-age addict to an official assigned by the Minister of Health and are obliged to bring him to a hospital or to the nearest physician to receive medication and nursing.

Adult narcotic addicts are obliged to report themselves to an official assigned by the Minister of Health.

The establishment, organization, and function of rehabilitation institutions and branches are determined by the President. Involvement of private and government community agencies is sought.

3. *Decision-making authority:* Minister of Health.

4. *Medical examination:* Not stated.
5. *Treatment programme:* Medication and nursing of narcotic addicts and rehabilitation of ex-addicts is to be carried out in rehabilitation institutions.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Iraq

Legislation: Regulation No. 1 of 8 January 1981 on the Medical Centre for the Treatment of Alcohol and Drug Dependence, Ibn Rushd Hospital.

Note: It is reported: (a) that the Narcotics Act 1965 (Act No. 68) has been in effect since May 1965; (b) the Psychotropic Act 1991 is in preparation in draft form; (c) the Mental Health Act 1991 is in preparation in draft form and includes provisions for the care of persons dependent on both alcohol and drugs.

The Regulation of 1981 deals with the specialized centre at the Ibn Rushd Hospital for Psychiatric Medicine, but it also indicates that the provisions are applicable to all other health-care facilities providing treatment for alcohol and drug dependence. It applies to any "drug-dependent person" and covers alcohol and other substance abuse quite broadly.

1. *Grounds:* Drug-dependent person.

"Drug dependent person" means a person who consumes drugs to such an extent that he has reached a state of manifest physical and mental disorder that interferes with his mental and physical health or with the requirements of his economic life, or displays symptoms to a degree that necessitates medical treatment.

"Drug dependence" means physical and or mental dependence on a drug resulting from its continuous or occasional use; alcoholism is deemed to be a type of drug dependence.

2. *Application:* Patients may be admitted either involuntarily or informally at the request of the patient.
3. *Decision-making authority:* Not clearly stated.
4. *Medical examination:* Involuntarily admitted patients are subject to examination by the medical committee of the centre or hospital.
5. *Treatment programme:* The patient is treated by a team consisting of a consultant psychiatrist, a resident physician at the centre, a clinical psychologist, a social worker, a rehabilitation therapist, and a nurse. Treatment includes both individual and group therapy. The patient must follow instructions regarding rehabilitation or be transferred to a locked ward.
6. *Length of stay:* Between 30 and 90 days.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* The consultant psychiatrist may discharge the patient at any time. Appointments for subsequent check-ups are arranged at the centre's outpatient department.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* Provisions concerning the confidentiality of the patient's records are included in the Regulation.

Ireland

Legislation: Mental Health Act, 1945, as amended.

Note: The Mental Treatment Act, 1945, as amended, provides the statutory framework for the detention of people suffering from mental disorder and for the administration of the psychiatric services. The Act sets out the procedures for the admission of voluntary patients and involuntary patients but excludes mentally disordered persons charged with criminal offences and wards of court.

The treatment of persons for drug and alcohol abuse is provided for under the general provisions of the Mental Treatment Act, 1945. Section 102 provides that a mental hospital authority may make and carry out an arrangement for the reception and treatment, as temporary patients or voluntary patients in an approved institution, of any of their chargeable patients.

1. *Grounds:* A person may be admitted to a psychiatric hospital or unit and detained without his or her consent as a temporary patient or as a person of unsound mind. A temporary patient is either a person who requires to be detained for treatment and who is believed to require not more than six months' suitable treatment for recovery, or an addict who, by reason of addiction to drugs, intoxicants or perverted behaviour is either dangerous or in serious danger of mental disorder. Persons who abuse alcohol would be subject to the Act.

"Person of unsound mind" is defined broadly in the Act. In general, he or she is a person who requires detention for care and protection and who is unlikely to recover within six months.

A temporary patient means a patient:

- (a) who is: (i) suffering from mental illness, and (ii) is believed to require, for his recovery, not more than six months' suitable treatment; and (iii) is unfit on account of his mental state for treatment as a voluntary patient, or
- (b) who is: (i) an addict, and (ii) is believed to require, for his recovery, at least six months preventive and curative treatment.

An "addict" means a person who:

- (a) by reason of his addiction to drugs or intoxicants is either dangerous to himself or others or incapable of managing himself or his affairs or of ordinary proper conduct; or
- (b) by reason of his addiction to drugs, intoxicants or perverted conduct is in serious danger of mental disorder.

2. *Application:* An application for admission is normally made by a near relative, or in certain circumstances by a community welfare officer, or any interested person such as a Garda Síochána.
3. *Decision-making authority:* Medical officer of the psychiatric hospital may make a reception order for the involuntary admission of the patient on the basis of the application form presented and the medical certificate.
4. *Medical examination:* The medical officer of the psychiatric hospital must, however, examine every person to whom an application for admission as a person of unsound mind refers before signing the reception order. The application must be accompanied by a medical certificate to the effect that the patient is suffering from mental illness, or is an addict, and requires treatment. In the case of a private patient, this certificate must be signed by two doctors. The medical officer of the psychiatric hospital may make a reception order for the involuntary admission of the patient on the basis of the application form presented and the medical certificate.
5. *Treatment programme:* Not stated.
6. *Length of stay:* The order authorizes the conveyance of the patient to the hospital. If the patient is brought to the hospital before the order is made, he or she may be detained for a period of 12 hours while a decision is being taken whether or not to make a reception order.

A temporary patient may not be detained for longer than six months in the first instance, but this period may be extended by further periods of six months, subject to a maximum of two years in total. A temporary patient may, if he or she recovers, be discharged sooner than the six months permitted by the order or may choose to become a voluntary patient during the period of detention.

A person of unsound mind may be detained for an indefinite period. As with temporary patients, he or she may be discharged at any time following recovery or may decide to become a voluntary patient.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
Note: A detained patient who is not dangerous to himself or herself or others may, with the approval of the resident medical superintendent of the hospital, be allowed absence on trial for a period of up to 90 days. Absence on parole is intended to enable detained patients to attend to family and other obligations. Absence on trial is a stepping stone to discharge. A temporary

patient or a person of unsound mind who leaves the hospital without permission may be apprehended and returned to the hospital within 28 days. If it is found necessary to have a person who is absent without leave beyond this period readmitted as a detained patient, a fresh application must be made and the procedures outlined above for involuntary admission must be repeated.

10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* Not stated.

Italy

Legislation: Decree of the President of the Republic No. 309. Consolidation of the Laws governing drugs and psychotropic substances, the prevention, treatment and rehabilitation of drug addicts.

Note: Law No. 162 of 26 June 1990, consolidated in Decree No. 309, is summarized below. See also section A2.2 for summary of the provisions of Law No. 162 on treatment associated with the criminal justice system.

1. *Grounds:* Anyone who personally uses narcotic and psychotropic substances.
2. *Application:* Anyone who personally uses narcotic and psychotropic substances may request the public drug-dependence service for a medical examination and for a therapeutic and social rehabilitation programme to be drawn up.

In the case of minors, or persons incapable of acting on their own behalf, the request for help may be made not only personally by the person concerned, but also by anyone acting *in loco parentis* or having a guardianship role.

3. *Decision-making authority:* Persons practising the medical profession assisting persons addicted to the use of narcotic and psychotropic substances may, at any time, make use of the services of the public drug-dependence system.
4. *Medical examination:* Medically examined. The public drug-dependence service makes inquiries.

Note: Persons practising the medical profession assisting persons addicted to the use of narcotic and psychotropic substances, must forward to the public drug-dependence service a health record containing the personal particulars of the patient, including his or her occupation, educational level, medical history and diagnosis, and the results of tests and treatment. Those who request

anonymity are entitled to ensure that their health records do not contain any personal particulars or data which might be used to identify them.

5. *Treatment programme.* The public drug-dependence service shall, after having carried out the necessary inquiries and having spoken to the person concerned, who may be assisted by his own physician, who is authorized to be present while the inquiries are conducted, draw up a therapeutic and social rehabilitation programme tailored for the person, which may, where the psychological and physical condition of the drug addict makes it possible, in conjunction with the centres referred to in Section 114 [describing the duty of the local authorities to provide assistance] and using the services of the social solidarity cooperatives and associations referred to in Section 115 (e.g. non-profit-making agencies), include initiatives designed to bring about the full incorporation into society of the person concerned through counselling and vocational training, and work of public utility or social solidarity. Under the programme, when it is recognized to be urgently necessary, the drug-dependence service may also arrange for drug-treatment therapies and psychological and pharmacological treatment as appropriate. The drug-dependence service shall monitor the implementation of the programme.

The programme shall be implemented in the public service structures or rehabilitation structures listed in the regional or provincial register, or alternatively with the assistance of a physician selected by the patient.

When the patient wishes to take a programme in one of the rehabilitation structures listed in the regional or provincial register, any of the structures in the national territory may be chosen, or any structure which is registered with the registers pursuant to Section 116 (5), second sentence [i.e. foreign-based operational offices] which has declared that it is in a position to host him. The public drug-dependence service which receives the information provided for by Section 121 [i.e. notification to the public drug-dependence service] or the measures referred to in Section 75(9) [i.e. person subject to criminal provisions and administrative sanctions, who voluntarily asks to take a therapeutic and rehabilitation programme] shall, within 10 days from the date of receiving notification of the aforementioned measure, draw up the therapeutic and social rehabilitation programme.

(Note: See Annex A2.3 for a summary of reporting and registration requirements.)

For all persons whose treatment has been arranged while their prison term has been suspended, or when enforcement has been suspended pursuant to the provisions of this Law, a report must be forwarded to the Local Health Boards (USL) with jurisdiction for the territory at the request of the authority ordering the suspension, following a procedure to be defined by decree of the Minister

of Health, jointly with the Minister of Justice, on progress with the programme, the conduct of the person concerned and the results obtained upon completion of the programme, in terms of the patient's having stopped taking the substances referred to in Tables I (e.g. opium), II (e.g. cannabis), III (e.g. barbiturates) and IV (e.g. substances commonly used for therapeutic purposes) of Section 14 criteria for including narcotic and psychotropic substances.

Workers who are ascertained to be drug addicts, and who intend to undergo therapeutic and rehabilitation programmes in the health-care services of the Local Health Boards (USL) or other therapeutic and social welfare rehabilitation structures, are entitled, where they are employed on a permanent basis, to leave for a period of not more than three years to attend rehabilitation treatment and to return to their place of work.

Collective labour contracts and labour agreements for the civil service may lay down specific procedures for exercising the right referred to in the preceding paragraph. Save where the contracts are more favourable, absence for a long period in order to undergo treatment and rehabilitation must be considered from the statutory, pension and pay points of view equivalent to leave without pay by civil servants and their equivalent. Workers who are relatives of a drug addict may also be given leave on request, and without pay, in order to take part in the therapeutic and social rehabilitation programme of **their drug-dependent relative**, whenever the **drug-dependence service** declares this to be necessary. In order to replace the **drug-addicted workers** who leave work to attend **rehabilitation treatment**, **the employer may engage workers on a temporary basis**. In the civil service, the duration of fixed-term contracts may not exceed **one year**.

Workers holding positions such that **drug addiction could involve a threat to the security, physical safety and health of third parties**, as identified by decree of the Minister of Labour and Social Security jointly with the Minister of Health, shall be required to undergo an examination in public facilities under the authority of the National Health Service, and at the expense of their employer, to ensure that they are free of drug addiction before they are taken into service and subsequently at regular intervals.

The decree of the Minister of Labour and Social Security, jointly with the Minister of Health shall also establish the frequency of, and procedures for, these medical examinations.

If a worker is found to be dependent upon drugs during the course of his work, the employer is required to order the worker to suspend all further activities which involve risks to the security, physical safety and health of third parties.

Failure to comply with the provisions required of the employer shall make the employer liable to a fine of between 10 million and 50 million lira.

Section 114, previously mentioned, specifies that:

1. As part of the social welfare functions vested in municipalities and mountain communities, using the services where possible of the associations referred to in Section 115 [e.g. non-profit-making agencies], also through their consortia, or through special centres managed by themselves or through their associations, on a non-profit basis, recognized or eligible for recognition, they shall pursue the following objectives with regard to the prevention and rehabilitation of drug addicts:

(a) preventing marginalization and social deviance by designing and implementing programmes;

(b) collecting and analysing data, in conjunction with the school authorities, on the local causes of deprivation in the family and society, which encourage the deviance of young people and failure to attend school;

(c) enabling drug addicts to attend school, find work and be incorporated into society.

2. The pursuit of the objectives provided for above may also be entrusted by municipalities and mountain communities or their associations to the competent Local Health Boards (USL).

6. *Length of stay*: Three years for drug-addicted workers, in treatment.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: The programme referred to paragraph 5 above, shall be drawn up with full respect for the dignity of the person and taking due account of the work and study requirements and the family and social living conditions of the patient.

Japan

Legislation: Narcotics and Psychotropics Control Law (Law No. 14 of 17 March 1953), as amended.

Note: Japan became a party to the Convention on Psychotropic Substances 1971 on 31 August 1990, and several provisions were added to the Narcotics Control Law so as to bring psychotropic substances under control. The Narcotics Control Law was then renamed the Narcotics and Psychotropics Control Law. For a comprehensive review, see Report on Administrative Measures Against Narcotics and Stimulants Abuse, published by the Ministry of Health in 1998 (Japan, 1998).

1. *Grounds:* Narcotic addiction or suspicion of narcotic addiction.

"Narcotic addict" means a person who is in a state of narcotic addiction.

"Narcotic addiction" means chronic intoxication with narcotic drugs, cannabis, or opium.

Note: Compulsory hospital admission for stimulant addiction (e.g. to amphetamines, ephedrine) may be ordered under the Mental Health Law (Law No. 123 of 1 May 1950, as amended). Under this Law, the term "persons suffering from mental disorders" includes persons who are psychotic as a result of intoxication.

2. *Application:* The governor of the Metropolis, Hokkaido or Prefecture may, in cases where he considers it necessary with respect to a narcotic addict or a person who is suspected to be a narcotic addict, order a "medical examiner of mental health" to examine such person.
3. *Decision-making authority:* The governor of the Metropolis, Hokkaido or Prefecture may, when he finds, as a result of the medical examination, that the medical examinee is a narcotic addict and, if not hospitalized, is particularly liable to use repeatedly a narcotic drug, cannabis or opium owing to his narcotic addiction, hospitalize such examinee in the hospital designated by Ministry of Health and Welfare Ordinance, where he must undergo the necessary medical treatment.
4. *Medical examination:* In order to conduct the medical examination, a medical examiner may enter the place of residence of the examinee. The medical examiner, in the conduct of the medical examination, must be careful not to hurt the honour of the medical examinee and afford such examinee an opportunity of expressing his opinion on the question of his addiction.

5. *Treatment programme:* The necessary medical treatment must be provided.
6. *Length of stay:* If the person is a narcotic addict, the medical examiner of mental health provisionally determines the period of hospitalization, which must not exceed 30 days, pending the governor's decision to hospitalize. The administrator of a hospital for treatment of narcotic addicts must, if he finds it necessary to continue hospitalization for longer than the period determined by the medical examiner of mental health, report the reason therefor and the period of further hospitalization necessary to the Narcotic Addiction Examination Committee, and request the Committee to examine whether the reason and the period are adequate or not.
7. *Appeal:* Not stated.
8. *Periodic review:* The Narcotic Addiction Examination Committee must, if it has been so requested, examine questions concerning further hospitalization and report its decisions thereon to the governor of the Metropolis, Hokkaido or Prefecture as expeditiously as possible. In this case, the Narcotic Addiction Examination Committee must, when it considers it appropriate to discharge the hospitalized addict in question prior to the expiration of the period determined by the medical examiner of mental health, report the date when the hospitalized addict is to be discharged to the governor of the Metropolis, Hokkaido or Prefecture.

The Narcotic Addiction Examination Committee must, if it makes an examination under the preceding paragraph, hear the opinions of the hospitalized addict in question and the medical practitioner in charge of the treatment of the hospitalized addict.
9. *Discharge procedure(s):* The governor of the Metropolis, Hokkaido or Prefecture must, in accordance with the decision of the Narcotic Addict Examination Committee, discharge the hospitalized addict in question, or decide the period of hospitalization of the hospitalized addict and notify the period to the administrator of the hospital for the treatment of narcotic addiction. The period of hospitalization under these provisions must not exceed three months from the day on which the hospitalization of the hospitalized addict began. The period of hospitalization may not exceed six months in all.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Kazakhstan

Note: It is reported (B. Ajdeldjaev, personal communication, 1994) that the treatment and rehabilitation of drug-dependent persons "is dealt with under the law on health care for citizens of the Republic of Kazakhstan"; there is no separate legislation on drug or alcohol dependence. In addition, orders and instructions of the Ministry of Health of the Union of Soviet Socialist Republics are still in force; these regulate the organization of treatment services, including the conditions and duration of treatment and clinical observation.

It is also reported that current legislation and regulations "represent a starting point for further development given to the population with drug abuse problems". All drug-abuse specialists have the right to make suggestions regarding legislative and regulatory matters to those responsible for health care in both regional and city authorities.

Kenya

Legislation: The Mental Health Act, 1989.

Note: This Act repeals the Mental Treatment Act.

The provisions of this Act apply to three types of patients: (a) voluntary patients; (b) involuntary patients; and (c) emergency admissions.

The Minister, in consultation with the Kenya Board of Mental Health established by this Act, may make regulations for the implementation of this Act. Such regulations may provide for the regulating of equipment, and the administration, control, and management of mental hospitals; for the care, treatment, and rehabilitation of persons suffering from mental disorders; and for the procedure for the admission of outpatients.

1. *Grounds:*

(a) Voluntary patients: any person who is apparently at least 16 years who desires to voluntarily submit to treatment for mental disorder and who makes to the person in charge a written application in the prescribed form may be received as a voluntary patient into a mental hospital. Any person not apparently 16 years and whose parent or guardian desires to submit the person to treatment for mental disorder to a mental hospital upon application in the prescribed form, may be received as a voluntary patient.

(b) Involuntary patients: any person who is suffering from mental disorder and is likely to benefit by treatment in a mental hospital but is for the time being incapable of expressing himself as willing or unwilling to receive treatment.

(c) Emergency admission:

- (i) any person whom applicant believes is suffering from mental disorder and who is found within the limits of his jurisdiction; and
- (ii) any person within the limits of applicant's jurisdiction whom he believes is dangerous to himself or to others, or who, because of the mental disorder acts or is likely to act in a manner offensive to public decency; and
- (iii) any person whom applicant believes to be suffering from mental disorder and is not under proper care and control, or is being cruelly treated or neglected by any relative or other person having charge of him.

Note: see paragraph 2(c) below for applicants (e.g. police officer) for emergency admission.

"Person suffering from a mental disorder" means a person who has been found to be so suffering under this Act and includes a person diagnosed as a psychopathic person with mental illness and person suffering from mental impairment due to alcohol or substance abuse.

"Substance abuse" means the maladaptive pattern of use as indicated by either recurrent or continued use of any psychoactive substances (such as alcohol, amphetamines, cannabis sativa, cocaine, hallucinogens, inhalants, opioids, sedatives, hypnotics, or anxiolytics) where such use causes or exacerbates persistent or recurrent social, occupational, psychological or physical problems.

"Treatment" includes medical treatment, nursing and care and training under medical supervision.

2. *Application:*

- (a) Voluntary patients: see paragraph 1 above.
- (b) Involuntary patients:
 - (i) by the husband or wife, or by a relative, of the person to whom it relates; or
 - (ii) if there is no husband, wife or relative available or willing to make an application, by any other person who shall state in his application the reason why it is not made as provided under (i) [above] the connection of the applicant with the person to whom the application relates and the circumstances in which the application is made. The application must be accompanied by a recommendation in duplicate, in a prescribed form,

signed by a medical practitioner, who must where practicable be the usual medical practitioner attending the person concerned and where this is not practicable a medical practitioner approved by the Director for the purpose of making any such recommendation, shall make the recommendation.

- (c) Emergency admission: Any police officer of or above the rank of inspector, officer in charge of a police station, administrative officer, chief or assistant chief may take or cause to be taken into his custody, persons on the grounds stated in paragraph 1.

3. *Decision-making authority:*

- (a) Voluntary patient: person in charge.
- (b) Involuntary patient: person in charge.
- (c) Emergency admission: person in charge.

The person in charge may after examination [see paragraph 4 below] if he thinks fit, make the person admitted into the mental hospital over to the care of any relative or detain the person in the mental hospital as an involuntary patient deemed to be admitted under the provisions of this Act pertaining to involuntary patients.

4. *Medical examination:*

- (a) Voluntary patient: not stated.
- (b) Involuntary patient: See paragraph 2 above. The medical practitioner who makes a recommendation must before signing the recommendation examine the person and specify in the recommendation the date or dates on which he examined the person and the grounds on which the recommendation is based.

A recommendation shall cease to have effect on the expiration of 14 days from the last date on which the person to whom the recommendation relates was examined by the medical practitioner.

- (c) Emergency admission: Person in charge of the mental hospital must admit that person to be examined.

5. *Treatment programme:* The Minister may, in consultation with the Board of Mental Health, make rules for the control and proper management of mental hospitals and prescribe the standards to be maintained for mental hospitals. Every mental hospital must have facilities for inpatient and outpatient

treatment of persons suffering from mental disorder. Public mental hospitals operated and managed by the Government and private mental hospitals operated and managed by persons other than the Government, may be established.

- (a) Voluntary patient: treatment for mental disorder.
- (b) Involuntary patient: for treatment.
- (c) Emergency admission: making any necessary arrangements for his treatment and care.

6. *Length of stay:*

- (a) Voluntary patient: Any person received as a voluntary patient may leave the mental hospital upon giving the person in charge 72 hours notice in writing of his intention to leave or, if he is not 16 years, upon written notice given by his parent or guardian, and the release is at the discretion of the person in charge of the mental hospital concerned.
- (b) Involuntary patient: A period not exceeding six months, which period may be extended by the person in charge for a further period not exceeding six months. An involuntary patient shall not be admitted to a mental hospital for any continuous period exceeding 12 months.
- (c) Emergency admission: Any person taken into custody for emergency admission must be taken to a mental hospital within 24 hours of being taken into custody or within a reasonable time, and the burden of proving that the person was taken to a mental hospital within a reasonable time lies on the person taking him into custody. The person in charge of the mental hospital to which a person is taken for emergency admission must admit that person for a period not exceeding 72 hours.

7. *Appeal:*

- (a) Voluntary patient: Not stated.
- (b) Involuntary patient: Not stated.
- (c) Emergency admission: Not stated.

8. *Periodic review:*

- (a) Voluntary patient: person in charge must review the condition of the patient or cause the condition to be reviewed within 72 hours.
- (b) Involuntary patient: (see paragraph 6(b) above).
- (c) Emergency admission: (see paragraph 6(c) above).

9. *Discharge procedure(s):*

- (a) Voluntary patient: See paragraph 6 above. A voluntary patient received into a mental hospital who at any time becomes incapable of expressing himself as willing or unwilling to continue to receive treatment, must not be retained as a voluntary patient for more than 42 days thereafter, and must be discharged on or before the expiration of that period unless, in the meantime, he has again become capable of so expressing himself and the person in charge, in consultation with the district mental health council, considers that his continued stay in the mental hospital may be of benefit to the voluntary patient and the person in charge of the patient, subject to the provisions applicable to involuntary patients and other provisions concerning discharge and transfer, retain the person in the mental hospital until an order for discharge can be made under other provisions of this Act.

If a voluntary patient who is not 16 years and who has been received in a mental hospital as a voluntary patient ceases to have any parent or guardian or if his parent or guardian is incapable of performing, or refuses or persistently neglects to perform his duty as parent or guardian, the person in charge must report the circumstances of the case and the condition of the voluntary patient to the district mental health council who must consider the case and give such instructions for the retention or discharge of the patient as may be proper.

The Kenya Mental Health Board may at any time order that a voluntary patient, received into a mental hospital under this Act, be discharged or otherwise dealt with under this Act.

- (b) Involuntary patient: The Kenya Mental Health Board may at any time order that an involuntary patient, received into a mental hospital under this Act, must be discharged or otherwise dealt with under this Act.
- (c) Emergency admission: (see paragraph 3(c) above).

10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

Kuwait

Legislation: Law No. 74/1983 of 18 April 1983 on narcotics and their utilization and marketing.

Note: This Law repeals Law No. 26/1960 concerning the regulation of trade in and utilization of narcotics, as amended.

Under Section 35, a spouse or a close relative may apply to have the other spouse or a close relative who is drug-dependent committed to a hospital for treatment. Applications for commitment may also be submitted by Government agencies that employ drug-dependent persons.

Latvia

Legislation: Decision No. 7 of the Board of Health Protection Ministers on Strengthening the Medical and Social Support for Alcohol, Drug and Toxic Substances Dependent Patients of 14 June, 1990.

Note: It is reported (J. Strazdins, personal communication, 1993), that on 14 June 1990 the Board of Health Protection Ministers adopted and issued Decision No. 7 on Strengthening the Medical and Social Support for Alcohol, Drug and Toxic Substances Dependent Patients, which monitors inpatient and outpatient care, rehabilitation and social care, and registration procedures for substance dependent persons.

It is also reported (J. Strazdins, personal communication, 1993) that legislation in preparation includes legislation on the control of narcotic drugs, psychotropic substances and precursors, and legislation on the suppression of the illicit production and traffic in narcotic and psychotropic substances. Provisions on the rehabilitation of drug-dependent patients are included in new draft legislation, which also contains provisions for the rehabilitation of drug-dependent persons, applicable primarily to homeless or unemployed persons. The Decree of the Board of the Supreme Soviet of the Latvian Soviet Socialist Republic on Provisions Regarding Strengthening of Controls on Alcohol Abuse and Illicit Production of Alcoholic Beverages of 1985 is still in force. [it is further reported (J. Strazdins, personal communication, 1993)]

Malaysia

Legislation: Drug Dependents (Treatment and Rehabilitation) Act 1983 (revised 1980), as amended.

Treatment and rehabilitation is provided for drug dependent persons in two ways: (a) under court order; and (b) voluntary.

1. *Grounds:* Any person reasonably suspected of being drug-dependent.

Note: Any person who is drug-dependent may apply voluntarily to a rehabilitation officer to be given treatment and rehabilitation.

"Drug-dependant" means a person who through the use of any dangerous drug undergoes a psychic and sometimes physical state which is characterized by behavioural and other responses including the compulsion to take the drug on a continuous or periodic basis in order to experience its psychic effect and to avoid the discomfort of its absence.

"Dangerous drug" means any drug or substance which is for the time being comprised in the First Schedule of the Dangerous Drugs Act 1952, revised 1980, as revised.

2. *Application:*
 - (a) Court Order: An officer.

"Officer" means any Rehabilitation Officer and includes any Social Welfare Officer or any police officer not below the rank of Sergeant or any officer in charge of a police station.

- (b) Voluntary: Drug-dependent person.

3. *Decision-making authority:* Court.

- (a) Court order: Magistrate. After giving the person brought before him an opportunity to make representations, the magistrate has two options:
 - (i) If the magistrate is satisfied that such person requires treatment and rehabilitation at a Rehabilitation Centre, he may order such person to reside at the Centre for a period of two years to undergo treatment and rehabilitation and thereafter undergo after-care as provided in the Act; or

(ii) if the magistrate is satisfied that such person's treatment and rehabilitation may be carried out otherwise than at a Rehabilitation Centre, he may order such person to be placed under the supervision of a Rehabilitation Officer for a period of not less than two and not more than three years, and to execute a bond with or without sureties, as the Magistrate may determine, to remain under such supervision for such period.

An order of supervision must contain the condition requiring the person to abstain from dangerous drugs and may contain conditions as to residence, employment, associations, abstention from intoxicating liquor, or attendance at a Day Centre. The magistrate must, before making an order, consider a report by a Rehabilitation Officer on such person, a copy of which must be supplied to such person, and which must be read and explained to the person. In making an order the Magistrate must have regard to the circumstances of the case, and the character, antecedents, age, health, education, employment, family and other circumstances of the person against whom the order is proposed to be made.

