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**Executive By-Law of the Law on Combating Narcotics
As Amended and Accession of Articles Thereof**

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LAWS AND REGULATIONS

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**EXECUTIVE BY-LAW OF THE LAW ON COMBATING NARCOTICS AS AMENDED
AND ACCESSION OF ARTICLES THEREOF**

Official Gazette No. 15826, dated 30.6.1999 (9.4.1378)

No. 250/5703/3891

Date: June 9, 1999

This Executive By-Law is drawn up and notified in implementation of Article 34 to the Law on Combating Narcotics As Amended and Accession of Articles Thereto, approved on November 8, 1997¹ by the Expediency Council.

Article 1: Definitions and Terms

A. Law: The term "Law" in this By-Law shall mean the Law on Combating Narcotics As Amended And Accession of Articles Thereto, approved by the Expediency Council on November 8, 1997.

B. The Headquarters Combating Narcotics hereinafter called "Headquarters": Means the "Headquarters Combating Narcotics" in which all executive and judicial measures, preventive measures, public education and propagation against narcotics are concentrated in implementation of Article 33 to the Law mentioned above.

C. The Coordination Council Combating Narcotics hereinafter called the "Coordination Council": Provincial councils, subject of Article 8 to the establishments and statement of the duties of the Headquarters, have been established by virtue of the decree approved at the 11th session of the Headquarters dated February 28, 1989 operating under the direct supervision of the center.

D. Discovering Organization: It is an organization whose agents have directly participated in the operations of crime discovery and arrest of the suspects and their names have been mentioned in the initial minutes.

¹ Please see LIS dated September 30, 1998.

E. Sale Committee: Means the committees being subject of Article 1 to the General Executive By-Laws Concerning the Sale of Movable and Immovable Properties, subject of the Law on Combating Narcotics, approved at the 30th session of the Headquarters dated December 14, 1989.

F. Property Identification Committee: Is a committee established, by virtue of the Decree approved by the Headquarters at its 52nd session dated June 25, 1996 comprising the representatives of the Islamic Revolution Court, the Disciplinary Force and the Intelligence Ministry, for the purpose of identifying the movable and immovable properties of drug traffickers and operating under the supervision of the Coordination Council.

G. Crime Investigators: All legal executive officers who work, by virtue of the regulations, for narcotics crimes as well as identifying and arresting the suspects.

Article 2: Perpetrators of narcotics crimes who have committed crimes prior to the date of indispensability of this Law (September 22, 1998) shall be sentenced, by virtue of Article 11 to the Islamic Penal Code², provided that the punishment predicted in this Law is less severe than the previous punishments. Otherwise the culprits shall be sentenced to the punishments stipulated in the previous law.

Article 3: It shall be an obligation to observe, in Articles 6 and 9 of the Law, proportion and

² **Article 11 to the Islamic Penal Code:** Under government rules and regulations, punishments as well as safeguarding and correctional measures shall be carried out on the basis of a law stipulated prior to the occurrence of the crime and no act or omission of an act shall be punished as crime by virtue of the subsequent law. Yet, if a law is enacted after the occurrence of the crime on the basis of mitigation of punishment or non-punishment or prescription of lighter treatment of the perpetrator compared to the previous crimes under the said law, shall be effective until issuance of a final verdict.

If a final binding verdict has been issued on the basis of the previous law, the following measures shall be taken:

1. If an act has been considered a crime in the past and is not considered a crime in the subsequent law, the final verdict shall not be enforced and if the verdict is in the process of enforcement, it shall be suspended. In these two cases and in cases where the verdict has already been enforced, no punishment shall be considered. These regulations shall not apply to the laws enacted for a certain period and in certain cases.

2. If punishment for a crime, on the basis of the subsequent law, is mitigated, the judgment debtor may demand mitigation of the punishment determined. In such a case the court issuing the verdict and/or the substitute court shall mitigate, on the basis of the subsequent law, the previous punishment.

3. If punishment for a crime is altered, on the basis of the subsequent law, into safeguarding and correctional measures, only the same measures shall be passed.

pay attention to the amount of narcotics whose reoccurrence (of crime) may be considered as the basis for aggravation of penalty.

Article 4: In Implementation of Article 15 of the Law:

- a. The order suspending prosecution shall be issued when the accused has already introduced himself to the rehabilitation centers stated in this Law.
 - b. All treatment centers, physicians and private clinics obtaining authorization from the Ministry of Health and Medical Education to cure addiction may treat the addicts.
- The executive instruction of this Article shall be drawn up, within a period of one month, by the Ministry of Health and Medical Education and notified, after confirmation by the Headquarters, for enforcement.

Article 5: In case of addicts covered by Article 16 of the Law, the court may exercise, in order to prevent reoccurrence of crime, the provisions of Article 19 to the Islamic Penal Code³ and the Prevention of Crimes Act.

Article 6: The immediate relatives of a defendant, mentioned in Note 1 to Article 21 of the Law, shall be those stated in Articles 1031, 1032 and 1033⁴ to the Civil Code and include the

³ **Article 19 to the Islamic Penal Code:** The court may deprive, a person sentenced to preventive punishments (Ta'zir) due to deliberately committing a crime, of his social rights as completion of the preventive verdict for a period and prohibit him from taking residence in a certain place/s or compel him to take residence in a certain place.

⁴ **Article 1031:** Relationship is of two kinds: relationship by blood and relationship by marriage.