- (b) Voluntary: Upon the drug-dependent person making an application, the Rehabilitation Officer must make arrangements as soon as possible for the person to undergo tests. Where in consequence of the tests, such person is certified by a government medical or a registered medical practitioner to be a drug-dependant, the Rehabilitation Officer must decide (and inform the applicant of the decision) whether the applicant should:
- (a) undergo treatment and rehabilitation at a Rehabilitation Centre for a period of two years and thereafter under after-care (as provided in Section 13 of the Act); or
 - (b) be placed under the supervision of a Rehabilitation Officer for a period of not less than two years and not more than three years, such supervision to be subject to the condition that he shall abstain from dangerous drugs and may also be subject to such other conditions as the Rehabilitation Officer may consider necessary or expedient to specify for the purpose of securing such supervision. Such conditions may include conditions as to residence, employment, associations, abstention from intoxicating liquor or attendance at a Day Centre.

After being informed of the decision of the Rehabilitation Officer, the applicant agrees to undergo treatment and rehabilitation at the Rehabilitation Centre or under supervision of a Rehabilitation Officer must, before the decision is put into effect, be required to execute a bond, with surety, and

including a condition requiring the applicant to pay such amount as may be required towards his maintenance, treatment and rehabilitation.

Any parent or guardian of a minor whom the parent or guardian suspects or has reason to believe to be a drug-dependent may apply to a Rehabilitation Officer for the minor to be treated and rehabilitated and produce such minor before such officer. Where a minor is brought before a Rehabilitation Officer, the above-stated provisions for voluntary treatment and rehabilitation apply in the same manner as applicable to a person who applies for treatment and rehabilitation under those provisions, except that the parent or guardian must execute the required bond.

"After-care Centre" means an institution established under paragraph (c) of Section 10 of the Act [concerning the establishment of centres for treatment and rehabilitation].

"Centre" means and includes a Rehabilitation Centre, an After-care Centre and a Day Centre.

"Day Centre" means a centre established under paragraph (b) of Section 10 of the Act [concerning the establishment of centres for treatment and rehabilitation].

"Registered medical practitioner" means a medical practitioner registered under the Medical Act 1971.

"Rehabilitation Officer" means an officer appointed under the provisions of the Act "as may from time to time be required for the purposes of this Act."

"Rehabilitation Centre" means an institution established under paragraph (a) of Section 10 of the Act [concerning the establishment of centres for treatment and rehabilitation].

4. *Medical examination:* An officer, who may detain the suspected drug dependent person for a period not longer than 24 hours at any appropriate place for the purpose of undergoing tests.
- (a) Court order: Where a person who has undergone tests is certified by a government medical officer or a registered medical practitioner to be a drug- dependant, the officer must produce him, or cause him to appear, before a Magistrate.
 - (b) Voluntary: See paragraph 3 above.

"Tests" means all such acts or procedures as may be carried out for the purpose of determining whether a person is drug-dependent.

5. *Treatment programme:* The Minister may establish:
 - (a) rehabilitation centres for the residence, treatment and rehabilitation of drug-dependants ordered or admitted to reside in such centres under the Act;
 - (b) day centres for the attendance of drug-dependants for receiving treatment and rehabilitation where such attendance is required; and
 - (c) after-care centres.
6. *Length of stay:*
 - (a) Court order: Period of not less than two and not more than three years.
 - (b) Voluntary: Two years and thereafter under after-care, or under probation for not less than two years and not more than three years.
7. *Appeal:* Not stated.
8. *Periodic review:* The Board of Visitors of a Rehabilitation Centre may shorten the period of residence at such Centre in respect of any person for reasons which appear to it to be sufficient if such person has already completed a period of 12 months of residence at such Centre.

The Board of Visitors may, with the consent of the Minister in writing, discharge a person from the Centre who has not yet completed 12 months of residence at the Centre if the Board is satisfied that it is just and proper to do so for special reasons pertaining to the welfare of such person.
9. *Discharge procedure(s):* Not stated. A drug-dependent person who has been discharged from a Rehabilitation Centre must, immediately upon such discharge, undergo after-care by a Rehabilitation Officer or such other person as the Director General may designate for a period of two years.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Mauritius

Note: There is no separate legislation on drug dependence or on alcohol dependence, and it is reported (P. Sagaunath, personal communication, 1994) that for alcohol-related physical problems, patients are treated in general hospitals. However, if there are severe alcohol withdrawal symptoms accompanied by psychosis, patients are treated at a psychiatric hospital under the provisions of the Lunacy Act 1906, which governs mental patients and the mental hospital, to which they are admitted only under an interim order issued by a magistrate.

Mexico (Federal)

Legislation: Four items are in force, namely the General Health Law of 1984, the Regulations of 7 January 1981 for the control of substances which are psychotropic when inhaled, Technical Standard No. 197 for the Provision of Health Services to Alcoholic and Persons with Alcohol-related Problems and Technical Standard No. 198 for the Provision of Health Services to Drug Dependents.

A. *General Health Law of 1984.*

The General Health Law of 1984 replaced the Sanitary Code of 1973. Protection of health is a civil right under the Mexican Constitution (Article 40). Under the General Health Law, the right to health includes medical attention, defined as prevention, treatment, rehabilitation, and mental health. Addictions and abuse of substances are included under mental health. Mental Health is given priority in the General Health Law and within the health sector. Health sector institutions must promote and encourage programmes for the prevention of the use of psychoactive substances, narcotics, inhalants and other substances that may produce mental problems or addictions. Health care for mental diseases includes psychiatric rehabilitation of alcoholics and persons who habitually use narcotic or psychotropic substances.

B. *Regulations of 7 January 1981 for the control of substances which are psychotropic when inhaled.*

Article 17 provides that the Ministry of Health and Welfare, independently or in cooperation with other Government departments, semi-State or private bodies, must provide medical and social assistance to anyone suffering from the effects of inhaling substances covered by these Regulations.

Note: The Regulations apply throughout the national territory; their purpose is to make administrative provision for compliance with the Public Health Act of the United Mexican States with respect to substances that are psychotropic

when inhaled, is included in Article 231(V), taken with Article 325 of the same Public Health Act of the United Mexican States.

Article 18 requires the Secretariat of Health to encourage coordination of the activities of citizens' groups and to that end promote the establishment of parents' associations, specialized centres and other associations working to bring care and assistance to minors addicted to substances covered by these Regulations.

Article 26 provides that persons who accidentally inhale substances covered by these Regulations are exempt from any administrative measures. In addition, in the case of habitual or repeated inhalation of those substances, the appropriate health, educational and rehabilitative measures must be applied.

- C. *Technical Standard No. 197 for the rendering of medical assistance to alcoholic patients and individuals with problems related to alcohol abuse.*

Note: Technical Standard No. 197 establishes operational criteria and attitudes of the health personnel of the National Health System in relation to the health care of persons with alcohol problems, covering preventive, curative and psychosocial rehabilitation at the different levels of health care.

- D. *Technical Standard No. 198 for medical care for drug dependence.*

Note: Technical Standard No. 198 covers health services for drug-dependants.

Myanmar

Legislation: Narcotic Drugs and Psychotropic Substances Law, 1993. The State Law and Order Restoration Council Law No. 1/93

Notes: The Narcotics and Dangerous Drugs Law, 1974 is repealed. Rules, notifications, orders and directives issued under the Narcotics and Dangerous Drugs Law, 1974 may continue to be applicable in so far as they are not inconsistent with the new Law. See Section A2.2 for provisions on treatment associated with the criminal justice system.

For the purpose of carrying out the provisions of this Law: (a) the relevant Ministry may issue rules and procedures with the approval of the Government; and (b) the relevant Ministries and the Central Committee may issue notifications, orders and directives as may be necessary. The Central Committee means the Central Committee for Drug Abuse Control.

1. *Grounds:* A registered drug-user. A drug-user shall register at the place prescribed by the Ministry of Health or at a medical centre recognized by the Government for this purpose for medical treatment.

Note: (See Annex A2.3 for registration provisions.)

"Drug-user" means a person who uses a narcotic drug or psychotropic substance without permission in accordance with the law.

"Narcotic drug" means any of the following: (i) poppy plant, coca plant, cannabis plant or any kind of plant which the Ministry of Health has by notification declared to be a narcotic drug, substances and drugs derived or extracted from any such plant; (ii) a drug which the Ministry has, by notification, declared to be a narcotic drug, and substances containing any type of such drug:

"Psychotropic substance" means a drug which the Ministry of Health has, by notification declared to be a psychotropic substance.

"Central Body" means the Central Body for the Prevention of the Danger of Narcotic Drugs and Psychotropic Substances formed by the Government under this Law.

2. *Application:* Not stated.
3. *Decision-making authority:* Not stated
4. *Medical examination:* Actions taken under this Law must be in accordance with the results of laboratory analysis in respect of narcotic drugs and psychotropic substances.
5. *Treatment programme:* The Ministry of Health shall lay down and carry out programmes as may be necessary in respect of medical treatment for a registered drug-user. A registered drug-user undergoing medical treatment shall abide by directives issued by the Ministry of Health.

Note: See Annex A2.3 for registration provisions.

The Ministry of Social Welfare, Relief and Resettlement shall in respect of the rehabilitation and after-care of drug-users carry out the following measures:

- (a) rendering assistance and protection as may be necessary to persons undergoing medical treatment and to the families dependent on them;

- (b) providing for rehabilitation, teaching of means of livelihood as may be necessary, resettlement and after-care to enable persons who have undergone medical treatment to resume their normal lives;
- (c) conducting expertise training courses for the relevant persons in order to implement systematically and effectively/work of rehabilitation of drug users.

The Ministry of Home Affairs shall provide for the teaching of means of livelihood as may be necessary to drug-users serving sentences for failure to register at the place prescribed by the Government for that purpose, or who fails to abide by the directives issued by Ministry of Health for medical treatment, and is consequently imprisoned.

- 6. *Length of stay:* Not stated.
- 7. *Appeal:* Not stated.
- 8. *Periodic review:* Not stated.
- 10. *Harm reduction:* Not stated.
- 11. *Non-discrimination:* Not stated.

New Zealand

Note: The Mental Health (Compulsory Assessment and Treatment) Act 1992, dated 15 June 1992, makes provision for the compulsory assessment and treatment of mentally disordered persons. Detailed provisions are included protecting the individual rights of persons while subject to a compulsory treatment order, and otherwise subject to the Act. Provisions on compulsory assessment and treatment are not applicable to any person based solely on substance abuse.

Legislation: Alcoholism and Drug Addiction Act 1966, as amended.

Note: The 1998 National Drug Policy directed a review of the Alcoholism and Drug Addiction Act 1966 ("ADA 1966") to determine if the ADA 1966 is accomplishing its goal "to make better provision for the care and treatment of alcoholics and drug addicts"; and for the purpose of reconciling apparent inconsistencies among provisions and content of the ADA 1966, the Mental Health (Compulsory Assessment and Treatment) Act 1992, and the New Zealand Bill of Rights Act 1990 (New Zealand, 1998a).

1. *Grounds: Alcoholic.*

"Alcoholic" means a person whose persistent and excessive indulgence in alcoholic liquor is causing or is likely to cause serious injury to his health or is a source of harm, suffering, or serious annoyance to others or renders him incapable of properly managing himself or his affairs.

Note: This Act applies, in the same way as it applies to an alcoholic, to any person whose addiction to intoxicating, stimulating, narcotic, or sedative drugs is causing or is likely to cause serious injury to his health or is a source of harm, suffering, or serious annoyance to others or renders him incapable of properly managing himself or his affairs.

2. *Application: There are two types of application:*

- (a) Voluntary: Any person who wishes to be received into an institution may make an application in person to a District Court Judge for an order of admission. The application must be in writing in the prescribed form, and specify the institution into which the applicant desires to be received, and must state that the applicant undertakes to remain in the institution for treatment of alcoholism until he is released or discharged under this Act. The signature of the applicant must be attested by the District Court Judge to whom the application is made or by the Registrar or Deputy Registrar of a District Court. If the District Court Judge is satisfied whether by the admission of the applicant or by any other evidence that the applicant is an alcoholic, and that he fully understands the nature and effect of his application, the District Court Judge may, if he thinks fit, and if he is satisfied that the managers or superintendent of the institution are willing to receive the applicant into the institution, make an order for the detention of the applicant for treatment for alcoholism, in the institution named in the applicant.
- (b) Order by District Court Judge: On application in the prescribed form by a relative, as defined, by the police, or by any other reputable person, that the person to whom the application relates is an alcoholic, any District Court Judge may issue his summons to the alleged alcoholic to show cause why an order should not be made requiring him to be detained for treatment for alcoholism in an institution.
 - (i) where application is made by the police or by any person who is not a relative of the alleged alcoholic, the application must contain a statement of the reason why it is made by the applicant instead of by a relative;

- (ii) all statements contained in the application must be verified by the statutory declaration of the applicant or of some other person;
- (iii) if the District Court Judge is satisfied that the alleged alcoholic has refused to undergo examination by two medical practitioners for the purpose of this Act or has wilfully failed to attend for any medical examination required for the purpose of this Act he may issue his warrant for the arrest of the alleged alcoholic and may at the same time order that the alleged alcoholic shall after his arrest, undergo medical examination by two medical practitioners.

On hearing the application the District Court Judge must not make an order for detention unless two medical practitioners either give evidence to the effect or give certificates in the prescribed form to the effect that they believe the alleged alcoholic to be an alcoholic within the meaning of this Act and that the making of an order for his detention and treatment as such is expedient in his own interest or that of his relatives.

- (iv) On hearing of the application, the alleged alcoholic being then present before him, the District Court Judge may make an order requiring the alcoholic to be detained for treatment for alcoholism in an institution if he thinks fit, and if he is satisfied of the truth of the applicant, and if the managers or the superintendent of an institution are willing to receive the alcoholic into that institution.

In this section of the Act, "relative" means a spouse, parent, grandparent, stepfather, stepmother, brother, sister, half-brother, half-sister, son, daughter, grandson, grand-daughter, stepson, or stepdaughter.

"Institution" means a certified institution under this Act.

3. *Decision-making authority:* District Court Judge. Every application must be heard and determined in private. Every person who is the subject of any such application is entitled to be heard and to give and call evidence and may be represented by a solicitor or counsel.

Note: Under Section 37A, subsection (2), the Minister may from time to time by notice in the *Gazette* (periodical) declare any premises to be a temporary shelter or a detoxification centre. Any constable who finds any person intoxicated in any public place: (a) may take or cause that person to be taken to his usual place of residence or if he is temporarily residing elsewhere, to his

temporary place of residence; or (b) if that place cannot reasonably be ascertained or it is not reasonably practicable to take that person to it or it may not be safe to leave him there, may take that person or cause him to be taken to any temporary shelter or detoxification centre; or (c) if neither course authorized in (a) or (b) is reasonably practicable, detain or cause that person to be detained in a police station for any period not exceeding 12 hours.

Notwithstanding the above provisions, if it is not immediately practicable for the constable to determine where to take the person in accordance with Section 37a, subsection (2), the constable may take the person to a police station and detain that person there for such time as may be reasonably required to enable enquiries to be made as to the appropriate course to be followed.

If after being detained for a period of 12 hours, any person is still, in the opinion of any constable, so intoxicated as to be incapable of properly looking after himself, the constable may take that person or cause him to be taken to a temporary shelter or detoxification centre. Where detained under this provision he is entitled to telephone one person of his choice. Every constable is justified in detaining in accordance with this Section for any period not exceeding 12 hours, any person whom he believes on reasonable and probable grounds to be intoxicated. For the purposes of this section a person is intoxicated if he is under the influence of intoxicating liquor, drug, or other substances to such an extent as to be incapable of properly looking after himself.

4. *Medical examination:* See paragraph 2. A medical certificate may not be signed by any of the following persons: (a) the applicant for the order; (b) the superintendent or a medical officer of the institution into which if granted the order would authorize the alleged alcoholic to be received; (c) the husband or wife, father, or father in law, mother or mother in law, son or son in law, daughter or daughter in law, brother or brother in law, sister or sister in law or the partner, principal or assistant of the applicant or of the alleged alcoholic or the guardian or trustee of the alleged alcoholic; (d) any person by whom the order is made. Every such medical certificate must contain a statement that the certifying medical practitioner is not prohibited by this Act from signing the same.
5. *Treatment programme:* Treatment for alcoholism in that institution.
6. *Length of stay:* Not more than two years.
7. *Appeal:* Section 23 provides that all provisions of the Summary Proceedings Act 1957 in respect of appeals from convictions or orders shall apply, with the necessary modifications, to any order for detention and treatment or any order for the return or removal of a patient to an institution on the revocation of an order for leave of absence, made by a District Court Judge or a District Court

under this Act, in the same manner as if the person ordered to be detained and treated or returned or removed had been sentenced to detention within the meaning of the Summary Proceedings Act 1957. An appeal under the Section 23 may be made at any time within three weeks after the date on which the order for detention and treatment or return or removal was signed by the District Court Judge.

8. *Periodic review:* See paragraphs 2, and 3 above, and 9 below.
9. *Discharge procedure(s):* The Minister, or the Supervising Committee of an institution or superintendent of an institution under the control of a hospital board or of a psychiatric hospital, may at any time by order in writing discharge any patient; transfer any patient; release any patient on leave of absence for any period not exceeding the balance of the period of two years for which he is liable to be detained.

Section 18 provides that any patient may at any time after the expiration of six months from his first reception in an institution pursuant to any order may request the Minister or Superintendent to discharge him. On any such application the Judge may order that the patient be brought before him for examination at a time to be specified in the order. In deciding whether or not to make an order the Judge may take into consideration the fact that any relative or friend of the patient is willing and able to take care of him.

10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights/responsibility:* In addition to the substantive and procedural safeguards summarized in previous paragraphs, Section 29 provides that every person commits an offence against this Act who ill-treats any patient in an institution, as does any officer, servant, or other person employed in or about the institution, who wilfully neglects any patient. In addition, Section 26 provides that every patient commits an offence against this Act who is wilfully guilty of any violent, unruly, insubordinate, destructive, indecent, offensive, or insulting conduct.

The Minister may appoint for any institution under this Act a Supervising Committee, which has such functions as are conferred upon it by this Act.

Norway

Legislation: Two separate laws on compulsory civil commitment are in force: (a) Act No. 81 of 13 December 1991 relating to Social Services (entered into force 1 January 1993); and (b) the Mental Health Act of 1961, as amended.

Note: The approach to drug and alcohol dependence is based essentially on voluntary treatment. However, it is reported (Norway, 1993, the Ministry of Health and Social Affairs) that the Child Welfare Law of 1992 provides for the compulsory placement of young persons under the age of 18.

For a summary of Prison Law No. 7, 1958, which provides for the transfer of drug addicts from prison to treatment institutions, see section A2.2.

Also, it is reported (Norway, 1998) that legislation providing for involuntary detention of pregnant drug users came into force on 1 January 1996.

A. *Act No. 81 of 13 December 1991 relating to Social Services*

This Act replaces the following Acts: Act No. 1 of 26 February 1932; Act No. 2 of 5 June 1964; and Act No. 13 of 39 March 1984.

1. *Grounds:* Person endangering his or her physical or mental health by extensive and lasting misuse, and if help according to Section 6-1 is not sufficient, a decision can be taken that the person shall without his or her consent enter an institution for examination and the planning of treatment, and be kept there for up to three months.
2. *Application:* Not stated.
3. *Decision-making authority:* County Board. A decision to retain a person in an institution without the person's consent can be taken only if the institution is professionally and materially equipped to offer the person concerned satisfactory assistance in the light of the purpose for which the person entered the institution. The social service can refrain from implementing a decision if circumstances so indicate. If the decision has not been implemented within six weeks, it lapses. A provisional decision for retention can be taken by the social service if it may be seriously detrimental to the interests that the provision is intended to protect if a decision is not taken and implemented at once. If a provisional decision has been taken, a proposal must be sent to the County Board within three weeks. If the case has not been sent to the County Board within that time limit, the decision lapses.
4. *Medical examination:* Not stated.
5. *Treatment programme:* By means of advice, guidance and practical assistance, the social service must help individuals to stop misusing alcohol and drugs. Advice, guidance and help must likewise be given to the families of the persons in question. When necessary and when the client so wishes, the social service must provide a course of treatment. Such a course of treatment may among other things include the appointment of a support contact, the

establishment of a support network at work, and contact with the primary health service or specialist services. Should such assistance outside institutions prove insufficient, the social service must provide a place in a suitable institution for care or treatment. If the need for such a place at an institution cannot be met, the social service must, if necessary, ensure that temporary measures are taken. The social service must follow up the client through the course of treatment in conversations and if necessary on home visits, and by making arrangements for the measures required on the termination of stay, if any, at an institution.

County municipal plans must specify the institutions which can receive alcohol- and drug-misusers on the basis of decisions made for retention with or without consent.

6. *Length of stay:* If an alcohol- or drug-misuser enters an institution voluntarily, the institution can stipulate that the misuser must be kept there for up to three weeks from the date of entry. In connection with a stay in an institution for the purpose of treatment or training for at least three months, the condition can also be stipulated that the misuser can be kept there for up to three weeks after the consent has been expressly withdrawn. Such retention can only take place up to three times in each stay. If the misuser absconds, but is brought back within three weeks, the period of retention must be started from the date of the misuser's return to the institution.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Not stated.
 9. *Discharge procedure(s):* See paragraphs 5 and 6 above.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination/patients' rights:* Consent must be in writing and must be given to the management of the institution at the latest at the beginning of the stay. Before the misuser gives his or her consent, he or she must be informed of any conditions as mentioned in paragraph 6 above (e.g. regarding required stay for up to three weeks). A child over the age of 12 with alcohol or drug problems can be institutionalized on the basis of consent from the child itself and those having parental responsibility. If the child is aged 16 or over, the child's consent is sufficient.
- B. *Mental Health Act of 1961.*

Note: It is reported (Norway, 1993, the Ministry of Health and Social Affairs) that when there is a question of mental illness, the Mental Health Act of 1961

provides for the “compulsory examination of addicts for three weeks, and compulsory treatment if they are found to be mentally unsound”. Provision is also made for retaining a person for three weeks if he or she signs a contract with the medical officer of a mental health institution.

Any person may voluntarily request admission and be admitted to a psychiatric institution if the senior medical officer or the doctor responsible for psychiatric care is of the opinion that admission to the institution is beneficial to the patient in view of his mental condition, and that the patient is capable of making this decision. The patient must be discharged without delay if he should so desire.

1. *Grounds:* Two provisions apply: (a) examination due to mental condition; and (b) admission for serious mental illness.

- (a) Person, due to his mental condition, is unable to make arrangements for the necessary medical assistance and mental health care and his next-of-kin fail or neglect to arrange for such attention and care. The public authorities must arrange for his examination by a medical practitioner otherwise take the necessary steps to have him placed under mental health care and protection.
- (b) Person suffering from a serious mental illness may be committed to hospital without his consent if his next-of-kin or the public authorities so require and if the senior medical officer decides that - in view of the patient's mental condition - admittance to hospital is essential in order to prevent the patient coming to any harm or that the prospects of cure or considerable improvement would otherwise be lost, or that the patient represents a serious danger to himself or others.

“Mental condition” and “serious mental illness” is not defined in the Act.

“Next-of-kin” means spouse, children who have come of age, parents or the person having parental authority, brothers and sisters who have come of age, grandparents or guardians on the condition that the person in question has been in continuous contact with the patient.

2. *Application:* (a) For examination, person's nearest relatives or public authorities; (b) for admission, next-of-kin or public authorities.
3. *Decision-making authority:* The senior medical officer. Evidence likely to be of importance in the decision can be taken and recorded. If a person is to be hospitalized without his consent, the patient or any other person acting on his behalf must be given the opportunity of making a statement before the decision is made.

4. *Medical examination:* Personal examination by a medical doctor.
If the medical doctor, following personal examination, must consider it necessary that the patient - at the request of his next-of-kin or the public authority - be hospitalized or detained in some other place where proper care can be provided, but not for more than three weeks without the patient's express consent, unless the provisions of the Act concerning grounds for serious mental illness apply (see paragraph 1(b), above).
5. *Treatment programme:* Mental health care means:
 - (a) psychiatric "pre-care" as mentioned in Section 12;
 - (b) examination, treatment or care in a psychiatric hospital, psychiatric clinic or polyclinic, psychiatric institution for children and adolescents, psychiatric day institution and psychiatric care in a private home under supervision; and
 - (c) psychiatric "after-care" as mentioned in Section 13.

Note: Section 12 provides that whenever an application is made for mental health care the patient must be given the "pre-care" considered necessary until he is admitted or until it is confirmed that he has been helped or will be helped in some other way. Questions regarding "pre-care" and arrangements for other forms of mental health care for a patient receiving "pre-care" may be brought before the Control Commission concerned by the patient himself or his next of kin or by the public authorities which have requested the care.

Section 13 provides that patients receiving mental health care in institutions/homes must undergo such psychiatric after-care as considered desirable if the patient himself or his next of kin so requests. Decisions concerning after-care shall be taken by the medical doctor responsible for the care of the patient. The patient himself, his next-of-kin or the public authority which has requested his admission to hospital may appeal against the doctor's decision to the Control Commission.

After one year of such after-care the patient must be discharged, unless the Control Commission consents to a prolongation. If it does so, such prolongation must be for one year at a time.

6. *Length of stay:* (a) For compulsory examination, no more than three weeks;
(b) for admission for serious mental illness, see paragraph (9) below.
7. *Appeal:* See paragraph 4 above. The patient, his next-of-kin or the authorities "whichever requested hospitalization" may appeal to the Control Commission (composed of one judge, one doctor, and two other members) against the decision of the medical superintendent. The same applies when the medical superintendent has refused to admit or to keep the patient. The appeal should

not have any delaying effect, provided that the Control Commission does not decide otherwise.

If a person is admitted to or kept in hospital under these provisions, the medical superintendent must immediately inform the Control Commission. If the patient has been admitted to or kept in hospital at the request of the authorities, the medical superintendent must also inform the next-of-kin. The patient and the nearest relatives must always be informed of the right of appeal to the Control Commission with regard to admission and discharge as well as complaints relating to treatment.

8. *Periodic review:* See paragraph 7 above.
9. *Discharge procedure(s):* Application for discharge may be made by the patient himself or, if he is incapable of so doing, by his next-of-kin. When discharge has been requested, the patient may not be kept in hospital unless the medical superintendent considers that, if discharged, he would constitute a danger to himself, or that the possibility of cure or essential improvement would be lost, or that the patient, because of his mental condition, might then suffer or that he would constitute a significant danger to the life or health of others.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* With regard to the medical examination (see paragraph 6), the doctor must inform the patient of his right to appeal against the decision to the Control Commission. The appeal has no delaying effect unless the doctor decides otherwise.

Pakistan

Note: It is reported (M.H. Mubbashar, personal communication, 1994) that there are no specific legislative provisions pertaining to treatment and rehabilitation, although a draft mental health law is under active consideration.

Note: The Control of Narcotic Substances Ordinance, 1996 provides (Section 53) that the Federal Government and Provincial Government shall establish as many centres as may be deemed necessary for detoxification, de-addiction, education, after-care, rehabilitation, social integration of addicts and for supply of such medicines as are considered necessary for the detoxification of the addicts.

In addition, it is proposed to establish adequately equipped detoxification centres at the Federal and district headquarters hospitals, to provide specialized treatment services for drug addicts, and particularly for heroin addicts.

Peru

Legislation: Three laws are reviewed:

A. Ministerial Resolution No. 172-95-SA/DM of 27 February 1995

Ministerial Resolution No. 172-95-SA/DM of 27 February 1995 adopts the supplementary rules designed to implement Supreme Decree No. 06-94-SA of 13 December 1994 on care centres for drug-dependent persons. As set out in the *International Digest of Health Legislation* [IDHL, 1998, 49 (3)], Sections 5 to 9 on admission or commitment of patients provides that: [5] The admission or commitment of patients to care centres for drug-dependent persons may be requested by the patient himself, his family, tutors, guardians, or the court. In the case of minors under 18 years of age who have no family, the authorization of the tutor or judge should be mandatory. [6] The only persons admitted shall be adults, adolescents, and children under 12 years of age, who have been assessed beforehand by an appraising physician in order to rule out any important pathological condition of a psychiatric or medical nature. Each centre shall be for one sex only. [7] Admission may not be refused to HIV-infected persons or those with a history of latent infectious diseases. [8] Applicants, with the exception of the court, shall sign a therapeutic contract in which the following shall be specified: (a) the responsibility, upon admission of the person signing the application; (b) the causes likely to constitute grounds for exclusion; (c) the system applicable to outside contacts; (d) the financial conditions of the stay; (e) the duties of the patient and the centre; (f) the undertaking of the patient's associates to participate in his rehabilitation; and (g) a summary of the programme of rehabilitation that the patient is to undergo. [9] The admission and commitment of patients must be recorded in a register in which the following is to be specified: the date of admission; the personal and family names; the grounds for admission; and the name and address of the person responsible or the designation of the court concerned.

B. *Decree Law No 22095 of 21 February 1978 (on Drugs).*

1. *Grounds:* Drug addiction (not defined).
2. *Application:* By the drug-dependent person, his relatives or "judicial authority".
3. *Decision-making authority:* Judge, at the request of the Ministry of Public Health or any interested person.
4. *Medical examination:* The condition of the drug addict is determined only after an examination by a medicolegal physician at the request of the competent judge. This examination takes into account: (a) the nature and

amount of the substances that produced the dependence; and (b) the history and clinical situation of the person.

5. *Treatment programme*: There are two components:

- (a) medical detoxification; and
- (b) physical, mental and social rehabilitation.

In order to carry out this treatment, "specialized treatment services" must be established. The Government must arrange for the establishment and operation of State Rehabilitation Centres for Drug-dependent Persons and shall encourage the establishment of private institutions of the same kind.

Drug addicts may be treated: (a) at home; (b) at private establishments; (c) at State Rehabilitation Centres for Drug-dependent Persons.

- 6. *Length of stay*: Not stated.
 - 7. *Appeal*: Not stated.
 - 8. *Periodic review*: Not stated.
 - 9. *Discharge procedure(s)*: Not stated.
 - 10. *Harm reduction*: Not stated
 - 11. *Non-discrimination/patients' rights, responsibilities*: The judge of the first instance of the civil court or the judge of the juvenile court, may attach the property of a drug addict or his legal representatives to meet the cost of rehabilitation.
- C. *Sanitary Code, Articles 140-142 (on alcohol)*.

Note: The provisions of the Sanitary Code⁴ focus on prevention.

Article 140: Alcoholism is a serious public health problem because the effects of self-intoxication through the use of alcohol spread from the individual to society, producing degeneration of the race and species.

Article 141. The control of alcoholism is an imperative obligation for the health authorities, not only because of the organic and physical lesions and

⁴ WHO translation from Spanish.

mental disorders that it causes in the individual but also because of its repercussions on relations within family and society.

Article 142: In the health field, the control of alcoholism means action aimed at preventing inherited defects, disease, perversion, social degradation and moral turpitude.

Poland

Note: It is reported (J. Morawski, personal communication, 1994) that a new law on the prevention of drug abuse is being prepared which will bring national regulations into line with the requirements of the international conventions, particularly with the aim of penalizing the possession of narcotic drugs and psychotropic substances. Moreover, a draft law on alcohol is reported to have been prepared by the Ministry of Health and submitted to Parliament. It is reported (Mejer-Zahorski, date not available) that a revised law on drug abuse prevention was being proposed that provides for the establishment of a Council for Drug Abuse Prevention.

Legislation: Two laws are in force.⁵

Note: See also Annex 3 for full citations of Ordinances on drug dependence which are also in force.

Law No. 15, of 31 January 1985, on Prevention of Drug Abuse

Note: Article 23 provides that except as provided in this law, an individual's undergoing treatment, rehabilitation and readaptation will be voluntary, and free of charge. The treatment, rehabilitation and readjustment of drug dependent persons will be carried out by public institutions (establishments) of the health service. They will also cooperate in the resocialization of such persons. The Minister of Health and Social Welfare, through an ordinance, will determine: (a) the organization, operational guidelines and type of the establishments for treatment, rehabilitation and readjustment of drug dependent persons; and (b) specific guidelines for issuing the authorizations for care provided by public organizations, church or other organizations.

⁵ English language translation from Polish text.

1. *Grounds. Drug dependent person.*

“Drug dependent person” means a person who, as a result of using narcotic or psychotropic substances for medical reasons or through abuse of such substances, becomes dependent on them.

“Drug addiction” means constant or periodic use for nonmedical purposes of narcotic or psychotropic substances or their surrogates which may lead or has led to dependence.

“Narcotic or psychotropic substance” means any substance of natural or synthetic origin which affects the central nervous system and which is listed in the schedule of psychotropic substances drawn up by the Ministry of Health and Social Welfare.

“Dependence on narcotic or psychotropic substances” means a complex of mental, and sometimes physical, phenomena arising from the effect of such substances on the human organism which is characterized by behavioural change and other psychophysical reactions within a definite range and by compulsive consumption, either constant or intermittent, of such substances in order to experience their effect on the psyche or to avoid the consequences of withdrawal.

“Potentially drug-dependent person” means a person who intermittently uses narcotic or psychotropic substances or their surrogates.

2. *Application:* Legal representative, a person who is next of kin, sibling or an education and employment counsellor; or juvenile court, acting out of concern for the good of a dependent person under 18 years of age.

3. *Decision-making authority:* Not stated. Article 25 provides that proceedings must follow the regulations concerning proceedings involving minors. Special procedures for drug dependent youth are governed by the Ordinance of 29 March 1986, which obligates schools, care and educational centres to take educational preventive measures as well as assistance to those at risk of addiction. Depending on the extent of the risk and the actual needs, the Ministry of Education is entitled to introduce new forms of education, such as special grades in primary schools, educational groups in school dormitories, youth social therapy centres. Youth leaders have also been involved and a federation of youth leaders for health promotion has been established. Their functions consist in training health promoters and attracting young people to healthy life styles.

4. *Medical examination*: Not stated. The Minister of Health and Social Welfare defines the principles of organization of laboratory tests devised to detect the presence of intoxicants and psychotropic drugs.
5. *Treatment programme*: The Minister of Justice, in consultation with the Ministers for Health and Social Welfare and for Education, through an ordinance, will establish specific guidelines and procedures for the treatment, rehabilitation and resocialization of drug-dependent persons.
6. *Length of stay*: Shall not be determined in advance, but may not exceed two years. If the drug dependent person reaches the age of 18 years before the conclusion of compulsory treatment and rehabilitation, a family court may extend the period, (not to exceed two years) in order to ensure that the objective of such treatment and rehabilitation is achieved.
7. *Appeal*: Not stated.
8. *Periodic review*: Not stated. See paragraph 6 above.
9. *Discharge procedure(s)*: See paragraph 6 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

Law of 26 October 1982 on education for sobriety and control of alcoholism (Dziennik Ustaw Polskiej, Rzeczypospolitej Ludowej, 12 December 1982, No. 5, serial No. 230, pp 625-630) as amended 11 July 1984⁶ (Dziennik Ustaw, 11 July 1984, No. 34, item 184).

Note: This Law repeals Law No. 434 of 10 December 1959 on the control of alcoholism.

Treatment for alcohol-dependent persons will be provided in inpatient or outpatient detoxification centres and general health-care centres. Except as otherwise provided, entry into treatment is voluntary. Public health treatment services for alcohol-dependent persons are free of charge. Local authorities must establish detoxification centres, social welfare establishments, and sheltered workshops for alcohol-dependent persons, and other establishments for the care of persons abusing alcohol. Persons undergoing detoxification treatment will receive care appropriate to their needs and designed to remove the causes of their need for treatment. Such care must include help with

⁶ Amendments made in 1987, 1989, 1990 and 1993 are not taken into account.

employment, temporary accommodation, and aid in cash and in kind, and may be extended to the families of the persons receiving detoxification treatment.

1. *Grounds:* Under Article 24, persons who, on account of abuse of alcohol, disrupt family life, adversely affect the morality of minors, are absent from work, and habitually commit breaches of the peace, must be examined by an expert who will establish whether they are alcohol-dependent and specify the appropriate kind of treatment centre. The persons specified under Article 24, when found to be alcohol-dependent, can be compelled to undergo treatment.

None of the terms used, including "alcohol-dependent", and "abuse of alcohol", are defined in the Law.

2. *Application:* Upon the request of the Commission for Alcohol Prevention or of the prosecutor. The application must be accompanied by proper documentation and the opinion of a recognized expert, where expert examination has already taken place. If examination by a recognized expert has not taken place, it must be ordered by the regional court, the decision-making authority.
3. *Decision-making authority:*
 - (a) *Observation:* A regional court, in proceedings in camera (confidential, in chambers). The court may, as necessary on the basis of the expert opinion, order observation of the person in a medical facility for no longer than two weeks. In exceptional cases, on request of the medical facility, the observation period may be extended by the court to six weeks.
 - (b) *Compulsory treatment:* The court can rule that the person must undergo compulsory treatment must be only after a trial, which must be held not later than one month after a request is submitted.
 - (c) *Probation:* For compulsory treatment, the court may order supervision by a probation officer. While on probation, the person must appear at the demand of the court or the probation officer and perform actions designed to shorten compulsory treatment.
 - (d) *Incompetence:* If the court concludes that an alcohol-dependent person is legally incompetent due to alcohol dependence, the court must notify the relevant prosecutor of that decision. Upon a finding of incompetence, the court must order the person to be detained in a welfare centre for alcohol-dependent persons unless he can be cared for on a permanent basis by some other means. The person appointed as guardian for an incompetent person must also perform the duties of the probation officer previously mentioned.

4. *Medical examination:*
- (a) To determine whether person is alcohol-dependent under Section 27, the court may, on the basis of an expert opinion order the person to be detained for observation in a medical establishment for a period of not more than 2 weeks, which can be extended to 6 weeks. Under Section 28, when the court orders testing by a recognized expert during observation in a centre, the person whom the proceeding concerns is obliged to submit to psychological and psychiatric tests and the actions necessary to conduct “elementary laboratory analysis”, provided that they are conducted by authorized medical personnel in keeping with medical knowledge and do not threaten to harm the health of that person. The Minister of Health and Social Welfare, together with the Minister of Justice, in a ruling must determine the manner of recognizing qualified experts, drafting opinions and the manner and method of carrying out the tests.
 - (b) Compulsory treatment under Section 30: If the person fails to appear for medical examination or trial, the court may order the person to be detained by the “citizens militia” for treatment, but only as necessary under the order.

5. *Treatment programme:*

- (b) Compulsory treatment under Section 32: If the person fails to enter the detoxification centre and submit voluntarily to treatment, the person may be involuntarily detained. When inpatient alcohol treatment is ordered, the person may not leave the premises of the centre without the express permission of the director of the centre.

An inpatient medical centre may, on medical grounds, transfer the person to another establishment to continue treatment.

Under Section 37, persons detained in reformatory schools and shelters for alcohol-dependent minors must follow the prescribed treatment. Such treatment is to be supervised by the administration of the reformatory school or shelter with the consent of legal representative of the minor, or if there is no representative or the person is not a minor, with the authorization of the court, upon hearing expert opinion.

Under Section 38, the Minister of Justice in agreement with the Minister of Health and Welfare, are to specify by order the principles and procedures governing the treatment of persons in disciplinary establishments, prisons, and social reform centres. The Ordinance of the Ministry of Justice of 7 May 1983 concerning principles and procedures for the treatment of alcohol-dependent persons convicted in reformatories and asylums for juveniles applies.

- (c) Sobering-up centres Section 39-40 provides that: public authorities in towns with over 50 000 inhabitants must establish and operate sobering-up centres. Intoxicated persons whose behaviour constitutes an offence against standards of morality in a public place or at their workplace, or who jeopardize their life or health or the life or health of other persons, may be taken to a sobering-up centre, when available, or to a "citizen militia" post, a public health centre, or their home.

6. *Length of stay:*

- (a) Compulsory treatment under Section 34, not longer than two years. While the compulsory treatment order remains in force, the court may, on the probation officer's request and/or on the request of the medical centre, change the ruling as to the type of alcohol-treatment facility.
- (b) Sobering-up centres under Section 40, persons taken to a sobering-up centre or "citizens' militia" post must be detained until they are sober, for a period not exceeding 24 hours. The premises used for detaining persons under 18 years of age must be separate from those used for adults.

7. *Appeal:* Prior to making a ruling, under Section 27, the court must grant a hearing to the person concerned prior to deciding detaining for observation, against which an appeal is admitted.

8. *Periodic review:* A judge may enter, at any time, an inpatient medical centre or a social assistance home to verify that the persons concerned are duly undergoing treatment on the facility and to investigate the conditions of their stay. After compulsory treatment is concluded, an application in respect of the same person cannot be submitted to the court until three months after the expiration of compulsory treatment.

9. *Discharge procedure(s):* Section 34 provides that after hearing the opinion of the medical centre where the person is undergoing treatment, the termination of compulsory treatment before the end of two years can be ordered by the court at the request of the person undergoing treatment, the probation officer, or prosecutor.

Sobering-up centres have a lien on the money and possessions found on persons detained in the centre until they have paid the expenses incurred in their stay.

10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

Law No. 15, of 31 January 1985, on Prevention of Drug Abuse.

Note: Article 23 provides that, except as provided in this Law, treatment, rehabilitation and readaptation are voluntary and free of charge. The treatment, rehabilitation and readjustment of drug-dependent persons will be carried out by public institutions (establishments) of the health service. They will also cooperate in the resocialization of such persons. The Minister for Health and Social Welfare, through an ordinance, will determine: (a) the organization, operational guidelines and type of establishments for the treatment, rehabilitation and readjustment of drug-dependent persons; and (b) specific guidelines for issuing the authorizations for care provided by public organizations, and church or other associations.

1. *Grounds:* Drug-dependent person.

"Drug-dependent person" means a person who, as a result of using narcotic or psychotropic substances for medical reasons or through the abuse of such substances, becomes dependent on them.

"Drug addiction" means constant or periodic use for non-medical purposes of narcotic or psychotropic substances or their surrogates which may lead or has led to dependence.

"Narcotic or psychotropic substance" means any substance of natural or synthetic origin which affects the central nervous system and which is listed in the schedule of psychotropic substances drawn up by the Ministry of Health and Social Welfare.

"Dependence on narcotic or psychotropic substances" means a complex of mental, and sometimes physical, phenomena arising from the effect of such substances on the human organism characterized by behavioural change and other psychophysical reactions within a definite range and by the compulsive consumption, either constant or intermittent, of such substances in order to experience their effect on the psyche or to avoid the consequences of withdrawal.

"Potentially drug-dependent person" means a person who intermittently uses narcotic or psychotropic substances or their surrogates.

2. *Application:* Legal representative, a person who is next of kin, a sibling or an education and employment counsellor; or juvenile court, acting out of concern for the good of a dependent person under 18 years of age.

3. *Decision-making authority:* Not stated. Article 25 provides that proceedings must be subject to the regulations concerning proceedings involving minors. Special procedures for drug-dependent youth are governed by the Ordinance of 29 March 1986, which requires schools, and care and educational centres to take educational preventive measures as well as provide assistance to those at risk of addiction. Depending on the extent of the risk and the actual needs, the Ministry of Education is empowered to introduce new forms of education, such as special classes in primary schools, educational groups in school dormitories, youth social therapy centres. Youth leaders have also been involved and a federation of youth leaders for health promotion has been established. The functions of such youth leaders is to train health promoters and encourage young people to adopt healthy lifestyles.
4. *Medical examination:* Not stated. The Minister of Health and Social Welfare defines the principles of the organization of laboratory tests to detect the presence of intoxicants and psychotropic drugs.
5. *Treatment programme:* The Minister of Justice, in consultation with the Ministers of Health and Social Welfare and for Education, will establish by ordinance specific guidelines and procedures for the treatment, rehabilitation and resocialization of drug-dependent persons.
6. *Length of stay:* Shall not be determined in advance, but may not exceed two years. If the drug-dependent person reaches the age of 18 years before the conclusion of compulsory treatment and rehabilitation, a family court may extend the period (not to exceed two years) in order to ensure that the objective of such treatment and rehabilitation is achieved.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated. See paragraph 6 above.
9. *Discharge procedure(s):* See paragraph 6 above.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Portugal

Legislation: Decree Law No. 430/83 of 13 December 1983.

Note: Decree Law No. 43/94, which came into force on 17 February 1994 restructured the Service on Prevention and Treatment of Drug Dependence

(SPTT), established by Decree Law No. 83/90 of 14 March 1990, as amended by Decree Law No. 11/91 of 9 January 1991.

For a summary of the provisions concerning treatment in the criminal justice system see Section A2.2.

1. *Grounds:* Drug addiction, by consuming substances listed in the tables in the Decree.
2. *Application:* Not stated.
3. *Decision-making authority:* If the patient refuses to undergo voluntary treatment or interrupts it for no justified reason, the court must order him or her to be confined in a special institution; or if not available, to be confined in appropriate quarters of a prison, separated from the other inmates or in a detention centre.

In urgent cases, the court may order (provisionally) any of these measures as long as the patient has been medically examined and has had a hearing, assisted by legal counsel.

The court's competence to impose compulsory civil commitment and treatment measures under this Decree prevails over involuntary measures prescribed in the Mental Health Law.

4. *Medical examination:* By a doctor or expert of the Centre for Drug Prophylaxy.
5. *Treatment programme:* (a) Voluntary: Must be supervised by the Centre for Drug Prophylaxy or any other entity and, depending on the doctor's opinion, may take place in a special institution, or be performed at home or in an ambulatory system; (b) Involuntary: special institution.
6. *Length of stay:* (a) Voluntary: As long as necessary for the recovery of the drug addicted person; (b) Involuntary: Up to six months, which may be extended up to one year, unless the patient is mentally ill.
7. *Appeal:* Not stated. See paragraph 8.
8. *Periodic review:* The Centre for Drug Prophylaxy or the institution in charge must report every three months to the court on the progress of the patient. This information will be kept confidential, and the Centre may suggest suitable measures, including the end of the prescribed treatment or its replacement by any form of voluntary treatment.

The Institute for Social Rehabilitation must act in the same manner in the areas within its competence.

9. *Discharge procedure(s)*: After receiving the information mentioned in paragraph 8, the court must decide upon the maintenance, modification or ending of the imposed measures.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Patients' rights/responsibilities. Treatment may be accompanied by the revocation of a licence to drive an automobile or to pilot an aeroplane or ships for a period of no longer than five years.

Russian Federation

Note: The Decree of the Supreme Council of the Russian Federation of 21 June 1993 on Implementing the Russian Federation Law on Institutions and Organs Executing Criminal Punishments in the Form of Imprisonment, provides for the closure of medical and labour preventoria. As of 1 June 1994, a number of the Orders of the Presidium of the Supreme Soviet of the Russian Soviet Federal Socialist Republic (RSFSR) (noted below) concerning compulsory treatment became invalid. Persons assigned to labour rehabilitation preventoria were released, including those evading voluntary treatment and those continuing to consume alcohol after treatment.

Two decrees were previously in force: (1) Decree of 25 August 1972 on the compulsory treatment and labour rehabilitation of drug-dependent persons who evade treatment or continue to take narcotics after initial treatment; and (2) Decree of 1 March 1974 on the compulsory treatment and occupational rehabilitation of chronic alcoholics. Under these Decrees of the Presidium of the Supreme Soviet of the Russian Soviet Federal Socialist Republic, chronic alcoholics and drug-dependent persons were required to undergo continuous observation and treatment at specialized follow-up centres. Chronic alcoholics and drug-dependent persons who refused voluntary treatment or continued to misuse alcohol or to use narcotics after treatment, and who violated labour discipline, public order, or the rules of socialist community life, were committed to curative and labour rehabilitation preventoria for compulsory treatment.

Legislation: Three items are in force.

- A. *Decree of 16 May 1985 of the Presidium of the Supreme Soviet of the RSFSR on the strengthening of measures to combat drunkenness and alcoholism and elimination of home-brewing and distillation of alcohol.*

Note: It is reported (V.E. Pelipas, personal communication, 1994) that this Decree involved the “possibility of ... compulsory treatment with respect to alcohol addicts”.

1. *Grounds:* Individual who has twice in the course of a year incurred an administrative penalty for the consumption of strong alcoholic beverages in public places or for appearance in public places in a drunken condition.
2. *Application:* Head or deputy head of the department (board) of internal affairs of the executive committee of the district, municipal, or urban district council of people's deputies, who shall either impose a fine or refer the case to the district (municipal) People's Court, which the offender must attend.
3. *Decision-making authority:* The decision to make an administrative arrest for a contravention under the grounds stated in paragraph 1 above must be implemented by the agencies responsible for internal affairs in accordance with the regulations on administrative arrest in cases of petty hooliganism.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Corrective labour.
6. *Length of stay:* Between one and two months. Repetition of acts mentioned in paragraph 1, or other actions specified in the Decree, shall be punished by imprisonment for up to two years or by corrective labour for a period of between one and two years.
7. *Appeal:* See paragraph 8 below.
8. *Periodic review:* Any person who has committed an administrative contravention specified in this Decree shall be released from administrative liability and the facts of the case must be communicated for consideration to a comradesly court, social organization, or worker's collective, if the nature of the offence and the character of the offender is such that it is clear that social action would be appropriate.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* Not stated.
- B. *Law of 2 July 1992 of the Russian Federation on psychiatric care and the safeguarding of citizens' rights in the dispensing of such care.*

Note: Although not expressly mentioned in the Law, it reportedly (V. Pelipas, personal communication, 1994) applies in practice to the compulsory treatment of drug- and alcohol-dependent persons.

1. *Grounds:* Person suffering from serious mental disorders, and who: (a) is an immediate danger to himself or those around him; (b) is helpless, i.e. incapable of meeting the basic requirements of day-to-day living on his own; or (c) will suffer substantial impairment of his health as a result of the deterioration of his mental state, if he is left without psychiatric care.
2. *Application:* By a representative of the psychiatric establishment in which the person concerned is accommodated. The application, which must indicate the legal grounds for compulsory commitment to a psychiatric hospital, must be accompanied by a substantiated report by the commission of psychiatrists on the necessity of detaining the person concerned in a psychiatric hospital.
3. *Decision-making authority:* Court having jurisdiction over the psychiatric establishment. In receiving the application, the judge thereby endorses the person's stay in a psychiatric hospital for the period necessary to examine the applicant in court. The judge must examine the request for compulsory commitment within five days of its receipt by a court or by the psychiatric establishment. The person concerned is entitled to attend the court hearing on his commitment. If information provided by the representative of the psychiatric establishment indicates that the person's mental state precludes his personal attendance at the court hearing on this commitment, the application for commitment must be examined by the judge on the premises of the psychiatric establishment. It is essential that the hearing be attended by the public prosecutor, the representative of the psychiatric establishment, the person requesting commitment, and a representatives of the person whose commitment is requested.

After examining the application the judge shall approve or reject it. If he approves it, the person shall be admitted to, and detained in, a psychiatric hospital.

4. *Medical examination:* Persons committed to a psychiatric hospital on the grounds specified in Section 29 of this Law [concerns compulsory commitment to a psychiatric hospital], shall be compulsorily examined within 48 hours by the commission of psychiatrists of the psychiatric establishment, it being the task of the commission to decide whether commitment is justified. If commitment is deemed to be unjustified and if the patient does not wish to remain in the psychiatric hospital, he must be discharged immediately. If commitment is deemed to be justified, the report of the commission of psychiatrists must be submitted within 24 hours to the court having jurisdiction over the psychiatric establishment concerned, in order that a

decision may be taken with regard to the person's continued stay in the establishment.

5. *Treatment programme:* Psychiatric hospital care shall be provided under the least restrictive conditions possible that guarantee the safety of the hospitalized person and others, due respect being shown by medical personnel for the rights and legitimate interests of the person concerned.
6. *Length of stay:* Six months, but after examination commitment can be extended, in six-month periods, subject to a report to be submitted to the court by a commission of psychiatrists on the need for continued commitment. Compulsory commitment may only be extended for as long as the grounds that justified commitment remain valid.
7. *Appeal:* The judge's decision to commit a person may be contested in court, within 10 days of its pronouncement, by the person committed to a psychiatric hospital, his representative, the director of the psychiatric establishment, an organization entitled by law or its internal regulations to defend citizens' rights, or the public prosecutor, in accordance with the procedure established under the Code of Civil Procedure of the Russian Federation.
8. *Periodic review:* The compulsory commitment of a person to a psychiatric hospital may only be extended for as long as the grounds that justified his commitment remain valid. A person compulsorily committed to a psychiatric hospital shall be examined at least once a month during the first six months by the commission of psychiatrists of the psychiatric establishment, in order that a decision may be taken as to whether commitment should be extended. If commitment is extended beyond six months, the commission of psychiatrists must examine the person concerned at least once every six months. At the end of a six-month period from the date of the compulsory commitment of the person, a report by a commission of psychiatrists on the need for continued commitment must be submitted by the administration of the psychiatric hospital to the court having jurisdiction over the psychiatric establishment. The judge may, in accordance with the procedure laid down in Sections 33□35 of this Law decide to extend commitment. Thereafter the judge must take a decision each year with regard to the extension of the commitment of the person who was compulsorily committed to a psychiatric hospital.
9. *Discharge procedure(s):* A patient must be discharged from a psychiatric hospital if he recovers or if his mental state improves, thereby rendering his stay in hospital no longer necessary for the purposes of treatment, and provided that the investigation or expert examination for which he was admitted to hospital has been completed. A patient compulsorily committed to a psychiatric hospital shall be discharged following the report of a commission

of psychiatrists, or by a judge's decision to refuse an extension of such commitment.

10. *Harm reduction:* Not stated.

11. *Non-discrimination/patients' rights:*

- (a) Physical constraint and isolation in the event of compulsory commitment and stay in a psychiatric hospital shall be resorted to only in cases where, in accordance with certain procedures and for specified periods, the psychiatrist deems that no other methods could prevent the acts of the hospitalized person from constituting an immediate danger to himself or to others, and where constant supervision is exercised by medical personnel. The modalities and duration of physical constraint and isolation measures must be noted in the medical records.
- (b) The patient shall be informed of the grounds and purposes of his commitment to a psychiatric hospital, his rights, and the hospital rules, such information being imparted in a language that he knows, which shall be noted in the medical records. All patients undergoing treatment or examination in a psychiatric hospital shall have the right to:
 - appeal directly to the head physician or head of department with regard to his treatment, examinations, and discharge from the psychiatric hospital, and in respect of the rights acknowledged by this Law;
 - submit, without censorship, complaints and applications to the agencies of representative and executive authority, the Office of the Public Prosecutor, the court, and a lawyer;
 - meet a lawyer or priest in private;
 - attend religious services, observe religious rules, including fasting, and , with the agreement of the administration, possess religious articles and texts;
 - subscribe to newspapers and magazines;
 - receive education according to the curriculum of a school of general education or special education for children with impaired intellectual development, if the patient is under 18 years of age; and
 - receive, on an equal footing with other citizens, payment for work, in keeping with its quantity and quality, if the patient is engaged in productive work.

Patients must also enjoy the following rights, which may be restricted on the recommendation of the attending physician, the head of department, or the

chief physician in the interests of the health or safety of patients, and also in the interests of the health or safety of other persons:

- to carry on correspondence without censorship;
- to receive and send parcels, printed matter, and money orders;
- to telephone;
- to receive visitors; and
- to possess and acquire essential objects and personal belongings.

The State must establish a service [e.g. ombudsman] independent of the public health agencies, for the protection of the rights of patients in psychiatric hospitals.

The representatives of this service shall defend the rights of patients in psychiatric hospitals and shall receive their complaints and petitions, on which decisions shall be taken in collaboration with the administration of the psychiatric establishment concerned, or which shall be forwarded, depending on their nature, to the agencies of representative and executive authority, the Office of the Public Prosecutor, or the court.

The administration and the medical personnel of psychiatric hospitals must be required to create conditions conducive to the exercise of the rights of patients and their legal representatives, as set out in this Law, by means of the following:

- ensuring that patients in psychiatric hospitals are provided with the necessary medical care;
- offering patients the opportunity of acquainting themselves with the text of this Law, the internal rules of their psychiatric hospital, the addresses and telephone numbers of State and public agencies, establishments, organizations, and officials to which recourse may be had if patients rights are infringed;
- assuring conditions whereby patients may carry on correspondence and submit complaints and applications to the agencies of representative and executive authority, the Office of the Public Prosecutor, the courts, and lawyers;
- within 24 hours of the compulsory commitment of the patient to a psychiatric hospital, taking measures to inform the patient's family, his legal representative, or any other person designated by him;
- informing the patient's family or his legal representative, and any other person designated by him, of any changes that have taken place in the patient's state of health and of any exceptional events concerning him;
- ensuring the safety of patients in the hospital and checking the contents of parcels and packages;

- assuming the function of the legal representative in cases where patients are recognized as incompetent in accordance with the procedure established by law, but have no legal representative;
- establishing and explaining to religious patients the rules which, in the interest of other patients in the psychiatric hospital, must be observed during religious rites, and also the procedure to be followed in order to invite a priest to the hospital, and helping to secure the right to freedom of conscience for believers and atheists; and
- fulfilling all other duties established by this Law.

C. *Decree 959 of 1993 on Measures for Improving the Maintenance of Public Order in Streets of Russian Federation Cities and Other Settlements.*

Note: It is reported (V.E. Pelipas, personal communication, 1994) that this Decree provides for the establishment of rehabilitation centres, social refuges, night-shelters, and other public institutions for alcoholics and drug addicts.

Singapore

Note: The Drug Trafficking (Confiscation of Benefits) Act, of November 1993, provides for confiscation of all assets and money derived from the illicit activities of drug traffickers, including friends and relatives. Also, since 1996 the government has instituted a programme of amnesty to drug experimenters who surrender voluntarily for detoxification at designated medical institutions prior to arrest.

Legislation: The Misuse of Drugs Act of 16 March 1973 (No. 5 as amended) to provide for the control of dangerous or otherwise harmful drugs and for the purposes connected therewith.

1. *Grounds:* Persons who are suspected by the Director of the Central Narcotics Bureau of being a drug addict and after medical examination or urine test it appears necessary for the person to undergo treatment or rehabilitation or both.
"Drug addict" means a person who through use of any controlled drug: (a) has developed a desire or need to continue to take such controlled drug; or (b) has developed a psychological or physical dependence upon the effect of such controlled drug.
2. *Application:* The Director of the Central Narcotics Bureau may require any person whom he reasonably suspects to be a drug addict to be medically examined or observed by a Government medical officer or a medical practitioner.

3. *Decision-making authority:* The Director of the Central Narcotics Bureau.
4. *Medical examination:* Required if treatment appears necessary. If, as a result of such examination or observation or as a result of a urine test, it appears to the Director of the Central Narcotics Bureau that it is necessary for any person to undergo treatment or rehabilitation or both at an approved institution, the Director may make an order in writing requiring that person to be admitted for such purpose to an approved institution.
5. *Treatment programme:* Except as otherwise provided, every inmate must, upon completion of his medical examination, undergo a period of detoxification during which no medication is given unless, in the opinion of a medical officer, it is necessary to save the inmate's life. The period of detoxification must not exceed seven days.

No inmate who is above the age of 55 years must be made to undergo detoxification.

No inmate who is certified by a medical officer to be medically unfit to undergo detoxification may be made to do so until such time as a medical officer finds him fit enough for it.

The Minister of Home Affairs may for special reasons exempt any inmate from undergoing detoxification.

An approved institution may admit any drug addict for voluntary treatment.

6. *Length of stay:* Six months unless discharged earlier by the Director of the Central Narcotics Bureau or the Review Committee of an approved institution. If the latter is of the opinion that an inmate whose period of detention in the institution concerned is about to expire requires further treatment or rehabilitation or both, the Committee may by order in writing direct that the inmate be detained in the institution for a further period or periods not exceeding six months at any one time.

No person in respect of whom an order has been made may be detained in an approved institution or institutions for a period of more than three years after his admission to any approved institution pursuant to such order.

7. *Appeal:* Where a complaint is made on oath to a magistrate that any person is improperly detained in an approved institution by reason of any misconduct or breach of duty on the part of any officer in the discharge of his functions pursuant to the Act or any regulation made thereunder, the magistrate may either inquire into the complaint himself or direct a police officer to make an

inquiry for the purpose of ascertaining the truth or falsehood of the complaint and report to him the result of the inquiry.

Every inquiry so made is to be conducted in private, but the procedure for conducting any inquiry must be such as the magistrate orders appropriate in the circumstances of the case.

A magistrate or a police officer conducting any such inquiry has all the powers conferred on him by the Criminal Procedure Code in relation to the attendance and examination of witnesses, the taking of evidence and the production of documents.

If after considering the result of any such inquiry, the magistrate is satisfied that any person who is detained in an approved institution ought not to be so detained he may make an order for the discharge of that person from the approved institution and that person must be discharged accordingly. Any order or decision of the Magistrate so made is final.

No evidence taken for the purpose of any such inquiry is admissible in any civil or criminal proceedings where the person who gave such evidence is charged with giving or fabricating false evidence.

8. *Periodic review:* The Minister must appoint for any approved institution or institution a Review Committee (see paragraph 6 above). The Review Committee of an approved institution must keep the case of every inmate under review and, as often as practicable, consider whether he should be discharged. The Director of the Central Narcotics Bureau or the Review Committee of an approved institution may at any time by order in writing:
 - (a) discharge any inmate;
 - (b) transfer any inmate from one approved institution to another approved institution.
9. *Discharge procedure(s):* See paragraphs 6 and 8 above.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Slovakia

Legislation: Law No. 419/1991 of 24 September 1991 of the National Slovak Council amending various provisions in the field of health.

Note: This Law amends Law No. 20/1966 of 17 March 1966 on the protection of public health, as amended.

1. *Grounds:* A patient may be committed without his consent to an establishment in order to receive care if:
 - (a) the disease in question is one for which it is possible to apply compulsory treatment;
 - (b) the patient, by virtue of a mental disorder, is a danger to himself or his associates; and
 - (c) the circumstances are such that essential vital functions are threatened, and it is necessary to take measures to preserve life and constantly monitor vital functions.

Note: In available English translations, Slovak Law No. 419/1991 of the Slovak National Council amending Law No. 20/1966 of 17 March 1966 does not include intoxication as a ground for commitment, as does Czech Law No. 548/1991 of the Czech National Council amending Law No. 20/1966.

2. *Application:* The commitment of a patient to an establishment in order to receive care, on the grounds referred to in Section 23 (5) shall be notified within 24 hours to the court within whose jurisdiction the health-care establishment is situated.
3. *Decision-making authority:* The court must decide within seven days on the legality of the grounds for commitment.
4. *Medical examination:* See paragraph 5 below.
5. *Treatment programme:* Until the court decides on the legality of commitment, it shall be permissible to carry out any medical examinations and procedures necessary to preserve the life and health of the patient or to protect the persons around him.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.

8. *Periodic review*: Not stated.
9. *Discharge procedure(s)*: Not stated.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: Not stated.

South Africa

Note: Attention was given to legislative reform when a new Government was established. For example, in 1999, the Prevention and Treatment of Drug Dependency Amendment Bill was introduced in the South African Parliament..

Legislation: Prevention and Treatment of Drug Dependency Act, 1992 (Act 20 of 1992).

Note: The laws repealed by this Act are shown in Table 17.

Table 17

Laws repealed by the Prevention and Treatment of Drug Dependency Act, 1992.

No. and date of law repealed	Short title	Extent of repeal
Act No. 86 of 1963	Retreats and Rehabilitation Centres Act, 1963	So much as is unrepealed
Act No. 41 of 1971	Abuse of Dependence-producing Substances and Rehabilitation Centres Act, 1971	The whole, except Chapter 1 and the Schedule
Act No. 80 of 1973	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1973	Sections 1,6,7, 8 and 9
Act No. 14 of 1977	Abuse of Dependence-producing Substances and Rehabilitation Centres Amendment Act, 1977	Sections 1 and 3
Act No. 36 of 1982	Laws of the Coloured Persons Representative Council Application Act, 1982	Section 1
Law No. 1 of 1971 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Law, 1971	The whole
Law No. 1 of 1972 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Amendment Law, 1972	The whole
Law No. 1 of 1977 (Coloured Persons Representative Council)	Coloured Persons Rehabilitation Centres Amendment Law, 1977	The whole

1. *Grounds:* A person who is dependent on drugs and in consequence thereof squanders his means or injures his health or endangers the peace or in any other manner does harm to his own welfare or the welfare of his family or fails to provide for his own support or for that of any dependent whom he is legally liable to maintain.

"Drugs" means any medicine or substance prescribed by the Minister [as assigned] after consultation with the Medicines Control Council, and includes alcoholic liquor. "Dependent" is not defined.

2. *Application:* Any person, including any social worker.
3. *Decision-making authority:* A magistrate, who must direct the public prosecutor or other person appearing at an inquiry, to submit a social worker report, after which the magistrate may direct that the person be examined by a medical officer, psychiatrist or clinical psychologist designated by the magistrate, after which he may order the person be detained in a treatment centre or registered treatment centre - if it appears to the magistrate, based on the evidence and any report submitted:
 - (a) that the person concerned meets the grounds stated above in paragraph 1;
 - (b) that he is a person who requires and would probably benefit by the treatment and training provided in the treatment centre or registered treatment centre; or
 - (c) that it would be in his own interest or in the interest of his dependents, if any, or in the interest of the community, that he be detained in a treatment centre or registered treatment centre.

Note: The magistrate who makes an order under these provisions that a person shall be detained in a treatment centre or registered treatment centre, may also order that such person be detained in custody or released on bail or warning, as provided, until such time as effect can be given to the order that the court has made. The Act also makes provisions for the postponement of orders and for temporary custody of persons pending inquiry or removal to treatment centres or registered treatment centres.

"Magistrate" includes an additional magistrate and assistant magistrates.

4. *Medical examination:* The magistrate must, before making any order of detention, direct the public prosecutor or other person appearing at the inquiry to submit a report from a social worker as to the social circumstances of the person concerned and any other relevant matter affecting him. The magistrate may direct that the person in respect of whom the inquiry is being held be examined by a medical officer, psychiatrist or clinical psychologist designated by the magistrate and cause all steps including the use of force which may be necessary for the carrying out of such examination to be taken and may call upon the medical officer, psychiatrist or clinical psychologist to furnish him with a report showing the results of the examination.

5. *Treatment programme:* The Minister may establish or cause to be established programmes aimed at:

- (a) the prevention of drug dependency;
- (b) the provision of information to the community on the abuse of drugs;
- (c) the education of the youth in regard to the abuse of drugs;
- (d) the observation, treatment and supervision of persons who have been released from a treatment centre or registered treatment centre or who have been placed under supervision by a court;
- (e) the rendering of assistance to the families of persons detained in a treatment centre or registered treatment centre.

The Minister may establish, maintain and manage treatment centres for the reception and treatment, including training, of persons subject to the magistrate's order, and voluntary patients. The Minister may at any time abolish a treatment centre.

The patients of a treatment centre shall be detained for the purpose of receiving or undergoing such treatment including any training and to perform such duties as the Director General may in consultation with the management from time to time determine.

The Director-General subject to the laws governing the public service shall appoint the staff necessary for the proper management and control of treatment centres and hostels and must appoint for every treatment centre a social worker, medical practitioner, psychiatrist, clinical psychologist or nurse as superintendent. The powers and duties of those appointed shall be as prescribed. The superintendent of every treatment centre must be assisted in the treatment and training of patients and in the determination of the treatment and training which patients or a particular patient of the treatment centre shall receive or undergo or the work to be performed by such patient or patient, by the social worker, medical practitioner, psychiatrist, clinical psychologist or nurse who may be attached to or assigned to the treatment centre.

"Minister" means the Minister to whom the administration of the provisions of the Act has been assigned.

"Patient" means any person who has been committed or admitted or is deemed to have been so committed or admitted to any treatment centre or registered treatment centre, and includes any person who has been released on licence from any treatment centre or registered treatment centre or who has been granted leave of absence therefrom, or who is still under the control or supervision of the management of any treatment centre or registered treatment centre or who is liable to be brought back thereto.

"Registered Treatment Centre" means a treatment centre registered under the Act.

"Treatment Centre" means a treatment centre established or deemed to have been established under the Act.

6. *Length of stay:* Any person who has been ordered to be detained in (or transferred to) a treatment centre or registered treatment centre must be detained in the treatment centre or registered treatment centre until he is released on licence or discharged or transferred or returned to any other institution under the terms of this Act. The superintendent of a treatment centre or the management of a registered treatment centre must notify the Director-General when a patient is released on licence and the particulars of the release.

Note: If any person under age 18 years is to be detained in a treatment centre or registered treatment centre, the Director-General may direct that that person be detained in a place of safety, and, if so detained, such place of safety must be deemed to be a treatment centre or registered treatment centre.

"Place of safety" means a place of safety as defined in the Child Care Act, 1983.

7. *Appeal:* The law relating to appeals and any form of review in criminal cases must apply in respect of any order made under these provisions as if such order were a sentence passed by a magistrate's court in a criminal case.
8. *Periodic review:* If a patient has, after 12 months after the making of the order by the Magistrate, not yet been discharged from the treatment centre the registered treatment centre concerned must report fully to the Director-General and advance reasons why the patient has not been discharged and must, after every six months thereafter, if the patient has not been so discharged, advance further reasons why he should not be discharged. See paragraph 6 above.
9. *Discharge procedure(s):* The Director General may, if he deems it in the interest of any patient, at any time by order in writing discharge that patient from the effect of any order made under this Act. See paragraph 6 above.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Spain (Catalonia)

Note: See List of Legislations reviewed (Annex 3) for other Spanish national and sub-national legislation mentioned in this summary.

Legislation: Law No. 20 of 25 July 1985 on prevention and care in regard to potentially dependence-producing substances.

Note: Drug-dependent persons may undergo detoxification treatment as either inpatients or outpatients in a specialized hospital or in a specified general hospital. See Section A2.2 for diversion to treatment from the criminal justice system.

Dependence-producing substances include "non-institutionalized drugs", alcohol, tobacco, certain medicaments, and some products for industrial or other use.

The Law also provides that in the control of drug dependence, every drug-dependent person has the right to receive appropriate health and social treatment; the social environment of the person concerned must be taken into account in the determination of the treatment to be undergone; the health and social resources involved in drug dependence must be coordinated; and the necessary centres and facilities must be established.

The Department of Health and Social Security is made responsible for collaborating with the Department of Education in the adoption of measures designed to increase the awareness of the professional staff of the health and social services in regard to drug dependence.

Similarly, cooperation with the Department of Justice is necessary in implementing detoxification programmes for prisoners dependent on non-institutionalized drugs.

"Non-institutionalized drugs" means heroin, cocaine, cannabis and its derivatives, LSD, and other drugs whose use has not been accepted by society.

Sri Lanka

Note: The National Policy for the Prevention and Control of Drug Abuse defines the role of the National Dangerous Drugs Control Board, and the strategies and mechanisms of implementation of the national drug policy, and states that legislation will be enacted and facilities provided for compulsory treatment, where appropriate.

See Section A2.3, for review of the Poisons, Opium and Dangerous Drugs (Amendment) Act No. 26 of 1986, providing that the Director of Health Services may in his discretion distribute raw or prepared opium to registered consumers or registered ayurvedic practitioners as provided for in the Act.

Sweden

Legislation: Five separate laws are in force.

Note: See also the following: (a) Mandatory Psychiatric Care Act (SFS 1991: 1128); (b) Forensic Psychiatric Care Act (SFS 1991: 1129).

- A. *The Social Services Act (SFS 1980: 620) of 19 June 1980⁷, with amendments up to and including SFS 1988:855.*

Note: Measures against drug and alcohol abuse are covered in Section 11, as follows. The social welfare committee must work to prevent and counteract the abuse of alcohol and other addicting substances. Particular attention must be paid to measures on behalf of children and young persons in this connection.

The social welfare committee must disseminate knowledge concerning the harmful effects of abuse and concerning the help available - by means of information supplied to authorities, groups and individual persons.

The social welfare committee must also actively ensure that the individual substance abuser receives the assistance and care which he needs in order to overcome his abuse. The social welfare committee, acting on a basis of understanding with the individual, must plan the assistance and care and keep a close watch on compliance with the plan.

Care of children and young persons is covered in Section 12, as follows: The social welfare committee must endeavour:

- (a) to ensure that children and young persons grow up in good and secure conditions;
- (b) act in close cooperation with families to promote the comprehensive personal development and the favourable physical and social development of children and young persons,

⁷ SFS: Svensk författnings-samling.

- (c) be especially observant of the development of children and young persons who have shown signs of developing an unfavourable direction;
- (d) ensure, in close cooperation with families, that children and young persons in danger of developing in an undesirable direction receive the protection and support that they need and, if their best interests so demand, are cared for and brought up away from their own homes, and also
- (e) make provision for the special needs of support and help in the care of children and young persons which may exist following the conclusion of judicial or other proceedings concerning custody, residence, access or adoption. (Act 1998:323).

B. *The Care of Alcoholics, Drug Abusers and Abusers of Volatile Solvents (Special Provisions) Act/LVM⁸ (SFS 1988:870), of 1 January 1989, with amendments up to and including SFS 1997:1097.*

Note: This Act repeals Law No. 1243 of 17 December 1981 on the care of substance abusers in certain cases. Identified as Law of 1 January 1982 on care of alcoholics and drug-abusers in the previous WHO study (Porter, Arif & Curran, 1986).

1. *Grounds:* Person, as a result of ongoing abuse of alcohol, narcotics or volatile solvents, is in need of treatment in order to discontinue his abuse and the necessary care cannot be provided under the Social Services Act (SFS 1980:620) or in any other way and, as a result of the abuse: (1) he seriously endangers his physical or mental health; (2) he runs an obvious risk of ruining his life; or (3) is liable to inflict serious injury on himself or some person closely related to him.
2. *Application:* Public authorities which regularly come in contact with abusers through their own activities are required to notify the Municipal Social Welfare Committee if they learn that a person can be presumed to be in need of care under this Act. This does not apply to authorities in the health and medical care sector, except that a physician shall report to the Municipal Social Welfare Committee if in the course of his activities he comes in contact with any person presumably in need of immediate care under the Act, if in his opinion neither he nor the health and medical services can provide that person with satisfactory treatment or care.

⁸ The initials (LVM) refer to the abbreviation used for the name of the (SFS 1988:870) Act in Swedish: Lag om vård av missbrukare i vissa fall (Act on the Treatment of Alcoholics and Drug Misusers).

The Municipal Social Welfare Committee is to open an investigation based on the report made in accordance with [previous paragraph] or because in some other way it has learned that there is cause to make use of compulsory care. Authorities under [previous paragraph] must supply to the Municipal Social Welfare Committee all necessary information of relevance which can be of use for such an investigation.

The investigation report by the Municipal Social Welfare Committee shall indicate the abusers' circumstances and previous or planned measures. The report shall also indicate the home which the abuser can be admitted and the care planned outside the home in the event of admission.

The Municipal Social Welfare Committee shall, in conjunction with a report made under [immediate previous paragraph] appoint an officer of the Committee to assume responsibility for the contacts between the abuser and the various caring agencies.

"Municipal Social Welfare Committee" means the social welfare committee of the municipality responsible under Section 23 of the Social Services Act (SFS 1980:620) for ensuring that the individual receives the support and assistance that he needs. Section 72 of the Social Services Act provides that a person can be transferred to another social welfare board in certain cases.

If the Municipal Social Welfare Committee finds that there is cause to make use of compulsory care, it shall apply for such care to the County Administrative Court for such care to be provided. The information given by the local social welfare board and, unless special circumstances prevent it, the doctor's certificate as to the misuser's current state of health, shall be attached to the application.

The County Administrative Court may order a medical examination if the application does not contain a medical certificate or if an examination is necessary for other reasons.

3. *Decision-making authority:* County Administrative Court of the county in which the municipality responsible is located. When a County Administrative Court has made a compulsory care order, the social welfare committee shall ensure that the order is enforced by providing the abuser with care in a residential institution in accordance with the provisions of Section 22 or, in cases falling under Section 24(1), in a hospital. The Court order will lapse if care has not started within four weeks from the day that the decision entered into force. The decision also ceases to apply if the abuser, once treatment has started, unlawfully stays away from an institution designated in Section 22 for

a continuous period of not less than six consecutive months or is detained in custody or prison.

Judicial and other proceedings under this Act must be dealt with promptly. In judicial proceeding concerning compulsory care where care is ordered in accordance with Section 13(1), or (2), the County Administrative Court must try the case a week from the day that the application for care was received.

4. *Medical examination:* Where an investigation has begun, the Municipal Social Welfare Committee shall, unless it is manifestly unnecessary, order a medical examination of the abuser and appoint a physician to conduct the examination. The physician shall certify the abuser's current health status.
5. *Treatment programme:* The goals of the social services laid down in Section 1 of the Social Services Act (SFS 1980:620) constitute guidelines for all treatment designed to help individuals to discontinue the abuse of alcohol, narcotics or volatile solvents. These goals are that care must be based on respect for the self-determination and privacy of the individual and must as far as possible be designed and conducted in partnership with the individual abuser. Care within the framework of social services must be provided in agreement with the abuser in accordance with the provisions of the Act (SFS 1980:620). However, care must be provided for an abuser regardless of his consent, subject to the conditions stated in the present Act [compulsory care]. The provisions of the Social Services Act (SFS 1980:620) on the planning and content of compulsory care shall apply unless other provisions are laid down in the present Act.

Compulsory care shall seek to motivate the abuser so that he can be presumed capable of voluntary participation in continued treatment and of receiving support to discontinue his abuse.

Compulsory care is provided through residential institutions run by county councils or municipalities and specially intended for the provision of care under this Act ("LVM institutions"). Every such institution shall have a board of governors appointed by the National Board of Institutional Care. The board of governors is responsible for care, insofar as this task has not been delegated to a special superintendent.

For those abusers who need to be under especially rigorous supervision LVM institutions shall be adapted for such supervision. The Government or, by decision of the Government, the National Board of Health and Welfare shall decide which homes shall have this special character.

Care is to begin in a hospital if the conditions for hospital care are satisfied and this is considered appropriate having regard to the general scheme of cases.

Any person requiring hospital care during the caring period shall be provided with the opportunity of such care. The consultant of the hospital unit where the abuser is cared for shall ensure that the Social Welfare Committee or the person or body in charge of care at the LVM institution, is informed immediately if the abuser wishes to leave, or has already left, the hospital. The consultant may order the abuser to be prevented from leaving the hospital during the time needed to ensure that the abuser can be transferred to an LVM institution.

Note: If a person for whom care has been provided under this Act is suspected of a criminal offence subject to public prosecution and for which the punishment is not more than one year's imprisonment, and if the criminal offence was committed before the commencement of care or during the caring period, the prosecutor shall consider whether it is appropriate to prosecute. The governing body of the institution where the suspect is receiving care, or if care has been terminated, the Municipal Social Welfare Committee, shall be consulted in the matter, unless this is unnecessary.

6. *Length of stay:* Compulsory care is to be terminated as soon as the purpose of the care has been achieved and at the latest when it has been in progress for six months. Care shall be deemed to have started when the abuser as a result of a decision on immediate custody or compulsory care has entered or been taken to an institution referred to in Section 22 or a hospital. Care ceases following a decision on discharge taken in accordance with the provisions of Section 25. The caring period does not include time that the abuser: (1) is unlawfully absent from an institution referred to in Section 22; or (2) is remanded in custody or confined to prison. The person or body responsible for care at an LVM institution shall keep the social welfare board continually informed about the progress of the care and consult the Committee in a matter of importance. Such consultation shall always take place before discharge or transfer to another institution. The person or body responsible for care at an LVM institution must provide the client with the opportunity of leaving the institution for care in some other form. The Municipal Social Welfare Committee shall ensure that care of this kind is arranged.

If care in some other form is no longer feasible, the person or body in charge of care at an LVM institution may order the abuser to be brought back to the institution.

Before another form of treatment begins, the social welfare committee, in discussion with the client and the person or body responsible for care at the institution, shall draw up a plan for the continued care.

The superintendent shall inform the governing body of the LVM institution if a client has resided at the home for three months without care in another form materializing.

The Municipal Social Welfare Committee shall take active steps to secure housing and employment or education training for the individual after the treatment period and ensure that he receives personal support or treatment so that he becomes permanently free of his abuse.

7. *Appeal:* A decision by the person or body in charge of care at an LVM institution may be contested by the individual by appeal to the County Administrative Court of the county in which the municipality responsible is located if the decision refers to transfer under Section 25, rejection of a request for discharge or the destruction or selling of property in accordance with Section 36.

Other decisions by the person or body in charge of care at an LVM institution are final.

Decisions concerning medical examinations under Sections 9 or 11(3) are final.

Care orders under Section 13(1) or (2) are final. There is no time limit on appeals against care orders made by a court under Section 13(3).

8. *Periodic review:* Decisions on admission to and discharge from an LVM institution are made by the person or body in charge of care at the institution.
9. *Discharge procedure(s):* See paragraph 8 above. The person or body responsible for care at the institution may decide that a client shall be transferred to another LVM institution if this is considered to be appropriate for the care and if the body or person responsible for care at the other institution agrees to the transfer.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights:* Care must be based on respect for the self-determination and privacy of the individual and must as far as possible be designed and conducted in partnership with the individual. A person under care may be subject to a body search upon arrival at an LVM institution to ensure that he has nothing on his person which is not allowed. A body search

may not be made more intrusive than the purpose of the measure requires. All possible consideration compatible with the circumstances must be shown. If possible, a witness must be present.

- C. *The Care of Young Persons (Special Provisions) Act/LVU*⁹ (SFS 1990:52), of 8 March 1990, with amendments up to and including SFS 1996:1648.

Note: This Act, SFS 1990:52 entered into force on 1 July 1990, upon the repeal of the Care of Young Persons (Special Provisions) Act (SFS 1980:621).

1. *Grounds:* There are three grounds:
 - (a) Section 1 provides that measures for children and young persons are to be based on agreement with the young person and his guardian, except where situations in Sections 2 or 3 prevail.
 - (b) Section 2 provides that a care order must be made if, due to physical abuse, exploitation, deficiencies of care or some other circumstances in the home, there is a palpable risk of the young person's health or development being impaired.
 - (c) Section 3 provides that a care order must also be made if the young person exposes his health or development to a palpable risk of injury through the abuse of addictive substances, criminal activity or some other socially degrading behaviour.
2. *Application:* Orders for placing young persons in care pursuant to this Act are issued by the county administrative court of appeal at the request of the social welfare committee.

The application made by the social welfare committee must include a description of the young person's circumstances, measures taken previously and the care which the social welfare committee intends to arrange.

If the care has not commenced within four weeks of the day on which the order acquired the force of law, the order shall no longer be valid.
3. *Decision-making authority:* The social welfare committee may order a young person under 20 years of age to be taken into custody immediately: (a) if the young person probably needs to be provided with care under this Act; and (b) a court decision concerning care cannot be awaited owing to the risk to the

⁹ The initials LVU refer to the abbreviation used for the name of the Act in Swedish: Lag om vård av unga (The Care of Young Persons (Special Provisions) Act).

young person's health or development or because the continuing inquiry can be seriously impeded or further measures prevented.

If a decision by the social welfare committee concerning custody cannot be awaited, an order may be made by the chairman of the committee or by another member appointed by the committee. The order thus made must be reported at the next meeting of the committee.

After the social welfare committee has applied for care pursuant to the Act, the court may also make an order for the immediate taking of the young person into custody.

If the social welfare committee has ordered immediate custody, the order must be submitted to the county administrative court of appeal for approval within a week after its being made. Both the order and the documents in the case must then be submitted to the court.

The county administrative court of appeal must decide on the validity of the order as soon as possible, and unless there are special impediments it shall do so within a week after receiving the record of decision and the documents in the case.

If an order is not submitted within the prescribed period, the custody must be terminated. If the social welfare committee has made an order for immediate custody after applying for care pursuant to the Act, the order must be submitted to the court trying the question of care. The provisions of subsections 1-3 of paragraph 1 (Grounds) shall apply in this connection.

Section 8 provides that if an order for immediate custody is confirmed by the county administrative court of appeal, the social welfare committee must apply to the county administrative court of appeal, within four weeks of the order being put into effect, for care to be provided for the young person pursuant to this Act.

Immediate custody must be terminated if: (a) no application for care has been made within the period specified in subsection 1, or (2) the application for care is disallowed.

An immediate custody order may not be enforced if the young person is remanded in custody.

If there is no longer any cause for custody, the social welfare committee must order the immediate termination of the same. An order of this kind can also be made by the court trying the question of care pursuant to the Act.

4. *Medical examination:* Section 32 provides that the Social Welfare Committee may order the medical examination of the young person and appoint a physician to carry out the examination. If it is inappropriate for the examination to be conducted in the young person's home, the committee may fix another venue. In judicial proceedings under this Act, the same powers are vested in the court.

A medical examination must take place before the committee makes an application as provided in Section 4, unless it is superfluous for particular reasons.

5. *Treatment programme:* Care is deemed to have begun when the young person has been placed away from his own home under an immediate custody or care order.

With regard to the content and organization of care, the provisions of the Social Services Act (SFS 1980:620) and the provisions set out in the remainder of this paragraph shall apply.

The social welfare committee decides how the care of the young person is to be arranged and where he is to reside during the period of care.

The committee may consent to the young person residing in his own home if this may be presumed to be the most appropriate way of arranging care, but care pursuant to this Act must always commence away from the young person's home.

If a decision by the committee under subsection 1 or 2 (above) cannot be reached, the chairman or some other member appointed by the committee may decide the question. The decision must then be reported at the next meeting of the committee.

The committee or the person charged with the care of the young person by the committee must keep the young person under surveillance and make such decisions concerning his personal circumstances as are necessary for the delivery of care.

Specially approved homes must be maintained for the care of young persons requiring particularly close surveillance on the grounds referred to in Section 3 of the Act. The Government, or, by authority of the Government, the National Board of Health and Welfare, must determine which homes are to be regarded as homes for special surveillance of this kind.

The social welfare committee must maintain close observation of the care given to a young person receiving care by authority of this Act.

If care has been provided for the young person pursuant to Section 2, the social welfare committee must review, at least once every six months, whether care under the Act is still necessary.

If the young person has been provided with care pursuant to Section 3, the social welfare committee must review, within six months of the care order being enforced, whether care under the Act is to be discontinued. This question must subsequently be investigated continuously within six months of the latest review.

It is the responsibility of the social welfare committee to ensure that the greatest possible provision is made to meet the young person's need of access to parents or other persons having custody of him.

If necessary in view of the purpose of a removal prohibition or temporary removal prohibition, the social welfare committee may decide: (1) how the right of access to the young person to which a parent or other custodians may be entitled is to be exercised; or (2) order that the young person's whereabouts must not be revealed to parents or custodians.

The social welfare committee must review, at least once every three months, whether an order of the kind referred to in subsection 2 [above] is still needed.

6. *Length of stay*: Up to six months at a time (see paragraph 5 above).
7. *Appeal*: (Sections 41-42): Appeals against decisions by the social welfare committee may be lodged with the county administrative court if the committee has:
 - made an order as to where the care of the young person is to commence or has ordered the transfer of the young person from the home where he is residing;
 - has decided a question relating to continued care under this Act;
 - has made an order, pursuant to Section 14 [young person's need for access to parents or other persons having custody of him], concerning access to the young person or concerning non-disclosure of his whereabouts;
 - has made an order under section 22 [preventive measures] or considered whether such an order shall cease to apply;
 - has made an order concerning access, pursuant to section 31 [access by parent];
 - has made an order concerning continuing removal prohibition.

Other decisions by the committee pursuant to this Act are final.

Court orders pursuant to Section 8 concerning an extended application period and pursuant to Section 32 concerning medical application are final.

A decision by the person responsible for care at a home for particularly close surveillance may be contested by appeal to the county administrative court if it refers to the destruction or sale of property as provided in Section 20.

8. *Periodic review:* At least once every six months to determine whether care under the Act is still necessary.
9. *Discharge procedure(s):* When care under this Act is no longer needed, the social welfare committee must make an order for the termination of care. The committee must make careful preparation for the young person to be reunited with the person or persons having custody of him.

Care ordered pursuant to Section 2 must terminate, at the latest, when the young person is 18 years old.

Care ordered under Section 3 (i.e. a care order made when the young person exposes his health or development to a palpable risk of injury through the abuse of addictive substances) must be terminated, at the latest, when the young person is 21 years old.

Sections 24-31 concern removal prohibitions.

The county administrative court may, if requested by the social welfare committee, prohibit, for a specified period or until further notice the removal of a minor from a home referred to in Section 25 of the Social Services Act (SFS 1980:620) by the person having custody of him, if there is a palpable risk of the young person's health or development being injured if he is removed from the home.

Application for a removal prohibition is made by the social welfare committee which granted consent, under Section 25 of the Social Services Act (SFS 1980:620), for the young person to be received into a private home. The same committee decides on temporary removal prohibition pursuant to Section 27.

The social welfare committee must review, at least once every three months, whether a removal prohibition is still necessary.

When a removal prohibition is no longer necessary, the social welfare committee must order its termination.

The social welfare committee may issue a temporary removal prohibition if:
(1) it is probable that a removal prohibition is needed; and (2) a judicial

decision concerning a removal prohibition cannot be awaited, in view of the risk to the young person's health or development.

If the social welfare committee's decision concerning a temporary removal prohibition cannot be awaited, the committee's chairman or some other member appointed by the committee may decide concerning such a prohibition. The decision must be reported at the next meeting of the committee.

When the social welfare committee has applied for a removal prohibition, the court may also decide on a temporary removal prohibition. If the social welfare committee has decided on a temporary removal prohibition, the decision must be submitted to the county administrative court. In this case, the provisions of Section 7 (1)-(3) shall apply.

Section 29 provides that, if the county administrative court confirms a temporary removal prohibition, the social welfare committee must apply for a removal prohibition within two weeks of the court's decision.

A temporary removal prohibition ceases to apply: (1) if a removal prohibition has not been applied for within the period specified in Section 29; or (2) when the court determines the question of a removal prohibition.

If there is no longer cause for a temporary removal prohibition, the social welfare committee must decide on its immediate termination. A decision of this kind may also be made by the court trying a question of removal prohibition.

If necessary in view of the purpose of a removal prohibition or temporary removal prohibition, the social welfare committee may decide how the right of access to the young person to which a parent or other custodians may be entitled is to be exercised.

10. *Harm reduction:* Not stated.
11. *Non-discrimination/Patients' rights:* Section 15 provides that, if the young person is receiving care on the grounds referred to in Section 3 [i.e. young person exposes his health or development to a palpable risk of injury through the abuse of addictive substances, criminal activity or some other socially degrading behaviour], and is living in a home for particularly close surveillance, he may be prevented from leaving the home and his freedom of movement may be otherwise restricted as is necessary for the delivery of care. The young person's freedom of movement may also be restricted when the security of other inmates or of the personnel so requires.

Section 16 provides that a person to whom the provisions of Section 15 apply may not possess alcoholic beverages or other intoxicants, hypodermic syringes, needles or other articles specially suitable for use in the abuse or other handling of narcotic drugs, or may the young person have in his possession any other object which may be detrimental to care or order in the home. Any such property found about the young person may be sequestered.

Section 17 provides that a person coming under the provisions of Section 15 (see above) may, if such a measure is found justifiable, be subjected to intimate or superficial body search on arrival at the home to ensure that he is not carrying any object which he is not allowed to possess there. The same can apply if suspicion arises during his stay at the home that he may have such objects in his possession.

Intimate and superficial body searches are not to be conducted more closely than the purpose of the measure demands. Every possible consideration is to be shown. A witness is to be present if possible.

The provisions of Sections 16 and 17 shall apply to all persons receiving care in a home for particularly close surveillance, if this is necessary for the implementation of care and the maintenance of order at the home and is sanctioned by the Government, or, by authority of the Government, the National Board of Health and Welfare.

Letters and other mail sent or received by a person to whom the provisions of Section 15 apply may be subjected to examination if this is justified by considerations of order in the home or by the particular circumstances of the young person concerned. To this end the person in charge of care at the home may open and examine mail arriving for or sent by the young person. If incoming mail contains any article which the young person is not allowed to possess, such article will be sequestered.

Section 19 provides that letters passing between the young person and a Swedish authority or lawyer or his public counsel must be transmitted without prior examination.

Alcoholic beverages or other intoxicants sequestered pursuant to Sections 16 or 19 or found in a home for particularly close surveillance, their owner not being known, must, through the good offices of the person in charge of care at the home, be destroyed or sold in compliance with the provisions concerning confiscated property in Section 2, subsection one, of the Forfeiture (Alcoholic Beverages etc.) Act (SFS 1958:205). The proceeds of the sale shall accrue to the State. The same shall apply to hypodermic syringes, needles or other articles specially suitable for use in the abuse or other handling of narcotic drugs.

Procedures are covered in Sections 33-40, as follows.

Judicial and other proceedings under this Act are to be expedited promptly.

If the young person has been taken into custody or if a temporary removal prohibition has been issued, the county administrative court must try the case within two weeks of the day on which the application for care or a removal prohibition was received. The county administrative court may extend this period if this is made necessary by further investigation or some other special circumstance.

In cases concerning the provision or termination of care or concerning removal prohibitions under this Act, the county administrative court and the administrative court of appeal must hold verbal proceedings except where manifestly unnecessary. Verbal proceedings must always be held if requested by any party. The parties must be informed of their right to request verbal proceedings.

If any individual party summoned by writ of subpoena to enter appearance in person fails to do so, the court may order that he be conveyed to court either immediately or on a day following.

If the young person is aged 15 or over, he is entitled to speak on his own behalf in judicial and other proceedings under this Act.

Children below this age should be given a hearing if this can benefit the investigation and if it may be presumed that the child will not suffer harm from being questioned.

In proceedings before a court of appeal in cases under this Act other than those concerning immediate custody and temporary removal prohibitions, the court must include jurors.

In judicial and other proceedings under this Act, individual persons may not be served with documents as provided in Sections 12 or 15 of the Service of Documents Act (SFS 1970:428).

Provision for public counsel and other legal aid in proceedings and business coming under this Act is made in the Legal Aid Act (SFS 1972:429).

Orders concerning immediate custody, preventive measures or temporary removal prohibitions can take effect immediately.

Other decisions by the social welfare committee pursuant to this Act shall take effect immediately unless the committee orders otherwise.

The court may order that other rulings which it has made shall take effect immediately.

D. *Act on Detention of Intoxicated Persons (SFS 1976:511) of 10 June 1976.*

Note: This Law repeals an Ordinance of 1841 on drunkenness.

1. *Grounds:* Any person found in an indoor or outdoor public place, in a state of intoxication caused by alcoholic beverages or other intoxicants, may be detained by a policeman if his condition renders him unable to look after himself or otherwise dangerous to himself or to others.
2. *Application:* Detention by police.
3. *Decision-making authority:* Police.
4. *Medical examination:* If his condition so requires, the person must undergo a medical examination as soon as possible and, if necessary, be hospitalized.
5. *Treatment programme:* If it is found that the person is in need of social aid or assistance, the police are required to provide him with advice and information, and, where convenient, to consult other social welfare bodies responsible for meeting such needs. Alcoholic drinks or other intoxicants found on persons detained under this Law shall normally be confiscated, this requirement being likewise applicable to syringes or cannulas that may be used for injecting substances into the body.
6. *Length of stay:* The person may not normally be detained for longer than eight hours.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* See paragraph 6 above.
10. *Harm reduction:* See paragraph 5 above.
11. *Non-discrimination:* Not stated.

E. *Health And Medical Services Act (SFS 1992: 567) of 17 June 1992.*

Note: The Health and Medical Services Act, promulgated 30 June 1982 (SFS 1982:763), amended 4 June 1992, defines the term "health and medical

services" ("measures for the medical prevention, investigation and treatment of disease and injury..."), defines targets for all health and medical care, including private care, and contains provisions concerning the responsibilities of county councils and municipalities as well as the supervisory activities of the National Board of Health and Welfare.

Switzerland (Federal)

Legislation: Federal Law of 3 October 1951, as amended.

Note: Amendment of 20 March, 1975, the cantons are to encourage information and counselling and to contact persons whose condition necessitates medical treatment or other care measures on account of narcotic abuse, and are to provide the professional and social re-integration of such persons. Whenever a person, on account of his drug-dependent state may constitute "a danger to public traffic" the competent office must be notified to this effect. Where necessary, the cantons may order the hospitalization of drug-dependent persons for purposes of detoxification and treatment, and may also order ambulatory treatment or follow-up surveillance after hospitalization.

Switzerland (Geneva)

Legislation: Law of 7 May 1981 amending the Law for the implementation of the Civil Code and the Code of Obligations and the Law of 13 October 1920 on civil procedure, as well as the Law of 3 December 1971 on the treatment and commitment of alcoholics.

Note: Sections 1-14 of the Law of 3 December 1971 on the treatment and commitment of alcoholics summarized in the previous WHO study (Porter, Arif & Curran, 1986) are repealed.

A new subsection 3 is added to Section 2 of the Law for the implementation of the Civil Code and the Code of Obligations, providing that the Guardianship Court [*Chambre des tutelles*] may order that a person be involuntarily provided care. A new Chapter VIIA (deprivation of freedom for purposes of care), comprising Sections 440A-440O, is added to the Law of 13 October 1920 on civil procedure. Sections. 440D, 440E, 440I, and 440J read as follows:

440D. Where circumstances so permit, the Guardianship Court, or the magistrate to whom the task has been delegated, may invite the person concerned to accept counselling from a social service or to undergo a medical examination. The Court or the magistrate must endeavour to persuade the person concerned to follow the recommended treatment or to take any other appropriate preventive measures.

440E. (1) Commitment to an appropriate establishment may be ordered only if it is not possible to provide the necessary personal care in any other way.
(2) The Guardianship Court must first grant a hearing or grant a further hearing to the person concerned.

440I. The person concerned, his family or relatives, his guardian, his curator, his legal adviser, his lawyer, the physician in charge of the establishment, or the director of the establishment may at any time submit a request to the Guardianship Court that the commitment be terminated; the Court must reach a decision within three working days.

440J. (1) Decisions reached by the Guardianship Court may be the subject of an appeal by the person concerned to the court of justice, in the form of a simple written request, within 10 days following communications of the decision.

(2) The family or relatives of the person concerned, his guardian, his curator, or his legal adviser, are also entitled to appeal.

Thailand

Legislation: Psychotropic Substances Law of 1975.

Note: Thailand has no legislation on the treatment of alcohol-dependent persons.

1. *Grounds:* Addiction to a psychotropic substance, defined as a "psychotropic substance which is natural or derived from nature, or synthetic".

An "addict to a psychotropic substance" means a person who consumes, ingests, or applies by any means the psychotropic substance and shows the symptoms of addiction to the psychotropic substance that may be detected by a method of medical science.

2. *Application:* The Secretary of the Narcotics Control Board (or delegate).
3. *Decision-making authority:* The Secretary-General of the Narcotics Control Board, upon the recommendation or advice of the Psychotropic Substances Board. Any person dependent on a psychotropic substance who refuses to accept treatment or rehabilitation is liable to imprisonment and fine, after which the person is to be committed for treatment or rehabilitation in accordance with the original order.

4. *Medical examination:* Not stated.
5. *Treatment programme:* Commitment is for treatment or rehabilitation and restoration of ability [not specifically defined]. the Ministry of Public Health has the duty to provide appropriate treatment, education, training, after-care, or rehabilitation and restoration of ability for committed persons so that they may be socially reintegrated and free from addiction to the psychotropic substance.
6. *Length of stay:* 180 days.
7. *Appeal:* Not stated.
8. *Periodic review:* In cases where it is necessary for treatment or rehabilitation and restoration of ability, the Secretary-General (or delegate) may grant an extension of not more than 180 days.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

Tonga

Legislation: Mental Health Act 1992.

Note: This Act repeals the Lunatics Detention Act (Cap. 80).

1. *Grounds:* Person suffering from severe mental disorder.

"Mental Disorder" means mental illness, arrested or incomplete development of the mind, psychopathic disorder and any other disorder or disability of the mind.

"Psychopathic disorder" means a persistent serious disorder of personality resulting in aggressive or antisocial behaviour.

"Alcoholic" or "Drug Addict" means a person suffering from a disorder or disability of the mind caused by his being so given over to or dependent on the use of alcohol or drugs that he is unable to control himself or is incapable of managing his affairs or endangers himself or others.

"Mental illness" means a psychiatric disorder which substantially disturbs a person's thinking, feeling, or behaviour and impairs the person's ability to function.

2. *Application:* If a Mental Health Officer reasonably believes that a mentally disordered person is on any premises, he shall, upon producing written evidence of his authority, be entitled to enter those premises and to remove any mentally disordered person there from. If a Mental Health Officer is refused such entry, a Magistrate may issue a warrant authorizing entry to remove the mentally disordered person.

- (a) *Observation:* A Mental Health Officer, Medical Officer (Psychiatry) or Psychiatrist may order that any person suffering from severe mental disorder be removed to hospital for psychiatric examination. Such order may be made of his own volition, or at the request of a medical practitioner, health officer, nurse, police officer or a relative of that person. The order shall not be made unless the Mental Health Welfare Officer, Medical Officer (Psychiatry) or Psychiatrist considers that: (i) such person will not attend hospital voluntarily; and (ii) his removal and detention is necessary for the safety of himself or some other person. The order shall remain in force for seven days and shall not be renewed. The order shall be in the form prescribed in the Act;
- (b) *Treatment:* A Mental Health Officer, Medical Officer (Psychiatry) or Psychiatrist.

"Relative" means husband or wife, son or daughter, father or mother, brother or sister, grandparent or grandchild, uncle or aunt, nephew or niece.

3. *Decision-making authority:*

- (a) *Observation:* A Magistrate, on the application of a Mental Health Officer, Medical Officer (Psychiatry) or Psychiatrist, may order that a mentally disordered person be taken to and/or detained in hospital for observation. The order shall remain in force for seven days and shall not be renewed. The order shall be in the form prescribed in the Act;
- (b) *Treatment:* The Supreme Court, on the application of a Mental Health Officer, Medical Officer (Psychiatry) or Psychiatrist, may order that a mentally disordered person be detained in hospital for treatment.

4. *Medical examination:*
- (a) Observation: A Magistrate may make an observation order only when satisfied by sworn evidence that (i) such person is suffering from mental disorder of a nature and degree which warrants his detention in hospital for observation (with or without medical treatment); and (ii) the order is necessary in the interests of that person or some other person;
 - (b) Treatment: The order shall not be made unless the Supreme Court is satisfied by sworn evidence: (i) that such person is suffering from mental disorder of a nature and degree which warrants his detention in hospital for medical treatment; and (ii) the order is necessary in the interests of the patient or some other person.
5. *Treatment programme:* The Minister of Health is empowered: (a) to provide a mental health service for Tonga including the provision of hospital inpatient, outpatient and other facilities for the investigation, treatment rehabilitation, care and after-care and prevention of mental disorder; and (b) to provide services for the treatment and prevention of alcoholism and drug dependence and the rehabilitation of alcoholics and drug addicts.
6. *Length of stay:*
- (a) Observation: Not exceeding 28 days, but a magistrate may, if the conditions in paragraph 4 (a) above continue, renew the order from time to time for periods not exceeding 28 days;
 - (b) Treatment: not exceeding two years, but the Supreme Court may, if the conditions in paragraph 4(a) above continue, renew the order from time to time for periods not exceeding two years.
7. *Appeal:*
- (a) Observation: The applicant, person admitted to hospital, or his relative has right of appeal to the Supreme Court from any observation order;
 - (b) Treatment: The applicant, person admitted to hospital, or his relative has right of appeal to the Court of Appeal from any treatment order.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* A Medical Officer (Psychiatry) or Psychiatrist may authorize the release of any person under an observation or treatment order, if the Officer considers that his continued detention in hospital is no longer necessary.
10. *Harm reduction:* Not stated.

11. *Non-discrimination:* Not stated.

Tunisia

Note: Two laws are reviewed:

A. *Legislation:* Law No. 92-52 of 18 May 1992 on Narcotics, as amended by Law No. 95-94 of 9 November 1995.

Note: This Law repeals Law No. 64-47 of 3 November 1964.

1. *Grounds:* Drug addict.

Note. No definition of drug addict is provided.

2. *Application:* Whoever becomes a drug addict may, before discovery of the facts of which he is accused, submit once a written request accompanied by a medical certificate to the commission established by virtue of Section 118 of Law No. 69-54 of 16 July 1969 regulating toxic substances. The request may be submitted independently by the drug addict, or through his wife or one of his parents, children or physicians, with a view to undergoing treatment for detoxification.

Note: Law No. 69-54 of 26 July 1969 prescribing regulations concerning poisons, establishes the Commission on Drug Dependence, composed of three physicians nominated by the Secretary of State for Public Health. The Commission receives information and documents submitted by public health authorities or physicians suspecting drug dependence.

3. *Decision-making authority:* The court. Upon hearing the case, the court can, if the drug addict is found guilty in accordance with Section 4 of this Law [i.e. consumption or possession for personal use of narcotic plants or substances, with a penalty of imprisonment for 1-5 years and a fine of 1000-3000 dinars] order the person convicted to undergo detoxification treatment for a period determined by the specialist physician. No proceedings shall be taken against a person who, on his own behalf, or through his spouse, a relative or physician, applies for a first course of detoxification treatment to the Commission described in Section 18 of the Act (see paragraph 2, above).

The Commission must inform the relevant Procurator of the Republic, who shall seize narcotics held by the person asking for treatment and give them to the presiding judge of the Court of First Instance, who shall decide on their destruction. If the person asking for treatment leaves the medical

establishment or breaks off treatment without the agreement of his physician or the commission, legal action shall then be taken against him.

4. *Medical examination*: Medical certificate. See paragraph 2 above.
 5. *Treatment programme*: [For children] As amended by Law No 95-94 of 9 November 1995, inserting Section 19, in cases of consumption or detention for consumption, the court may subject the child to medical treatment "in order to release him from his state of intoxication" to psycho-medical treatment in order to prevent a relapse, or to medico-social treatment, or take any of the measures referred to in Section 59 of the Child Protection Code.
 6. *Length of stay*: Not stated.
 7. *Appeal*: Not stated.
 8. *Periodic review*: Not stated.
 9. *Discharge procedure(s)*: Not stated.
 10. *Harm reduction*: Not stated.
 11. *Non-discrimination/patients' rights*: Information on the state of health of drug addicts who ask the Commission on Drug Dependence for treatment must be protected by professional confidentiality from being disclosed. Breach of confidentiality is punishable under the provisions of the Criminal Code.
- B. Law No. 95-92 of 9 November 1995 on the publication of the Child Protection Code.

Note: The Child Protection Code guarantees children the right to benefit from various preventive measures of a social, educational and health-related nature, as well as other provisions and procedures intended to protect them from all forms of violence, prejudice, physical, psychological, or sexual affront, abandonment or negligence that give rise to ill-treatment or exploitation. Section 59 of the Child Protection Code provides the family judge is empowered, within the framework of the court protection to which children are entitled, to decide on one of the following actions: (1) keep the child with the family; (2) subject the child to a medical or psychological examination; or (3) place the child under guardianship or with a foster family.

Ukraine

Legislation: Two separate items are in force.

A. *Principles of the Legislation of Ukraine on Health Protection.*

Note: This text came into force under the terms of a Resolution of the Supreme Soviet of Ukraine, dated 19 November 1992.

The Principles of the Legislation of Ukraine on Health Protection determine the legal, organizational, economic, and social bases for health protection in Ukraine, and regulate social relationships in this field with the aim of assuring the harmonious development of physical and spiritual resources, a high level of working capacity and an extended active life for citizens, the elimination of factors that exert a harmful effect on their health, and the prevention and reduction of morbidity, disability and mortality, and genetic improvement. It is reported that this text also covers treatment, rehabilitation and harmful use.

B. *Decree of the Supreme Soviet of Ukraine, dated 17 August 1966, as amended.*

This Decree provides for the compulsory treatment of chronic alcoholics.

Note: Mental health legislation has not yet been adopted.

United Kingdom (England and Wales)

Legislation: *The Mental Health Act 1983.*

Note: There are no specific compulsory civil commitment provisions pertaining to treatment or rehabilitation either in separate legislation on drug dependence or on alcohol dependence.

The Mental Health Act 1983 governs the reception, care, and treatment of mentally disordered patients and provides both for compulsory admission to hospital and for guardianship. Section 1 (3) provides that a person may not be dealt with under the Mental Health Act as suffering from a mental disorder solely by reason of dependence on alcohol or drugs. Accordingly, there are no grounds under the Act for compulsory treatment solely because of alcohol or drug dependence, although it is permissible to detain a person who is dependent upon alcohol or drugs if they are suffering from a mental disorder arising from, or suspected to arise from, alcohol or drug dependence or from withdrawal from alcohol or a drug, if all other relevant conditions are met.

Moreover, the Advisory Council on the Misuse of Drugs has reported (United Kingdom 1991(a)) that "under the National Health Service and Community Care Act 1990, Health Authorities, Family Health Service Authorities and Local Authorities are required to assess and plan for the health care and community care need of the population within their area, including the health and community care needs of drug-dependent misusers."

United States of America (Federal)

Legislation: Narcotic Addict Rehabilitation Act of 1966, as amended (Public Law No. 89-793).

Note: Section 3401 (Declaration of policy) states that it is the policy of the Congress that certain persons charged with or convicted of violating Federal criminal laws, who are determined to be addicted to narcotic drugs, and likely to be rehabilitated through treatment, should, in lieu of prosecution or sentencing, be civilly committed for confinement and treatment designed to effect their restoration to health, and return to society as useful members.

It is the further policy of the Congress that certain persons addicted to narcotic drugs who are not charged with the commission of any offence should be afforded the opportunity, through civil commitment, for treatment, in order that they may be rehabilitated and returned to society as useful members and in order that society may be protected more effectively from crime and delinquency which result from narcotic addiction.

1. *Grounds:* Persons addicted to narcotic drugs, but subchapter II (Civil commitment of persons not charged with any criminal offence) lays down that the provisions of this subchapter are not applicable with respect to any person against whom there is pending a criminal charge, whether by indictment or by information, which has not been fully determined or who is on probation or whose sentence following conviction on such a charge, including any time on parole or mandatory release, has not been fully served, except that such provision is applicable to any such person on probation, parole, or mandatory release if the authority authorized to require his return to custody consents to his commitment.

Certain terms used in subchapter II are defined in Section 34511 as follows:

- (a) "Narcotic addict" means any individual who habitually uses any narcotic drug so as to endanger the public morals, health, safety, or welfare, or who is or has been so far addicted to the use of such narcotic drugs as to have lost the power of self-control with reference to his addiction.

- (b) "Treatment" includes confinement and treatment in a hospital of the Public Health Service and under supervised aftercare in the community and includes, but is not limited to, medical, education, social, psychological and vocational services, corrective and preventive guidance and training, and other rehabilitative services designed to protect the public and benefit the addict by eliminating his dependence on addicting drugs, or by controlling his dependence, and his susceptibility to addiction.
 - (c) "Surgeon General" means the Surgeon General of the Public Health Service.
 - (d) "Hospital of the Service" means any hospital or other facility of the Public Health Service especially equipped for the accommodation of addicts and any other appropriate public or private hospital or other facility available to the Surgeon General for the care and treatment of addicts.
 - (e) "Patient" means any person with respect to whom a petition has been filed by a United States attorney (see below).
 - (f) "Post-hospitalization programme" means any programme established by the Surgeon General, and providing for the treatment and supervision of a person.
 - (g) "State" includes the District of Columbia and the Commonwealth of Puerto Rico.
 - (h) "United States" includes the Commonwealth of Puerto Rico
 - (i) "Related individual" means any person with whom the alleged narcotic addict may reside or at whose house he may be, or the husband or wife, father or mother, brother or sister, or the child or the nearest available relative of the alleged narcotic addict.
2. *Application:* Section 3412 (Preliminary proceedings) provides that:
- (a) Except as otherwise provided, whenever any narcotic addict desires to obtain treatment for his addiction, or whenever a related individual has reason to believe that any person is a narcotic addict, such addict or related individual may file a petition with the United States attorney for the district in which such addict or person resides or is found requesting that such addict or person be admitted to a hospital of the Public Health Service for treatment of his addiction. Any such

petition filed by a narcotic addict must set forth his name and address and the facts relating to his addiction. Any such petition filed by a related individual with respect to a person believed by such individual to be a narcotic addict must set forth the name and address of the alleged narcotic addict and the facts or other data on which the petitioner bases his belief that the person with respect to whom the petition is filed is a narcotic addict.

- (b) After considering such petition, the United States attorney must, if he determines that there is reasonable cause to believe that the person named in such petition is a narcotic addict, and that appropriate State or other facilities are not available to such person, file a petition with the United States District Court to commit such person to a hospital of the Public Health Service for treatment as provided in this subchapter. In making his determination with respect to the non-availability of such facilities, the United States attorney must consult with the Surgeon General, and other appropriate State or local officials.
 - (c) Upon the filing of any such petition by a United States attorney, the court may order the patient to appear before it for an examination by physicians as provided under section 3413 of this title and for a hearing, if required, under section 3414 of this title. The court must cause a copy of such petition and order to be served personally upon the patient by a United States marshal.
3. *Decision-making authority:* The court must immediately advise any patient appearing before it pursuant to an order issued under subsection (c) of section 3412 (see above) of this title of his right to have: (1) counsel at every stage of the judicial proceedings under this subchapter and that, if he is unable because of financial reasons to obtain counsel, the court will, at the patient's request, assign counsel to represent him; and (2) present for consultation during any examination conducted under this section, a qualified physician retained by such patient, but in no event is such physician entitled to participate in any such examination or in the making of any report required under this section with respect to such examination. The court must also advise such patient that if, after an examination and hearing as provided in this subchapter, he is found to be a narcotic addict who is likely to be rehabilitated through treatment, he will be civilly committed to the Surgeon General for treatment; that he may not voluntarily withdraw from such treatment; that the treatment (including post-hospitalization treatment and supervision) may last 42 months; that during treatment he will be confined in an institution; that for a period of three years following his release from confinement he

will be under the care and custody of the Surgeon General for treatment and supervision under a post-hospitalization programme established by the Surgeon General; and that should he fail or refuse to cooperate in such post-hospitalization programme or be determined by the Surgeon General to have relapsed to the use of narcotic drugs, he may be recommitted for additional confinement in an institution followed by additional post-hospitalization treatment and supervision. After so advising the patient, the court must appoint two qualified physicians, one of whom must be a psychiatrist, to examine the patient. For the purpose of the examination, the court may order the patient committed for such reasonable period as it may determine, not to exceed 30 days, to the custody of the Surgeon General for confinement in a suitable hospital or other facility designated by the court. Each physician appointed by the court must, within such a period so determined by the court, examine the patient and file with the court a written report with respect to such examination. Each such report must include a statement of the examining physician's conclusions as to whether the patient examined is a narcotic addict and is likely to be rehabilitated through treatment. Upon the filing of such reports, the patient so examined must be returned to the court for such further proceedings as it may direct under this subchapter. Copies of such reports must be made available to the patient and his counsel.

If both examining physicians referred to above conclude in their respective written reports that the patient is not a narcotic addict, or is an addict not likely to be rehabilitated through treatment, the court must immediately enter an order discharging the patient and dismissing the proceedings under this subchapter. If the written report of either such physician indicates that the patient is a narcotic addict who is likely to be rehabilitated through treatment, or that the physician submitting the report is unable to reach any conclusion by reason of the refusal of the patient to submit to a thorough examination, the court must promptly set the case for hearing. The court must cause a written notice of the time and place of such hearing to be served personally upon the patient and his attorney. Such notice must also inform the patient that upon demand made by him within 15 days after he has been served, he is entitled to have all issues of fact with respect to his alleged narcotic addiction determined by a jury. If no timely demand for a jury is made, the court, in conducting such hearing, determines all issues of fact without a jury.

If the court determines after a hearing that such patient is a narcotic addict who is likely to be rehabilitated through treatment, the court

must order him committed to the care and custody of the Surgeon General for treatment in a hospital of the Public Health Service. The Surgeon General must submit to the court written reports with respect to such patient at such times as the court may direct. Such reports must include information as to the health and general condition of the patient, together with the recommendations of the Surgeon General concerning the continued confinement of such patient.

4. *Medical examination:* See paragraph 3 above.

Note: Any physician conducting an examination under this subchapter must be a competent and compellable witness at any hearing or other proceeding conducted pursuant to this subchapter and the information obtained at the examination and statements made by the patient to the physician shall not be held confidential but may be revealed in the physician's report and testimony.

5. *Treatment programme:* Notwithstanding any other provision of subchapter II, no patient may be committed to a hospital of the Public Health Service under this subchapter if the Surgeon General certifies that adequate facilities or personnel for treatment of such patient are unavailable.

The Surgeon General is authorized to enter into arrangements with any public or private agency or any person under which appropriate facilities or services of such agency or person will be made available, on a reimbursable basis or otherwise, for the examination or treatment of individuals pursuant to the provisions of this subchapter.

The Surgeon General is authorized to establish, as an integral part of the programme of treatment for narcotic addiction, outpatient services to: (1) provide guidance and give psychological help and supervision to patients and other individuals released from hospitals of the Public Health Service after treatment for narcotic drug addiction, utilizing all available resources of local, public and private agencies; and (2) assist States and municipalities in developing treatment programmes and facilities for individuals so addicted, including post-hospitalization treatment programmes and facilities for the care and supervision of narcotic addicts released after confinement under this or any other Act providing for treatment of drug addiction. The Surgeon General must take into consideration in supplying such services the extent of drug addiction in the various States and political subdivisions thereof and the willingness of such States and subdivisions to cooperate in developing a sound programme for the care, treatment, and rehabilitation of narcotic addicts.

6. *Length of stay:* Any patient committed to the care and custody of the Surgeon General must be committed for a period of six months, and is subject to such post-hospitalization programme as may be established (up to three years post-

hospital rehabilitation); except that such patient may be released from confinement by the Surgeon General at any time prior to the expiration of such six-month period if the Surgeon General determines that the patient has been cured of his drug addiction and rehabilitated, or that his continued confinement is no longer necessary or desirable.

7. *Appeal*: In conducting any hearing under subchapter II, the court must receive and consider all relevant evidence and testimony which may be offered, including the contents of the reports referred to in section 3413 of this title. Any patient with respect to whom a hearing is held under this subchapter is entitled to testify and to present and cross-examine witnesses. All final orders of commitment under this subchapter are subject to review.

Any patient with respect to whom a hearing has been set under this subchapter may be detained by the court for a reasonable period of time in a suitable hospital or other facility designated by the court until after such hearing has been concluded.

8. *Periodic review*: The court, upon the petition of any patient after his confinement pursuant to this subchapter for a period in excess of three months, must inquire into the health and general conditions of the patient and as to the necessity, if any, for his continued confinement. If the court finds, with or without a hearing, that his continued confinement is no longer necessary or desirable, it must order the patient released from confinement and returned to the court. The court may, with respect to any such patient so returned, place such patient under a post-hospitalization programme.
9. *Discharge procedure(s)*: See paragraphs 3 and 8 above.
10. *Harm reduction*: Not stated.
11. *Non-discrimination*: See paragraph 7 above.

United States of America (Connecticut)

Legislation: Separate sections of Chapter 319 of the State General Statutes, Alcohol and Drug Abuse (1993) apply: (a) to police assistance for an intoxicated person; (b) to protective custody for a person incapacitated by alcohol; (c) to emergency treatment; (d) to the involuntary commitment of a drug-dependent person or an alcohol-dependent person; and (e) to the voluntary admission of a drug-dependent person or an alcohol-dependent person.

Note: For the purposes of Sections 17a-621-17a-642:

"Alcohol-dependent person" means a person who has a psychoactive substance dependence on alcohol as that condition is defined in the most recent edition of the American Psychiatric Association's *Diagnostic and statistical manual of mental disorders*.

"Commission" means the Connecticut Alcohol and Drug Abuse Commission, established under Section 17a - 634, Chapter 319, States General Statutes, Alcohol and Drug Abuse (1993).

"Dangerous to himself" means that there is a substantial risk that physical harm will be inflicted by a person on himself.

"Dangerous to others" means that there is a substantial risk that physical harm will be inflicted by a person on another person.

"Drug-dependent person" means a person who has a psychoactive substance dependence on drugs as that condition is defined in the most recent edition of the American Psychiatric Association's *Diagnostic and statistical manual of mental disorders*. No person shall be classified as drug-dependent who is dependent: (a) upon a morphine-type substance as an incident to current medical treatment of a demonstrable physical disorder other than drug dependence; or (b) upon amphetamine-type, ataractic, barbiturate-type, hallucinogenic or other stimulant and depressant substances as an incident to current medical treatment of a demonstrable physical or psychological disorder, or both, other than drug dependence.

"Gravely disabled" means a condition in which a person, as a result of the use of alcohol or drugs on a periodic or continuous basis, is in danger of serious physical harm because: (a) he is not providing for his essential needs such as food, clothing, shelter, vital medical care, or safety; (b) he needs, but is not receiving, inpatient treatment for alcohol dependency or drug dependency; and (c) he is incapable of determining whether to accept such treatment because his judgement is impaired.

"Incapacitated by alcohol" means a condition in which a person as a result of the use of alcohol has his judgement so impaired that he is incapable of realizing and making a rational decision with respect to his need for treatment.

"Intoxicated person" means a person whose mental or physical functioning is substantially impaired as a result of the use of alcohol or drugs.

"Medical officer" means a licensed physician in attendance at a treatment facility or hospital.

"Respondent" means a person who is alleged to be alcohol-dependent or drug-dependent and for whom a petition for commitment or recommitment to an inpatient treatment has been filed.

"Treatment" means any emergency, outpatient, intermediate and inpatient services and care, including diagnostic evaluation, medical, psychiatric, psychological and social services, vocational and social rehabilitation and other appropriate services, which may be extended to alcohol-dependent persons, drug-dependent persons and intoxicated persons.

"Treatment facility" means: (a) a facility providing treatment and operating under the direction and control of the Department of Public Health and Addiction Services; or (b) a private facility providing treatment and licensed under the provisions of Sections 19a-490-19a-503, inclusive.

A. *Police assistance for an intoxicated person.*

1. *Grounds:* Person who appears to be intoxicated in a public place and in need of help.
2. *Application:* Police officer, with the consent of the person who appears to be intoxicated, who may assist such person to his home, a treatment facility, or a hospital or other facility able to accept such person.
3. *Decision-making authority:* Person who appears to be intoxicated.
4. *Medical examination:* Not stated.
5. *Treatment programme:* Not stated.
6. *Length of stay:* Not stated.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

B. *Protective custody for a person incapacitated by alcohol.*

1. *Grounds:* Person who appears to be incapacitated by alcohol.

2. *Application:* Police officer must take the person who appears to be incapacitated by alcohol into protective custody and have him brought "forthwith" to a treatment facility which provides medical triage in accordance with regulations adopted pursuant to Section 19a-495 or to a hospital.
3. *Decision-making authority:*
 - (a) Police officer under Section 17a-625: The police shall make every reasonable effort to protect the person's health and safety. In taking the person into protective custody, the detaining officer may take reasonable steps to protect himself. Taking a person into protective custody under Section 17a-625 is not an arrest. No entry or other record is to be made to indicate that the person has been arrested or charged with a crime. For the purposes of Section 17a-625, "medical triage" means a service which provides immediate assessment of symptoms of substance abuse, the immediate care and treatment of these symptoms as necessary, a determination of need for treatment, and assistance in attaining appropriate continued treatment.
 - (b) Medical officer (see paragraph 4 below). If the medical officer determines that the person requires inpatient treatment, the person shall be: (1) admitted to, referred to or detained at a treatment facility that provides medical treatment for detoxification or a hospital; or (2) committed to a treatment facility operated by the commission for emergency treatment pursuant to the provisions of Section 17a-626. A person treated under subdivision (1) shall be admitted as a voluntary patient, or, if necessary, detained for necessary treatment. If such person is referred to another treatment facility or another hospital, the referring facility or hospital must arrange for his transportation.
4. *Medical examination:* A person brought to a treatment facility which provides medical triage, or to a hospital must be examined by a medical officer or his designee as soon as possible. The medical officer must determine whether the person requires inpatient treatment based upon the medical examination of the person and upon a finding that the person is incapacitated by alcohol.
5. *Treatment programme:* Not stated. If a person is admitted to a treatment facility or hospital, his family or next of kin must, unless prohibited by Federal law, be notified as promptly as possible. If a patient who is not incapacitated by alcohol requests that there be no notification, his request must be respected. A person who is not admitted to a treatment facility, or a hospital, is not referred to another treatment facility or hospital and has no funds may be taken to his home, if any. If he has no home, the facility must assist him in obtaining shelter.

6. *Length of stay:* Any person admitted or detained as a patient under subsection (1) of subsection (d) of Section 17a-625 (see paragraph 3 above) must be released once he is no longer incapacitated by alcohol or within 48 hours, whichever is shorter, unless he consents to further medical evaluation or treatment.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Not stated.
 9. *Discharge procedure(s):* Not stated.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination:* Not stated.
- C. *Emergency treatment*
1. *Grounds:* Intoxicated person who is (1) dangerous to himself or dangerous to others unless committed, (2) needs medical treatment for detoxification for potentially life-threatening symptoms of withdrawal from alcohol or drugs; or (3) is incapacitated by alcohol.
 2. *Application:* Under Section 17a-626, a physician, spouse, guardian or relative of the person to be committed, or any other responsible person, may make a written application for commitment under Section 17a-626, directed to the administrator of a treatment facility operated by the Connecticut Alcohol and Drug Abuse Commission or approved by the Commission to provide emergency treatment.
 3. *Decision-making authority:* Administrator. Upon tentative approval of the application by the administrator of the treatment facility, the person must be transferred to the facility. The medical officer of the treatment facility must immediately examine the person sought to be committed and advise the administrator of the treatment facility whether the application sustains the grounds to commit the person for emergency treatment. The administrator shall either accept the application or refuse the application if the application fails to sustain the grounds for commitment. If the administrator accepts the application, the person must be retained at the facility to which he was admitted, or transferred to another appropriate treatment facility, until discharged.
 4. *Medical examination:* The application for commitment (see paragraph 2 above) must state facts to support the need for emergency treatment and be accompanied by a physician's certificate stating that he has examined the

person sought to be committed within two days before the certificate's date and facts supporting the need for emergency treatment.

5. *Treatment programme:* Emergency treatment in a treatment facility operated by the commission or a private treatment facility approved by the commission to provide emergency treatment. A refusal to undergo treatment does not constitute evidence of lack of judgement as to the need for treatment.
 6. *Length of stay:* No person committed under Section 17a-626 may be detained in any treatment facility for more than five days. If a petition for involuntary commitment under Section 17a-627 has been filed within the five-day period and the administrator of the treatment facility, on the advice of the medical officer of the facility, finds that grounds for commitment exist under the provisions of Section 17a-627, he may detain the person until the petition has been heard and determined, but no longer than five business days after filing the petition.
 7. *Appeal:* Not stated.
 8. *Periodic review:* Not stated.
 9. *Discharge procedure(s):* When, on the advice of the medical officer, the administrator determines that the grounds for commitment for emergency treatment no longer exist, the administrator must discharge a person committed under Section 17a-626.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination/patients' rights:* A copy of the written application for commitment and a written explanation of the person's right to counsel, must be given by the administrator of the treatment facility to the person within 24 hours after commitment under Section 17a-626. The administrator must also provide a reasonable opportunity for the person to consult counsel.
- D. *Involuntary commitment.*
1. *Grounds:* An alcohol-dependent person or a drug-dependent person who is dangerous to himself or dangerous to others when he is an intoxicated person or who is gravely disabled.
 2. *Application:* Any person, including the spouse, a relative, a conservator or the legal representative of a person sought to be committed, a physician issuing a certificate under subsection (b) of Section 17a-627 or the administrator of a treatment facility may petition the superior court to commit a person to an inpatient treatment facility for treatment for alcohol dependency or drug

dependency. The petition must be brought to the superior court for the geographical area in which the person sought to be committed resides, or, if his residence is out of state or unknown, for the geographical area in which he is at the time of filing the petition.

3. *Decision-making authority:* Court. If, after hearing all relevant evidence, including the results of any diagnostic examination, the court finds, by clear and convincing evidence, that the respondent is an alcohol-dependent person or a drug-dependent person who is dangerous to himself or dangerous to others when he is an intoxicated person or who is gravely disabled, it must make an order of commitment to a treatment facility for inpatient treatment for a period of not less than 30 nor more one 180 days. In any proceeding, the provisions of Section 17a-628 [procedural rules and rights during determination of commitment, commitment and termination of commitment and recommitment and discharge] apply.

4. *Medical examination:* Petition must be accompanied by a certificate of a licensed physician who has examined the person within two days before submission of the petition, unless the person whose commitment is sought has refused to submit to a medical examination, in which case the fact of refusal shall be alleged in the petition. The physician's certificate must set forth the physician's findings, including clinical observation or information, or the person's medical history, in support of the allegation of the petition, and a finding of whether the person presently needs and is likely to benefit from treatment, and shall include a recommendation as to the type and length of treatment and inpatient facilities available for such treatment. A physician employed by the private treatment facility to which the person is to be committed is not eligible to be the certifying physician. A petition filed by a person other than the certifying physician shall set forth the facts and information upon which the petitioner bases his allegations and the names and addresses of all physicians and of any witnesses believed to have knowledge of the material facts.

A person referred to an outpatient treatment facility pursuant to the provisions of Section 17a-627 (e) [expiration of commitment period] or (i) [expiration of recommitment period] must remain in outpatient treatment for a period of 12 months unless sooner discharged by the administrator of the treatment facility, on the advice of the medical officer of the facility, or unless, before expiration of the period of outpatient treatment, the administrator obtains a court order of recommitment for inpatient treatment.

5. *Treatment programme:* The court may not order commitment of a respondent [to a treatment facility for inpatient treatment] unless it determines that the treatment facility is able to provide adequate and appropriate treatment for him and that the treatment is likely to be beneficial.

6. *Length of stay:* For the commitment period unless sooner discharged by the administrator of a treatment facility on the advice of a medical officer, if the person is no longer an alcohol-dependent persons or a drug-dependent person in need of further treatment, and further treatment will not be likely to bring about significant improvement in the person's condition or treatment is no longer adequate or appropriate.
7. *Appeal:* See paragraph 11 below.
8. *Periodic review:* If a committed or recommitted person has not been discharged (as noted in paragraph 9 below) any responsible person including the committed or recommitted person may petition the superior court for termination of commitment or recommitment and discharge from the treatment facility. The petition must allege that the committed or recommitted person is no longer an alcohol-dependent person or a drug-dependent person in need of further treatment, that further treatment will not be likely to bring about significant improvement in the person's condition or that treatment is no longer adequate or appropriate. The petition shall be set for hearing within seven business days of its receipt by the clerk of the court. Not later than three business days before the hearing a copy of the petition and notice of the hearing, including the date fixed by the court, must be served, by any person so authorized to effect service of civil process on the committed or recommitted person if different from the petitioner and on the administrator of the treatment facility where the person was committed or recommitted. The petitioner must be notified of the hearing date not later than three business days before the hearing. In any proceeding pursuant to this Section, the provisions of Section 17a-628 must apply. If after the hearing, the court determines that the grounds alleged in the petition exist, it shall order termination of the commitment or recommitment and discharge of the committed or recommitted person except that the court may not order the discharge of an alcohol-dependent person or drug-dependent person who the court determines is likely to become dangerous to himself or dangerous to others when he is an intoxicated person.
9. *Discharge procedure(s):* At the end of the commitment period, a person committed under this Section must be discharged automatically unless the administrator, before the expiration of the period, obtains a court order for recommitment pursuant to Section 17a-627 (f) [providing for petition for recommitment] for inpatient treatment. When the person is discharged the administrator must, if recommended by the medical officer of the facility, refer the person to an outpatient treatment facility for treatment pursuant to the provisions of Section 17a-627 (j) [providing for outpatient treatment after commitment or recommitment period].

10. *Harm reduction*: Not stated.
11. *Non-discrimination/patients' rights*:

Section 17a-627 (d): Upon filing the petition, the court must fix a date for a hearing no later than five business days after the date that the petition was filed. A copy of the petition and certificate and of the notice of the hearing, including the date fixed by the court, shall be served, by any person authorized by law to effect service of civil process, not later than three business days before the hearing on the respondent, his next of kin other than the petitioner, a parent or his legal guardian if he is a minor, the administrator of the treatment facility if the respondent has been committed for emergency treatment pursuant to Section 17a-626, the administrator of the treatment facility to which the respondent is to be admitted, and any other person that the court believes advisable. If the petitioner is the administrator of a treatment facility operated by the commission, service may be made at the expense of the state. The petitioner must be notified of the hearing date not later than three business days before the hearing.

Section 17a-628: (a) Petitions for commitment and recommitment [pursuant to Sections 17a-621 - 17a-642, inclusive] or for termination of commitment or recommitment and discharge must not require the payment of an entry fee to the court, and neither petitioner nor respondent are liable for costs.

(b) The Court must inform the person whose commitment or recommitment is sought or who is petitioning for termination of commitment or recommitment and discharge of his right to contest the petition for commitment or recommitment, to be represented by counsel at every stage of any proceedings relating to his commitment and recommitment, and to have counsel appointed by the court. If he requests the assistance of counsel and is unable to obtain counsel, the court must appoint counsel to represent him. If the court believes that the person needs the assistance of counsel, the court must require, by appointment if necessary, counsel for him regardless of his wishes. If the court finds the person indigent or other wise unable to pay for counsel, reasonable compensation of appointed counsel must be established by, and paid from, funds appropriated to the judicial department. The person shall be informed of his right to be examined by a licensed physician of his choice. If the person is unable to obtain a licensed physician and requests examination by a physician, the court shall employ a licensed physician.

(c) At any hearing on a petition for commitment, recommitment or termination and discharge, the court must inquire into the facts of the petition. The following provisions shall apply to the hearing:

- (1) The person shall be present unless the court finds by clear and convincing evidence that his presence would be injurious to himself. If the person is not present, the court must appoint a guardian *ad litem* to represent him;
 - (2) The court shall examine the person in open court, or, if the person is not present, examine him in such a private setting as the court may determine;
 - (3) The person or his representative may present evidence and cross-examine witnesses;
 - (4) The court must order any examining physicians to appear if the person notifies the court not less than two days before the hearing that he wishes to cross-examine such physician;
 - (5) The Connecticut rules of evidence must be observed.
- (d) If at the time of the hearing, the person is being treated at a treatment facility and is medicated, the treatment facility must notify the court of the medication and of the common effects thereof.
- (e) The court may not order a commitment or recommitment unless the evidence presented includes the report of at least one licensed physician who has examined the person which supports the allegations of the petition for commitment or recommitment. If the person has refused to be examined by a physician, the court shall dismiss the petition unless it finds sufficient evidence to believe that the allegations of the petition are true. If the court finds sufficient evidence to believe that such allegations are true, it must order the person examined by one or more physicians. If necessary to effect such examination, the court may order the person temporarily committed to a treatment facility operated by the commission for a period of not more than five days for the purpose of such examination. A refusal to undergo or to continue treatment shall not be evidence of lack of judgement as to the need for treatment.
- (f) If a private treatment facility agrees with the request of a patient or his parent, sibling, adult child or legal representative to accept the patient for treatment, the administrator of the treatment facility operated by the commission shall transfer him to the private treatment facility.
- (g) In any contested proceeding for commitment, recommitment, or termination and discharge the attorney general shall, upon request, represent the administrator of a treatment facility operated by the commission. The court may appoint counsel to represent an indigent person where the petitioner is the spouse, guardian or relative.

Note: Section 17a-624 provides for the voluntary admission of a drug-dependent person or an alcohol-dependent person.

- (a) An alcohol-dependent person or a drug-dependent person may apply for voluntary treatment directly to a treatment facility operated by the commission. If the proposed patient is a minor or an incompetent person, he, a parent, a legal guardian or other legal representative may make the application.
- (b) Subject to regulations adopted by the commission, the administrator of a treatment facility operated by the commission may determine, on the advice of the medical officer of the facility, who shall be admitted for treatment, If a person is refused admission to a treatment facility operated by the commission, the administrator, subject to regulations adopted by the commission, shall refer the person to another treatment facility operated by the commission or to a private treatment facility for treatment if possible and appropriate.
- (c) If a patient receiving inpatient care leaves a treatment facility operated by the commission, he shall be encouraged to consent to appropriate outpatient or intermediate treatment. If it appears to the administrator in charge of the treatment facility, on the advice of the medical officer of the facility, that the patient is an alcohol-dependent person or drug-dependent person who requires help, the commission shall arrange for assistance in obtaining supportive services and residential facilities.
- (d) If a patient leaves a treatment facility operated by the commission, with or against the advice of the administrator of the facility, the commission shall make reasonable provision for his transportation to another facility or to his home. If he has no home, he shall be assisted in obtaining shelter. If he is a minor or an incompetent person, the request for discharging from an inpatient facility shall be made by a party, legal guardian or other legal representatives or by the minor or incompetent person if he was the original applicant.

United States of America (Florida)

Legislation: Involuntary admissions procedures are dealt with under seven separate Subsections (A–G) of Part V of the Hal S. Marchman Alcohol and Other Drug Services Act of 1993.

A. *General Provisions. (Sections 397.675-397.6759)*

Note: The full text of Sections 397.675, 397.431, 397.501, and 397.601 reads as follows:

" *Section 397.675* Criteria for involuntary admissions, including protective custody, emergency admission, and other involuntary assessment, involuntary treatment, and alternative involuntary assessment for minors, for purposes of assessment and stabilization, and for involuntary treatment.

A person meets the criteria for involuntary admission if there is good faith reason to believe the person is substance abuse impaired and, because of such impairment:

- (1) Has lost the power of self control with respect to substance use; and either
- (2)
 - (a) Has inflicted, or threatened or attempted to inflict, or unless admitted is likely to inflict, physical harm on himself or another; or
 - (b) Is in need of substance abuse services and, by reason of substance abuse impairment, his judgement has been so impaired that he is incapable of appreciating his need for such services and of making a rational decision in regard thereto; however mere refusal to receive such services does not constitute evidence of lack of judgement with respect to his need for such services.

"*Section 397.6751* Service provider responsibilities regarding involuntary admissions:

- (1) It is the responsibility of the service provider to:
 - (a) ensure that a person who is admitted to a licensed services component meets the admission criteria specified in s. 397.675;
 - (b) ascertain whether the medical and behavioural conditions of the person, as presented, are beyond the safe management capabilities of the service provider;

- (c) provide for the admission of the person to the service component that represents the least restrictive available setting that is responsive to the person's treatment needs;
 - (d) verify that the admission of the person to the service component does not result in a census in excess of its licensed service capacity;
 - (e) determine whether the cost of services is within the financial means of the person or those who are financially responsible for the person's care; and
 - (f) take all necessary measures to ensure that each client in treatment is provided with a safe environment, and to ensure that each client whose medical condition or behavioral problem becomes such that he cannot be safely managed by the service component is discharged and referred to a more appropriate setting for care.
- (2) (a) When, in the judgement of the service provider, the person who is being presented for involuntary admission should not be admitted because of his failure to meet admission criteria, because his medical or behavioral conditions are beyond the safe management capability of the service provider, or because of a lack of available space, services, or financial resources to pay for his care, the service provider, in accordance with federal confidentiality regulations, must attempt to contact the referral sources, which may be a law enforcement officer, physician, parent, legal guardian if applicable, court and petitioner, or other referring party, to discuss the circumstances and assist in arranging for alternative interventions.
- (b) When the service provider is unable to reach the referral source, the service provider must refuse admission and attempt to assist the person in gaining access to other appropriate services, if indicated.
- (c) Upon completing these efforts the service provider must, within one workday, report in writing to the referral sources, in compliance with federal confidentiality regulations:
- 1. The basis for the refusal to admit the person, and
 - 2. Documentation of the service provider's efforts to contact the referral source and assist the person, when indicated, in gaining access to more appropriate services.
 - 3. When, in the judgement of the service provider, the medical conditions or behavioral problems of an involuntary client become such that they cannot be safely managed by the service component, the service

provider must discharge the client and attempt to assist him in securing more appropriate services in a setting more responsive to his needs. Upon completing these efforts, the service provider must, within 72 hours, report in writing to the referral source, in compliance with federal confidentiality regulations:

- (a) The basis for the client's discharge, and
- (b) Documentation of the service provider's efforts to assist the person in gaining access to appropriate services.

"Section 397.6752 provides for referral of involuntarily admitted client for voluntary treatment."

Upon giving his written informed consent, an involuntarily admitted client may be referred to a service provider for voluntary admission when the service provider determines that the client no longer meets involuntary criteria.

"Section 397.6758 provides for release of client from protective custody, emergency admission, involuntary assessment, involuntary treatment, and alternative involuntary assessment of a minor. A client involuntarily admitted to a licensed service provider may be released without further order of the court only by a qualified professional in a hospital, a detoxification facility, an addictions receiving facility, or any less restrictive treatment component. Notice of the release must be provided to the applicant in the case of an emergency admission or an alternative involuntary assessment of an emergency admission or an alternative involuntary assessment for a minor, or to the petitioner and the court if the involuntary assessment was court ordered. In the case of a minor client, the release must be:

- (1) To the client's parent, legal guardian, or legal custodian or the authorized designee thereof;
- (2) To the department pursuant to section 39-03; section 39.401; or section 39.421."

"Section 397.6759 Parental participation in treatment. A parent, legal guardian, or legal custodian who seeks involuntary admission of a minor pursuant to sections 397.675-397.6977 is required to participate in all aspects of treatment as determined appropriate by the director of the licensed service provider."

"Section 397.431. Client responsibility for cost of substance abuse impairment services.

- (1) Prior to accepting a client for admission and in accordance with confidentiality guidelines, both the full charge for services and the fee

- charge to the client for such services under the provider's fee system or payment policy must be disclosed to each client or his authorized personal representative, or parent or legal guardian if the client is a minor who did not seek treatment voluntarily and without parental consent.
- (2) A client or his authorized personal representative or parent or legal guardian if he is a minor, is required to contribute toward the cost of substance abuse services in accordance with his ability to pay, unless otherwise provided by law".

" *Section 397.501 Rights of clients.* Clients receiving substance abuse services from any service provider are guaranteed protection of the rights specified in this section, unless otherwise expressly provided, and service providers must ensure the protection of such rights.

- (1) *RIGHT TO INDIVIDUAL DIGNITY* - The individual dignity of the client must be respected at all times and upon all occasions, including any occasion when the client is admitted, retained, or transported. Substance abuse clients who are not accused of a crime or delinquent act may not be detained or incarcerated in jails, detention centres, or training schools of the state, except for purposes of protective custody in strict accordance with this chapter. A client may not be deprived of any constitutional right.
- (2) *RIGHT TO NONDISCRIMINATORY SERVICES* -
- (a) Service providers may not deny a client access to substance abuse services solely on the basis of race, gender, ethnicity, age, sexual preference, human immunodeficiency virus status, prior service departures against medical advice, disability, or number of relapse episodes. Service providers may not deny a client who takes medication prescribed by a physician access to substance abuse services solely on that basis. Service providers who receive state funds to provide substance abuse services may not, provided space and sufficient state resources are available, deny a client access to services based solely on inability to pay;
- (b) Each client in treatment must be afforded the opportunity to participate in the formulation and periodic review of his individualized treatment or service plan to the extent of his ability to so participate.
- (c) It is the policy of the state to use the least restrictive and most appropriate services available, based on the needs and the best interests of the client and consistent with optimum care of the client.

- (d) Each client must be afforded the opportunity to participate in activities designed to enhance self-image.
- (3) *RIGHT TO QUALITY SERVICES* - Each client must be delivered services suited to his needs, administered skilfully, safely, humanely, with full respect for his dignity and personal integrity, and in accordance with all statutory and regulatory requirements.
- (4) *RIGHT TO COMMUNICATION -*
 - (a) Each client has the right to communicate freely and privately with other persons within the limitations imposed by service provider policy.
 - (b) Because the delivery of services can only be effective in a substance-abuse-free environment, close supervision of each client's communications and correspondence is necessary, particularly in the initial stages of treatment, and the service provider must therefore set reasonable rules for telephone, mail and visitation rights, giving primary consideration to the well being and safety of clients, staff, and the community. It is the duty of the service provider to inform the client and his family if the family is involved at the time of admission about the provider's rules relating to communications and correspondence.
- (5) *RIGHT TO EDUCATION OF MINORS* - Each minor client in a residential service component is guaranteed education and training appropriate to his needs. The service provided shall coordinate with local education agencies to ensure that education and training is provide to each minor client in accordance with other applicable laws and regulations and that parental responsibilities related to such education and training are established within the provisions of such applicable laws and regulations. Nothing in this chapter may be construed to relieve any local education authority of its obligation under law to provide a free and appropriate education to every child.
- (6) *RIGHT TO CONFIDENTIALITY OF CLIENT RECORDS -*
 - (a) The records of service providers which pertain to the identity, diagnosis, and prognosis of and service provision to any individual client are confidential in accordance with this chapter and with applicable federal confidentiality regulations and are exempt from the provision of s. 119.07 (1). Such records may not be disclosed without the written consent of the client to whom they pertain except that appropriate disclosure may be made without such consent:
 - 1. To medical personnel in a medical emergency.

2. To service provider personnel if such personnel need to know the information in order to carry out duties relating to the provision of services to a client.
3. To the secretary of the department or his designee, for purposes of scientific research, in accordance with federal confidentiality regulations, but only upon agreement in writing that the clients's name and other identifying information will not be disclosed.
4. In the course of review of records on service provider premises by persons who are performing an audit or evaluation on behalf of any federal, state, or local government agency, or third party payer providing financial assistance or reimbursement to the service provider; however, reports produced as a result of such audit or evaluation may not disclose client names or other identifying information and must be in accord with federal confidentiality regulations.
5. Upon court order based on application showing good cause for disclosure. In determining whether there is good cause for disclosure, the court shall examine whether the public interest and the need for disclosure outweigh the potential injury to the client, to the service provider-client relationship, and to the service provider itself.

....

- (e) 1. Since a minor acting alone has the legal capacity to voluntarily apply for and obtain substance abuse treatment, any written consent for disclosure may be given only by the minor client. This restriction includes, but is not limited to, any disclosure of client identifying information to the parent, legal guardian, or custodian of a minor client for the purpose of obtaining financial reimbursement.
2. When the consent of a parent, legal guardian, or custodian is required under this chapter in order for a minor to obtain substance abuse treatment, any written consent for disclosure must be given by both the minor and the parent, legal guardian, or custodian.

.....

- (8) *RIGHT TO COUNSEL* - Each client must be informed that he has the right to be represented by counsel in any involuntary proceeding for assessment, stabilization, or treatment and that he, or if the client is a minor his parent, legal guardian, or legal custodian, may apply immediately to the court to have an attorney appointed if he cannot afford one.

- (9) *RIGHT TO HABEAS CORPUS* - At any time, and without notice, a client involuntarily retained by a provider, or the client's parent, guardian, custodian, or attorney on behalf of the client, may petition for a writ of habeas corpus to question the cause and legality of such retention and request that the court issue a writ for the client's release.
- (10) *LIABILITY AND IMMUNITY* -
- (a) Service provider personnel who violate or abuse any right or privilege of a client under this chapter are liable for damages as determined by law.
 - (b) All persons acting in good faith, reasonably, and without negligence in connection with the preparation or execution of petitions, applications certificates, or other documents for the apprehension, detention, discharge, examination, transportation, or treatment of a person under the provisions of this chapter shall be free from all liability, civil or criminal, by reason of such acts."

"Ancillary services" are services which include, but are not limited to, special diagnostic, prenatal and postnatal, other medical, mental health, legal, economic, vocational, employment, and educational services.

"Assessment" means the systematic evaluation of information gathered to determine the nature and severity of the client's substance abuse problem and the client's need and motivation for services. Assessment entails the use of a psychosocial history supplemented, as required by rule, by medical examinations, laboratory testing, and psychometric measures.

"Beyond the safe management capabilities of the service provider" refers to a client who is in need of:
(a) supervision; (b) medical care; or (c) services - beyond that which the service provider or service component can deliver.

"Client" means a recipient of alcohol or other drug services delivered by a service provider but does not include an inmate pursuant to part VIII unless expressly so provided.

"Court" means, with respect to all involuntary proceedings under this chapter, the circuit court of the county in which the judicial proceedings is pending or where the substance abuse impaired person resides or is located, and includes any general or special master that may be appointed by the chief judge to preside over all or part of

such proceeding. Otherwise, "court" refers to the court of legal jurisdiction in the context in which the term is used in this chapter.

"Department" means the Department of Health and Rehabilitative Services.

"Director" means the chief administrative officer of a service provider.

"Disclose" or "disclosure" means a communication of client identifying information, the affirmative verification of another person's communication of client identifying information, or the communication of any information of a client who has been identified. Any disclosure made pursuant to this chapter must be limited to that information which is necessary to carry out the purpose of the disclosure.

"Habitual abuser" means a person who is brought to the attention of law enforcement for being substance impaired, who meets the criteria for involuntary admission in s. 397.675, and who has been taken into custody for such impairment three or more times during the preceding 12 months.

"Hospital" means a hospital or hospital-based component licensed under chapter 395.

"Impaired" or "substance abuse impaired" means a condition involving the use of alcoholic beverages or any psychoactive or mood-altering substance in such a manner as to induce mental, emotional, or physical problems and cause socially dysfunctional behaviour.

"Individualized treatment or service plan" means an immediate and a long range plan for substance abuse or ancillary services developed on the basis of a client's assessed needs.

"Law enforcement officer" means a law enforcement officer as defined in s. 943.10 (1).

"Licensed service provider" means a public agency under this chapter, a private for profit or not for profit agency under this chapter, a physician licensed under chapter 458 or chapter 459, or any other private practitioner licensed under this chapter, or a hospital licensed under chapter 395, which offers substance abuse impairment

services through one or more of the following licensable service components:

- (a) Addictions receiving facility, which is a community-based facility designated by the department to receive, screen, and assess clients found to be substance abuse impaired, in need of emergency treatment for substance abuse impairment, or impaired by substance abuse to such an extent as to meet the criteria for involuntary admission in s. 397.675, and to provide detoxification and stabilization. An addiction receiving facility must be state owned, state operated, or state contracted, and licensed pursuant to rules adopted by the department's Alcohol, Drug Abuse, and Mental Health Programme Office which include specific authorization for the accommodations for adults and minors. Addictions receiving facilities are designated as secure facilities to provide an intensive level of care and must have sufficient staff and the authority to provide environmental security to handle aggressive and difficult to manage behaviour and deter elopement.
- (b) Detoxification, which uses medical and psychological procedures and a supportive counselling regimen to assist clients in managing toxicity and withdrawing and stabilization from the physiological and psychological effects of substance abuse impairment.
- (c) Residential treatment, which provides a structured, live in environment, within a non-hospital setting on a 24 hours a day, 7 days a week basis, and includes treatment, rehabilitating, and transitional care.
- (d) Day and night treatment, which provides a nonresidential environment with a structured schedule of treatment and rehabilitation services.
- (e) Outpatient treatment, which provides individual, group, or family counselling for clients by appointment during scheduled operating hours, with an emphasis on assessment and treatment.
- (f) Medication treatment, which uses authorized drugs to treat clients dependent upon alcohol or other drugs pursuant to a permit or license issued by an appropriate federal authority.
- (g) Methadone maintenance treatment, which means administering a constant therapeutic daily dose of methadone following stabilization, concomitantly with medical, rehabilitative, and counselling services.

- (h) Prevention, which is a process involving strategies aimed at the individual, the environment, or the substance, which strategies preclude, forestall, or impede the development of substance abuse problems and promote responsible personal and social growth of individuals and families toward full human potential.
- (i) Intervention, which consists of structured services targeted toward individuals or groups at risk and focused on reducing those factors associated with the onset or the early states of substance abuse, and related problems.

"Physician" means a person licensed under chapter 458 to practice medicine or licensed under chapter 459 to practice osteopathic medicine, and may include, if the context so indicates, an intern or resident enrolled in an intern or resident training programme affiliated with an approved medical school, hospital, or other facility through which training programmes are normally conducted.

"Secure facility" except where the context indicates a correctional system facility, means a provider that has the authority to deter the premature departure of involuntary clients whose leaving constitutes a violation of a court order or community based supervision as provided by law. The term "secure facility" includes addictions receiving facilities and facilities authorized by local ordinance for the treatment of habitual abusers.

"Service provider" or "provider" means a public agency, a private for profit or not for profit agency, a person who is a private practitioner, or a hospital, which agency, person, or hospital, is licensed under this chapter or exempt from licensure under this chapter.

"Stabilization" means: (a) alleviation of a crisis condition; or (b) prevention of further deterioration; - and connotes short-term emergency treatment.

Note: Section 397.601 provides that a person who wishes to enter treatment for substance abuse may apply to a service provider for voluntary admission. Within the financial and space capabilities of the service provider, a person must be admitted to treatment when sufficient evidence exists that the person is impaired by substance abuse and the medical and behavioural conditions of the person are not beyond the safe management capabilities of the service provider.

The service provider must emphasize admission to the service component that represents the least restrictive setting that is appropriate to the person's treatment needs.

The disability of minority for persons under 18 years of age is removed solely for the purpose of obtaining voluntary substance abuse impairment services from a licensed service provider, and consent to such services by a minor has the same force and effect as if executed by a client who has reached the age of majority. Such consent is not subject to later disaffirmance based on minority. Except for purposes of law enforcement activities in connection with protective custody, the disability of minority is not removed if there is an involuntary admission for substance abuse services, in which case parental participation may be required as the court finds appropriate.

B. *Noncourt Involved Admissions: Protective Custody (Sections 397.677-397.6775)*

Note: A law-enforcement officer may implement protective custody measures as specified in this part when a minor or an adult who appears to meet the involuntary admission criteria in s. 397.675 is: (1) brought to the attention of law enforcement; or (2) is in a public place.

A person in circumstances which justify protective custody, as described in Section 397.677, may consent to be assisted by a law-enforcement officer to his home, to a hospital, or to a licensed detoxification or addictions receiving facility, whichever the officer determines is most appropriate.

1. *Grounds:* (1) If a person in circumstances which justify protective custody as described in Section 397.677 fails or refuses to consent to assistance and a law-enforcement officer has determined that a hospital or a licensed detoxification or addictions receiving facility is the most appropriate place for the person.
2. *Application:* Officer.
3. *Decision-making authority:* The officer may, after giving due consideration to the expressed wishes of the person: (a) take the person to a hospital or to a licensed detoxification or addictions receiving facility against the person's will but without using unreasonable force; or (b) in the case of an adult, detain the person for his own protection in any municipal or county jail or other appropriate detention facility.

Note: Such detention is not to be considered an arrest for any purpose, and no entry or other record may be made to indicate that

the person has been detained or charged with any crime. The officer in charge of the detention facility must notify the nearest appropriate licensed service provider within the first eight hours after detention that the person has been detained. It is the duty of the detention facility to arrange, as necessary, for transportation of the person to an appropriate licensed service provider with an available bed.

The nearest relative of a minor in protective custody must be notified by the law-enforcement officer, as must the nearest relative of an adult, unless the adult requests that there be no notification.

4. *Medical examination:* Persons taken into protective custody must be assessed by the attending physician within 72 hours and without unnecessary delay, to determine the need for further services.
 5. *Treatment programme:* See paragraph 3 above.
 6. *Length of stay:* A client may only be retained in protective custody beyond the 72-hour period when a petition for involuntary assessment or treatment has been initiated. The timely filing of the petition authorizes the service provider to retain physical custody of the client pending further order of the court.
 7. *Appeal:* Not stated.
 8. *Periodic review:* See paragraph 6 above.
 9. *Discharge procedure(s):* A client who is in protective custody must be released by a qualified professional when: (a) he no longer meets the involuntary admission criteria in Section 397.675 (1); (b) the 72-hour period has elapsed; or (c) the client has consented to remain voluntarily at the licensed service provider.
 10. *Harm reduction:* Not stated.
 11. *Non-discrimination/Patients' rights/Provider's immunity:* For clients' rights, see summary of Section 397.501 above. A law-enforcement officer acting in good faith pursuant to this part may not be held criminally or civilly liable for false imprisonment.
- C. *Noncourt Involved Admissions: Emergency (Sections 397.679-397.6799)***
1. *Grounds:* A person who meets the criteria for involuntary admission in Section 397.675 may be admitted to a hospital or to a licensed

detoxification facility or addictions receiving facility for emergency assessment and stabilization, or to a less intensive component of a licensed serviced provider for assessment only, upon receipt by the facility of the physician's certificate and the completion of an application for emergency admission.

2. *Application:* The following persons may request an emergency admission: (1) in the case of an adult, the certifying physician, the person's spouse or guardian, any relative of the person, or any other responsible adult who has personal knowledge of the person's substance abuse impairment; (2) in the case of a minor, the minor's parent, legal guardian, or legal custodian.

Section 397.6795 provides that an applicant for a person's emergency admission or the person's spouse or guardian, a law-enforcement officer, or a health officer may deliver a person named in the physician's certificate for emergency admission to a hospital or a licensed detoxification facility or addictions receiving facility for emergency assessment and stabilization.

3. *Decision-making authority:* Not stated.
4. *Medical examination:* The physician's certificate for emergency admission must include the name of the person to be admitted, the relationship between the person and the physician, the relationship between the applicant and the physician, any relationship between the physician and the licensed service provider and a statement that the person has been examined and assessed within 5 days of the application date, and must include factual allegations with respect to the need for emergency admission, including:
 - (a) the reason for the physician's belief that the person is substance abuse impaired; and
 - (b) the reason for the physician's belief that because of such impairment the person has lost the power of self control with respect to substance abuse; and either:
 - (c) (1) The reason the physician believes that the person has inflicted or is likely to inflict physical harm on himself or others unless admitted; or 2. the reason the physician believes that the person's refusal to voluntarily receive care is based on judgement so impaired by reason of substance abuse that the person is incapable of appreciating his need for care and of making a rational decision regarding his need for care;

(2) The physician's certificate must recommend the least restrictive type of service that is appropriate for the person. The certificate must be signed by the physician.

(3) A signed copy of the physician's certificate must accompany the person, and must be made a part of the person's clinical record, together with a signed copy of the application. The application and the physician's certificate authorize the involuntary admission of the person pursuant to, and subject to the provisions of Sections 397.679-397.6797.

(4) The physician's certificate must indicate whether the person requires transportation assistance for delivery for emergency admission and specify, pursuant to Section 397.6795, the type of transportation assistance necessary.

5. *Treatment programme:* Within 72 hours after an emergency admission to a hospital or a licensed detoxification or addictions receiving facility, the client must be assessed by the attending physician to determine the need for further services. Within five days after an emergency admission to a non-residential component of a licensed service provider, the client must be assessed by a qualified professional to determine the need for further services. Based upon that assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional if a less restrictive component was used, must either: (1) release the client and, where appropriate, refer the client to other needed services; or (2) retain the client when: (a) the client has consented to remain voluntarily at the licensed provider; or (b) a petition for involuntary assessment or treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the client pending further order of the court.
6. *Length of stay:* See paragraph 5 above (up to five days).
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* See paragraph 5 above.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights :* For clients' rights, see summary of Section 397.501 above.

D. *Noncourt involved admissions and alternative involuntary assessment for minors (Sections 397.6798-397.6799)*

Note: *Section 397.6798* provides for non court involved admissions and alternative involuntary assessment for minors. In addition to protective custody, emergency admission, and involuntary assessment and stabilization, an addictions receiving facility may admit a minor for involuntary assessment and stabilization upon the filing of an application to an addictions receiving facility by the minor's parent, guardian, or legal custodian. The application must establish the need for involuntary assessment and stabilization based on the criteria for involuntary admission in *Section 397.675*.

E. *Court Involved Admissions, Civil Involuntary Proceedings; Generally (Section 397.681)*

Note: *Section 397.681* provides for involuntary petitions; general provisions; court jurisdiction and right to counsel. Regarding *jurisdiction*, the courts have jurisdiction of involuntary assessment and stabilization petitions and involuntary treatment petitions for substance abuse impaired persons, and such petitions must be filed with the clerk of the court in the county where the person is located. The chief judge may appoint a general or special master to preside over all or part of the proceedings. The alleged impaired person is named as the respondent. Concerning *right to counsel*, a respondent has the right to counsel at every stage of a proceeding relating to a petition for his involuntary assessment and a petition for his involuntary treatment for substance abuse impairment. A respondent who desires counsel and is unable to afford private counsel has the right to court-appointed counsel and to the benefits of *Section 57.081*. If the court believes that the respondent needs the assistance of counsel, the court shall appoint such counsel for the respondent without regard to the respondent's wishes. If the respondent is a minor not otherwise represented in the proceeding, the court must immediately appoint a guardian *ad litem* to act on the minor's behalf.

F. *Court Involved Admissions; Involuntary Assessment; Stabilization (Sections 397.6811-397.6822)*

Note: *Section 397.682* provides for involuntary petitions; general provisions; court jurisdiction and right to counsel for court involved admissions, civil involuntary proceedings.

The courts have jurisdiction of involuntary assessment and stabilization petitions and involuntary treatment petitions for substance abuse impaired persons, and such petitions must be filed with the clerk of the court in the county where the person is located. The chief judge may appoint a general or

special master to preside over all or part of the proceedings. The alleged impaired person is named as the respondent.

A respondent has the right to counsel at every stage of a proceeding relating to a petition for his involuntary assessment and a petition for his involuntary treatment for substance abuse impairment. A respondent who desires counsel and is unable to afford private counsel has the right to court-appointed counsel and to the benefits of Section 57.081. If the court believes that the respondent needs the assistance of counsel, the court shall appoint such counsel for the respondent without regard to the respondent's wishes. If the respondent is a minor not otherwise represented in the proceeding, the court must immediately appoint a guardian *ad litem* to act on the minor's behalf.

1. *Grounds:* (Section 397.6811 Involuntary assessment and stabilization). Person determined by the court to appear to meet the criteria for involuntary admission under Section 397.675
2. *Application:* Involuntary assessment and stabilization may be initiated by the submission of a petition to the court: (1) if the person upon whose behalf the petition is being filed is an adult, a petition for involuntary assessment and stabilization may be filed by the respondent's spouse or guardian, any relative, a private practitioner, the director of a licensed service provider or his designee, or any three adults who have personal knowledge of the respondent's substance abuse impairment; (2) if the person upon whose behalf the petition is being filed is a minor, a petition for involuntary assessment and stabilization may be filed by a parent, legal guardian, legal custodian, or licensed service provider.

Section 397.6814 (Involuntary assessment and stabilization; contents of petition). A petition for involuntary assessment and stabilization must contain the name of the respondent; the name of the applicant or applicants; the relationship between the respondent and the applicant; the name of the respondent's attorney, if known, and a statement of the respondent's ability to afford the need for involuntary assessment and stabilization, including:

- (1) the reason for the petitioner's belief that the respondent is substance abuse impaired; and
- (2) the reason for the petitioners' belief that because of such impairment the respondent has lost the power of self control with respect to substance abuse; and either
- (3) (a) the reason the petitioner believes that the respondent has inflicted or is likely to inflict physical harm on himself or others unless admitted; or

(b) the reason the petitioner believes that the respondent's refusal to voluntarily receive care is based on judgement so impaired by reason of substance abuse that the respondent is incapable of appreciating his need for care and of making a rational decision regarding his need for care. If the respondent has refused to submit to an assessment, such refusal must be alleged in the petition.

Section 397.6815 (Involuntary assessment and stabilization; procedure). Upon receipt and filing of the petition for the involuntary assessment and stabilization of a substance abuse impaired person by the clerk of the court, the court must ascertain whether the respondent is represented by an attorney, and if not, whether, on the basis of the petition, an attorney should be appointed; and shall:

- (1) provide a copy of the petition and notice of hearing to the respondent; the respondent's parent, guardian, or legal custodian, in the case of a minor; the respondent's attorney, if known; the petitioner; the respondent's spouse or guardian, if applicable; and such other persons as the court may direct, and have such petition and notice personally delivered to the respondent if he is a minor. The court must also issue a summons to the person whose admission is sought and conduct a hearing within 10 days; or
- (2) without the appointment of an attorney and, relying solely on the contents of the petition, enter an *ex parte* order authorizing the involuntary assessment and stabilization of the respondent. The court may order a law-enforcement officer or other designated agent of the court to take the respondent into custody and delivery him to the nearest appropriate licensed service provider.
- (3) Decision-making authority: Court. *Section 397.6818* (Court determination). At the hearing initiated in accordance with *Section 397.6811* (1), the court must hear all relevant testimony. The respondent must be present unless the court has reason to believe that his presence is likely to be injurious to him, in which event the court shall appoint a guardian advocate to represent him. the respondent has the right to examination by a court-appointed qualified professional. After hearing all the evidence, the court must determine whether there is a reasonable basis to believe the respondent meets the involuntary admission criteria of *Section 397.675*.

Based on its determination, the court must either dismiss the petition or immediately enter an order authorizing the involuntary assessment and stabilization of the respondent; or, if in the course of the hearing the court has reason to believe that the respondent, due to mental illness other than or in addition to substance abuse impairment, is likely to injure himself or another if allowed to remain at liberty, the court may initiate involuntary proceedings under the provisions of part I of chapter 394.

If the court enters an order authorizing involuntary assessment and stabilization, the order must include the court's findings with respect to the availability and appropriateness of the least restrictive alternatives and the need for the appointment of an attorney to represent the respondent, and may designate the specific licensed service provider to perform the involuntary assessment and stabilization of the respondent. The respondent may choose the licensed service provider to deliver the involuntary assessment where possible and appropriate.

If the court finds it necessary, it may order the sheriff to take the respondent into custody and deliver him to the licensed service provider specified in the court order or, if none is specified, to the nearest appropriate licensed service provider for involuntary assessment.

4. *Medical examination:* To a hospital or to a licensed detoxification facility or addictions receiving facility, for involuntary assessment and stabilization or to a less restrictive component of a licensed service provider for assessment only upon entry of a court order or upon receipt by the licensed service provider of a petition.

Section 397. 6819 (Involuntary assessment and stabilization; responsibility of licensed service provider). A licensed service provider may admit a client for involuntary assessment and stabilization for a period not to exceed five days. The client must be assessed without unnecessary delay by a qualified professional. If an assessment is performed by a qualified professional who is not a physician, the assessment must be reviewed by a physician prior to the end of the assessment period.

5. *Treatment programme:* See paragraph 4 above.
6. *Length of stay:* Period of five days [involuntary assessment and stabilization].

7. *Appeal:* Not stated.
8. *Periodic review: Section 397.6821* (Extension of time for completion of involuntary assessment and stabilization). If a licensed service provider is unable to complete the involuntary assessment and, if necessary, stabilization of a client within five days after the court's order, it may, within the original time period, file a written request of an extension of time to complete its assessment, and shall, in accordance with confidentiality requirements, furnish a copy to all parties. With or without a hearing, the court may grant additional time, not to exceed seven days after the date of the renewal order, for the completion of the involuntary assessment and stabilization of the client. The original court order authorizing the involuntary assessment and stabilization, or a request for an extension of time to complete the assessment and stabilization that is timely filed pursuant to this Section, constitutes legal authority to involuntarily hold the client for a period not to exceed 10 days in the absence of a court order to the contrary.
9. *Discharge procedure(s): Section 397.6822* (Disposition of client after involuntary assessment). **Based upon the involuntary assessment, a qualified professional of the hospital, detoxification facility, or addictions receiving facility, or a qualified professional when a less restrictive component has been used, must:**
 - (1) release the client and, where appropriate, refer the client to another treatment facility or service provider, or to community services; (2) allow the client, if the client has consented, to remain voluntarily at the licensed provider; or (3) retain the client when a petition for involuntary treatment has been initiated, the timely filing of which authorizes the service provider to retain physical custody of the client pending further order of the court. Adhering to Federal confidentiality regulations, notice of disposition must be provided to the petitioner and to the court.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.
- G. ***Court Involved Admissions; Involuntary Treatment (Sections 397.693-397.6977)***
 1. *Grounds: Section 397.693.* Person meets criteria for involuntary admission provided in Section 397.675 and: (1) has been placed under protective custody pursuant to Section 397.677 within the

previous 10 days; (2) has been subject to an emergency admission pursuant to Section 397.679 within the previous 10 days; (3) has been assessed by a qualified professional within five days; (4) has been subject to involuntary assessment and stabilization pursuant to Section 397.6818 within the previous 12 days; or (5) has been subject to alternative involuntary admission pursuant to Section 397.6822 within the previous 12 days.

2. *Application: Section 397.695.* (1) If the respondent is an adult, a petition for involuntary treatment may be filed by the respondent's spouse or guardian, any relative, a service provider, or any three adults who have personal knowledge of the respondent's substance abuse impairment and his prior course of assessment and treatment. (2) If the respondent is a minor, a petition for involuntary treatment may be filed by a parent, legal guardian, or service provider.

Petition for involuntary treatment must contain the name of the respondent to be admitted; the name of the petitioner or petitioners; the relationship between the respondent and the petitioner; the name of the respondent's attorney, if known, and a statement of the petitioner's knowledge of the respondent's ability to afford an attorney; the findings and recommendations of the assessment performed by the qualified professional; and the factual allegations presented by the petitioner establishing the need for involuntary treatment, including:

(1) the reason for the petitioner's belief that the respondent is substance abuse impaired; and (2) the reason for the petitioners' belief that because of such impairment the respondent has lost the power of self control with respect to substance abuser; and either (3) (a) the reason the petitioner believes that the respondent has inflicted or is likely to inflict physical harm on himself or others unless admitted; or (b) the reason the petitioner believes that the respondent's refusal to voluntarily receive care is based on judgement so impaired by reason of substance abuse that the respondent is incapable of appreciating his need for care and of making a rational decision regarding his need for care.

3. *Decision-making authority: Section 397.6955.* Upon filing of a petition for the involuntary treatment of a substance abuse impaired person with the clerk of the court, the court must immediately determine whether the respondent is represented by an attorney or whether the appointment of counsel for the respondent is appropriate. The court must schedule a hearing to be held on the petition within 10 days. A copy of the petition and notice of the hearing must be

provided to the respondent; the respondent's parent, guardian, or legal custodian, in the case of a minor; the respondent's attorney, if known; the petitioner; the respondent's spouse or guardian, if applicable; and such other persons as the court may direct, and have such petition and order personally delivered to the respondent if he is a minor. The court must also issue a summons to the person whose admission is sought.

Section 397. 3957.

- (1) At a hearing on a petition for involuntary treatment, the court must hear and review all relevant evidence, including the review of results of the assessment completed by the qualified professional in connection with the respondent's protective custody, emergency admission, involuntary assessment, or alternative involuntary admission. The respondent must be present unless the court finds that his presence is likely to be injurious to himself or others, in which event the court must appoint a guardian advocate to act in behalf of the respondent throughout the proceedings.
 - (2) The petitioner has the burden of proving by clear and convincing evidence: (a) the respondent substance abuse impaired; and (b) because of such impairment the respondent has lost the power of self control with respect to substance abuse; and either: 1. the respondent has inflicted or is likely to inflict physical harm on himself or others unless admitted; or 2. the respondent's refusal to voluntarily receive care is based on judgement so impaired by reason of substance abuse that the respondent is incapable of appreciating his need for care.
 - (3) At the conclusion of the hearing the court shall either dismiss the petition or order the respondent to undergo involuntary substance abuse treatment, with the respondent's chosen licensed service provider to deliver the involuntary substance abuse treatment where possible and appropriate.
4. *Medical examination:* See paragraph 3 above regarding the results of the assessment completed by the qualified professional in connection with the respondent's protective custody, emergency admission, involuntary assessment, or alternative involuntary admission.
 5. *Treatment programme:* Section 397.697 (Court determination; effect of court order for involuntary substance abuse treatment):
 - (1) When the court finds that the conditions for involuntary substance abuse treatment have been proved by clear and convincing evidence, it may order the respondent to undergo

involuntary treatment by a licensed service provider for a period not to exceed 60 days. If the court finds it necessary, it may direct the sheriff to take the respondent into custody and deliver him to the licensed service provider specified in the court order, or to the nearest appropriate licensed service provider, for involuntary treatment. When the conditions justifying involuntary treatment no longer exist, the client must be released as provided in Section 397.6971. When the conditions justifying involuntary treatment are expected to exist after 60 days of treatment, a renewal of the involuntary treatment order may be requested pursuant to Section 397.6975 prior to the end of the 60-day period.

- (2) In all cases resulting in an order for involuntary substance abuse treatment, the court shall retain jurisdiction over the case and the parties for the entry of such further orders as the circumstances may require. The court's requirements for notification of proposed release must be included in the original treatment order.
- (3) An involuntary treatment order authorizes the licensed service provider to require the client to undergo such treatment as will benefit him, including treatment at any licensable service component of a licensed service provider.

6. *Length of stay:* Period not to exceed 60 days. See paragraph 5 above.

7. *Appeal:* Not stated.

8. *Periodic review:* Section 397.6975 (Extension of involuntary substance abuse treatment period.)

- (1) Whenever a service provider believes that a client who is nearing the scheduled date of release from involuntary treatment continues to meet the criteria for involuntary treatment in Section 397.693, a petition for renewal of the involuntary treatment order may be filed with the court at least 10 days prior to the expiration of the court-ordered treatment period. The court must immediately schedule a hearing to be held not more than 15 days after filing of the petition. The court must provide the copy of the petition for renewal and the notice of the hearing to all parties to the proceeding. The hearing is conducted pursuant to Section 397.6957.
- (2) If the court finds that the petition for renewal of the involuntary treatment order should be granted, it may order the respondent to undergo involuntary treatment for a period not to exceed an additional 90 days. When the conditions

justifying involuntary treatment no longer exist, the client must be released as provided in Section 397.6971. When the conditions justifying involuntary treatment continue to exist after 90 days of additional treatment, a new petition requesting renewal of the involuntary treatment order may be filed pursuant to this section.

9. *Discharge procedure(s): Section 397.6971* (Early release from involuntary substance abuse treatment):
- (1) At any time prior to the end of the 60-day involuntary treatment period, or prior to the end of any extension granted pursuant to Section 397.6975, a client admitted for involuntary treatment may be determined eligible for discharge to the most appropriate referral or disposition for the client when: (a) the client no longer meets the criteria for involuntary admission and has given his informed consent to be transferred to voluntary treatment status; (b) if the client was admitted on the grounds of likelihood of infliction of physical harm upon himself or others, such likelihood no longer exists; or (c) if the client was admitted on the grounds of need for assessment and stabilization or treatment, accompanied by inability to make a determination respecting such need, either: 1. such inability no longer exists; or 2. it is evident that further treatment will not bring about further significant improvements in the client's condition; (d) the client is no longer in need of services; or (e) the director of the service provider determines that the client is beyond the safe management capabilities of the provider.
 - (2) Whenever a qualified professional determines that a client admitted for involuntary treatment is ready for early release for any of the reasons listed in subsection (1), the service provider must immediately discharge the client, and must notify all persons specified by the court in the original treatment order.

Section 397.6977 (Disposition of client upon completion of involuntary substance abuse treatment). At the conclusion of the 60-day period of court-ordered involuntary treatment, the client is automatically discharged unless a motion for renewal of the involuntary treatment order has been filed with the court pursuant to Section 397.6975.

10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.

United States of America (Massachusetts)

Legislation: The commitment treatment and rehabilitation of alcohol- and drug-dependent persons are dealt with under three separate chapters of the General Laws.

- A. *Chapter 123 of the General Laws: treatment and commitment of mentally ill and mentally retarded persons.*

Note: Provision for the involuntary commitment of alcohol-dependent persons is made in Section 35. There is no comparable provision for drug-dependent persons.

Section 35 (Commitment of alcoholics; care and treatment) defines "alcoholic" to mean a person who chronically or habitually consumes alcoholic beverages to the extent that: (1) such use substantially injures his health or substantially interferes with his social or economic functioning; or (2) he has lost the power of self-control over the use of such beverages. Any police officer, physician, spouse, blood relative or guardian may petition in writing any district court for an order of commitment of a person whom he has reason to believe is an alcoholic. Upon receipt of a petition for an order of commitment of a person and any sworn statements the court may request from the petitioner, the court must immediately schedule a hearing on the petition and cause a summons and a copy of the application to be served upon the person in the manner provided by Section 25 of Chapter 276. If the person fails to appear at the time summoned, the court may issue a warrant for the person's arrest. The person has the right to be represented by legal counsel and may present independent expert or other testimony. If the court finds the person indigent, it must immediately appoint counsel. The court must order examination by a qualified physician. If, after a hearing, the court, on the basis of competent medical testimony, finds that said person is an alcoholic and that there is a likelihood of serious harm as a result of his alcoholism, it may order such person to be committed for a period not to exceed 15 days.

- B. *Chapter 111B of the General Laws: Alcoholism Treatment and Rehabilitation Law of 1971, as amended.*

Note: The following terms are defined in Section 3 of Chapter 111B (Voluntary and emergency detoxification):

"Alcoholism" means a medically diagnosable disease characterized by chronic, habitual or periodic consumption of alcoholic beverages resulting in: (1) substantial interference with an individual's social or economic functions in the community; or (2) the loss of powers of self-control with respect to the use of such beverages.

"Facility" means any public or private place, or portion thereof, providing services especially designed for the detoxification of intoxicated persons or alcoholics.

"Halfway house for alcoholics" means an intermediate care centre in a community, providing temporary residential accommodation, guidance, supervision, and personal adjustment services for a group of three or more sober alcoholics, but is not a facility as defined above or a permanent residence.

"Incapacitated" means the condition of an intoxicated person who, by reason of the consumption of intoxicating liquor is: (1) unconscious; (2) in need of medical attention; (3) likely to suffer or cause physical harm or damage property; or (4) disorderly.

"Independent physician" means a physician other than one holding an office or appointment in any department, board, or agency of the commonwealth, or in any public facility.

The Law deals separately with the assistance of an incapacitated person to a facility (Section 8) and with admission to a facility, after-care, etc. (Section 7).

- (a) *Assistance of an incapacitated person to a facility.*
1. *Grounds:* Any person who is incapacitated.
 2. *Application:* Any person who is incapacitated may be assisted by a police officer, with or without his consent, to his residence, to a facility or to a police station.
 3. *Decision-making authority:* If any incapacitated person is assisted to a police station, the officer in charge of his designee must notify forthwith the nearest facility that the person is being held in protective custody. If suitable treatment services are available at a facility, the Department of Mental Health must thereupon arrange for the transportation of the person to the facility in accordance with the provisions of Section 7 of Chapter 111B of Massachusetts General Laws (see below).

Note: A person assisted to a facility or held in protective custody by the police pursuant to these provisions, must not be considered to have been arrested or to have been charged with any crime. An entry of custody must be made indicating the date, time, place of custody, the name of the assisting officer, the name of the officer in charge, whether the person held in custody exercised

his right to make a phone call, whether the person held in custody exercised his right to take a breathalyser test, and the results of the breathalyser test if taken, which entry must not be treated for any purposes as an arrest or criminal record.

4. *Medical examination:* To determine for the purposes of this Chapter only, whether or not such a person is intoxicated, the police officer may request the person to submit to reasonable tests of coordination, coherence of speech, and breath.

Any person assisted by a police officer to a police station has the right, and must be informed in writing of said right, to request and be administered a breathalyser test. Any person who is administered a breathalyser test is presumed intoxicated if evidence from said test indicates that the percentage of alcohol in his blood is 10% or more and must be placed in protective custody at a police station or transferred to a facility. Any person who is administered a breathalyser test must be presumed not to be intoxicated if evidence from said test indicates that the percentage of alcohol in his blood is 5% or less and must be released from custody forthwith. If any person who is administered a breathalyser test and evidence from said test indicates that the percentage of alcohol in his blood is more than 5% and less than 10% no presumption may be made based solely on the breathalyser test. In such instance a reasonable test of coordination or speech coherence must be administered to determine if said person is intoxicated. Only when such tests of coordination or speech coherence indicates said person is intoxicated may he be placed in protective custody at a police station or transferred to a facility.

5. *Treatment programme:* A programme of detoxification treatment for no longer than 48 hours.
6. *Length of stay:* No person assisted to a police station pursuant to the above provisions may be held in protective custody against his will; provided, however, that if suitable treatment at a facility is not available, an incapacitated person may be held in protective custody at a police station until he is no longer incapacitated or for a period of no longer than 12 hours, whichever is shorter.
7. *Appeal:* Not stated.
8. *Periodic review:* Not stated.
9. *Discharge procedure(s):* The patient may be discharged at the discretion of the administrator of the detoxification centre or at the request of the patient. The patient is encouraged to consent to appropriate outpatient or after-care treatment.

- (b) *Admission to a facility, after-care, etc.*
1. *Grounds:* Any person who is intoxicated and voluntarily applies for treatment at a detoxification facility or is brought to said facility in accordance with the provisions previously described.
 2. *Application:* By person or by a police officer.
 3. *Medical examination:* Prior to the admission of any person, the administrator of the facility must cause him to be evaluated by physician-supervised personnel, experienced in alcoholism diagnosis. If there is any concern about the health or the immediate treatment needs of such person, he must be examined by a physician.
 4. *Treatment programme:* If upon said evaluation or examination, a determination is made that the person is intoxicated or is an alcoholic, and adequate and appropriate treatment is available, he must be admitted. If any person is not admitted for the reason that adequate and appropriate treatment is not available at the facility, the administrator of the facility, acting whenever possible with the assistance of the director, or his designee, must refer the person to a facility at which adequate and appropriate treatment is available. If a person is not admitted to a facility, and has no funds, the administrator must arrange for the person to be assisted to his residence, or if he has no residence to a place where shelter will be provided him.
 5. *Length of stay:* Up to 48 hours (see paragraph 6 below).
 6. *Discharge procedure(s):* Any person admitted to a facility must receive treatment at the centre or facility for as long as he wishes to remain or until the administrator determines that treatment will no longer benefit him; provided, however, that any person who at the time of admission is intoxicated or incapacitated, must remain at the facility until he is no longer incapacitated, but in no event may he be required to remain for a period greater than 48 hours.

Note: If any such person is committed for rehabilitative purposes to the Massachusetts correctional institution, Bridgewater, or to the Massachusetts correctional institution, Framingham, he must be required to remain for a period of not less than 10 days.

C. *Chapter 111E of the General Laws: Drug Rehabilitation Law of 24 December 1981.*

Note: Under Section 8 [(Voluntary) admission to facilities; application; inpatient and outpatient treatment; discharge; readmission], a "drug-dependent person" is defined as "a person who is unable to function effectively and whose inability to do so causes, or results from, the use of a drug other than alcohol, tobacco or lawful beverages containing caffeine, and other than from a medically prescribed drug when such drug is medically indicated and the intake is proportional to the medical need."

1. *Grounds:* Person believes that he is a drug-dependent person.
2. *Application:* Any person who believes that he is a drug-dependent person may apply for admission to a facility. Such application may be made either to the director or to the administrator of a public or private facility.
3. *Decision-making authority:* If the director finds that the person is a drug-dependent person who would benefit by treatment, he may cause him to be admitted to a facility as an inpatient or outpatient.

In determining whether to admit to a facility a person who is reported to be a drug-dependent person who would benefit by treatment, the director must consider the past record of treatment, if any, afforded the person at a facility, and whether or not the person complied with the terms of any prior admission.

4. *Medical examination:* Upon receipt of an application for admission, the director must designate a psychiatrist or if, in the discretion of the director, it is impracticable to do so, a physician to make an examination of the person to determine whether or not he is a drug-dependent person who would benefit by treatment. The psychiatrist or physician must report his findings in writing to the director after the completion of the examination, stating the facts upon which the findings are based and the reasons thereof.
5. *Treatment programme:* The administrator may transfer any inpatient to an outpatient programme if he finds that the patient is a proper subject for such a programme, provided, however, that the administrator may return any such patient to an inpatient programme if he deems it appropriate. A patient originally admitted to a facility as an outpatient must not be transferred to an inpatient programme without his written consent.

Each patient admitted is subject to the supervisory powers of the administrator exercised in accordance with the rules and regulations.

Before causing a person to be admitted to a facility, the director may make a recommendation to the person as to the period deemed necessary to accomplish adequate and appropriate treatment, but in no case may the period exceed one year. The director **must** also notify the person of the nature of the treatment to be afforded and the facility to which he will be admitted. If the person consents in writing to the admission to the facility, the period deemed necessary to accomplish treatment and the nature of the treatment, he may be admitted to a facility.

If the director decides that the **applicant** is to be refused admission to a facility because he is not a drug-dependent person who would benefit by treatment or because adequate treatment is not available at an appropriate facility, he must make known in writing to the applicant the basis for his decision.

6. *Length of stay:* Not more than one year.
7. *Discharge procedure(s):* A patient admitted to a facility may receive treatment at the facility so long as the administrator believes that it will continue to benefit him. Any patient may, at any time, notify the administrator in writing that he wishes to **terminate** treatment. Upon receipt of any such notification the administrator **must** determine whether further treatment would benefit the patient, and must inform the patient of his determination. If the administrator determines that he would not benefit by such further treatment, the patient must be discharged from the facility. If the administrator determines that he would so benefit, he must so advise the patient. If the patient chooses to terminate treatment despite the determination by the administrator that the patient would benefit by further treatment at the facility, the administrator must notify the director that the patient has caused treatment to be terminated during the recommended period against the advice of the administrator. If the patient applies for readmission for treatment in any facility, the fact that treatment has been terminated during the recommended period against the advice of the administrator may be considered in determining whether or not to readmit him, and, if the patient is readmitted, in determining to which facility he should be readmitted for treatment.

Note: Provisions governing the emergency treatment of a drug-dependent person are contained in Section 9 of Chapter 111E, as follows:

Any facility may afford emergency treatment to a drug-dependent person or a person in need of immediate assistance due to the use of a dependence-related drug if the person requests such treatment. The term of emergency treatment must not exceed 48 hours without compliance with the provisions relating to procedures for admission to a facility; provided, however, that if prior to the termination of the emergency treatment period the person applies for

admission, he may, in the discretion of the administrator, continue to receive treatment at the facility while his application is under consideration.

Venezuela

Legislation: Resolution No. G-1112 of 16 June 1988.

1. *Grounds:* Drug-dependent persons and potential drug-users.

"Treatment and rehabilitation centres for drug-dependent persons and potential drug-users" means public and private establishments set up in order to dispense medical and psychiatric care.

The following are to be considered as dispensing care to drug-dependent persons and potential drug-users: establishments under the responsibility of the Ministry of Health and Social Welfare, the States, and the municipalities, as well as independent institutes and foundations, or private individuals in accordance with this Resolution. Approved establishments for the provision of care include: (1) psychiatric hospitals; (2) psychiatric departments of general hospitals; (3) therapeutic communities; (4) centres for the social reintegration of psychiatric patients; and (5) outpatient psychiatric departments.

2. *Application:* Under Section 16, centres for the treatment and rehabilitation of persons must provide care to persons requesting such treatment and rehabilitation voluntarily; or who are referred to such centres by health establishments or by other institutions.

3. *Decision-making authority:* Not stated.

4. *Medical examination:* Not stated.

5. *Treatment programme:* Under Section 10, the general objective of care establishments is to offer the therapeutic options necessary for the patient's improvement, as well as reintegration into his family and social environment. To this end, such establishments must: (1) provide integrated care to all persons who come to such establishments requesting clinical care, in order to overcome the problem of drug dependence; (2) provide guidance, care, and treatment to families who come to the centre because one of their members is a drug user; (3) carry out research activities in the field of drug dependence; and (4) evaluate the corresponding action programme.

Under Section 11, the care establishments must be equipped with a treatment and rehabilitation department, as well as a prevention, training and research department. Section 14 lays down that public and private establishments for

treatment and rehabilitation must be supervised by psychiatrists or clinical psychologists with experience in the field of drug dependence and training in public health.

Section 17 provides that, in addition to the taking of the patient's medical history and a complete psychological examination, a record card must be filled in for the drug consumption register; the card must be forwarded to the mental health unit.

Section 19 states that the treatment and rehabilitation of drug-dependent persons varies according to the degree of severity of the condition, the degree of intoxication, and the capacity for rehabilitation. The types of treatment and the rehabilitation methods applicable are specified.

Section 22 provides that the social reintegration of drug-dependent persons must be the fundamental objective of the care team.

Section 25 provides that outpatient services providing medical and psychiatric care must be equipped with a multidisciplinary team facilitating the care of patients from the biological, psychological, and stand-points.

6. *Length of stay:* Under Section 23, care establishments must ensure that the therapeutic process and the social reintegration of the persons concerned continue for a period of at least two years.
7. *Appeal:* Not stated.
8. *Periodic review:* Section 24 provides for the preparation, every six months, of an evaluation report on the activities of the care establishments.
9. *Discharge procedure(s):* Not stated.
10. *Harm reduction:* Not stated.
11. *Non-discrimination/patients' rights, responsibilities:* Under Section 18, the patient's representative must undertake, by means of a sworn written declaration made at the centre, to collaborate actively in the treatment of the person he represents, in accordance with the Organic Law on Narcotics and Psychotropic Substances.

Note: See section A2.2 for a summary of the Organic Law on Narcotics and Psychotropic Substances.

Viet Nam

Legislation: Constitution of the Socialist Republic of Viet Nam.

Note: Article 61 of the Constitution, adopted on 15 April 1992 at the Eleventh Session of the Eight National Assembly, provides, in part: "(i) it is strictly forbidden to produce, carry, traffic, store, or illegally use opium and other narcotics. The State stipulates a mandatory system for weaning addicts and for treating other dangerous social diseases."

Zimbabwe

Legislation: The Mental Health Act, 1976.

Note: It is reported that the Inebriates Act dated 4 December 1942 (CAP 64)(IA) was promulgated to provide for the treatment of abusers of alcohol by ordering their detention at inebriates reformatories for rehabilitation. No evidence was found of the implementation of this Act. The Social Welfare Assistance Act, 1988 (SWAA) also provides for rehabilitation and institutional nursing without special reference to drugs and alcohol. The Mental Health Act makes broad provision for rehabilitation, including that of minors.

1. *Grounds:* Patient who is mentally disordered or defective and is an inebriate. "Patient" means a person who is mentally disordered or defective; or concerning whom proceedings under this Act are considered necessary to determine whether or not he is mentally disordered or defective.
2. *Application:* Reception order: An application for the issue of a reception order in respect of a person who is believed to be mentally disordered or defective must be made in the prescribed form by the husband or wife or other near relative of the patient or by any other person who has attained the age of 21 years.
In the application the applicant must state:
 - (a) that he believes that the person in respect of whom the application is made (i.e. the patient) is mentally disordered or defective; and
 - (b) the grounds on which he believes that the patient is mentally disordered or defective; and
 - (c) the degree of consanguinity or affinity in which the applicant is related to the patient, and if he is not the husband or wife or other near relative, the reason why the application is made by the applicant instead of by the husband or wife or near relative; and
 - (d) that the applicant has, within the seven days preceding the day on which the application was signed, personally seen the patient.

The magistrate must receive the application within seven days of its signature. The magistrate may examine the patient named in the application; and must obtain from two medical practitioners certificates in the prescribed form as to the mental state of that patient. The magistrate may obtain the medical certificate from only one medical practitioner if a second is not also available. The magistrate may authorize the police to apprehend the patient and bring him before the magistrate for examination. All proceedings are private, except that on the request of a near relative of the patient, the proceedings may be conducted in public if the magistrate thinks fit.

3. *Decision-making authority:* No person can be permissibly received or detained as a patient in an institution, special institution or other place except under the authority of an order of a magistrate, a judge or a court in accordance with this Act.

- (a) Reception order: If pursuant to paragraph 2 above, the magistrate upon review of the medical certificates, is satisfied that the patient is mentally disordered or defective and is an inebriate the magistrate may issue a reception order directing that the patient be removed to, and received and detained in, an institution to be named in the order and the superintendent thereof must receive and detain the patient.

An inebriate means "a person who habitually drinks to excess or who uses any drug to excess".

Within 10 days after reception of the patient, the superintendent of the institution must furnish to the official curator *ad litem* a report as to the mental condition of the patient during the period of detention which has been made by a medical practitioner attending the patient; and which is based upon an examination of the patient made not less than two or more than 10 days after the date of his admission. After receiving the report, the curator *ad litem* must, unless the person has been discharged under this Act, transmit the order and all statements for consideration by a judge in chambers.

- (b) Judge's order: The judge may perform any of five actions specified in the Act, including immediate discharge of the person, or further detention of the patient, either for a definite or an indefinite period, as he may deem necessary.

The Secretary may at any time after a magistrate issues a reception order or a court declares a person to be mentally disordered or defective, by warrant, order the removal of the patient from the place where he is detained to an institution or other place.

4. *Medical examination:* No reception order may be granted unless each medical certificate shows that the medical practitioner has personally examined the patient not more than 14 days before the date of the reception order. The medical practitioner giving a medical certificate must, in addition to the facts indicating mental disorder or defect in the patient, also indicate other facts observed by him, such as the reasons why he considers it necessary in the interest of the health and safety of the patient or for the protection of other persons that the patient should be detained in an institution.
5. *Treatment programme:* Reception order. After the reception order is issued, the patient must be moved to the institution as soon as possible, and the magistrate may order care, control and detention of the patient at his home or place of abode or elsewhere pending admission to institution. A magistrate may direct that the patient be received, treated and detained in single care in a private dwelling house and not in an institution.
6. *Length of stay:* (a) Reception order: not exceeding six weeks; (b) judge's order: at judge's discretion.
7. *Appeal:* See paragraph 6 above.
8. *Periodic review:* When a patient is detained in an institution or other place, the superintendent must transmit to the Secretary for the first three years annually; and thereafter in the sixth year and subsequently every five years a report on the mental and physical condition of the patient.
9. *Discharge procedure(s):* A superintendent may discharge from an institution or other place any person if he is satisfied that the person is no longer mentally disordered or defective or no longer requires detention in the institution or other place.
10. *Harm reduction:* Not stated.
11. *Non-discrimination:* Not stated.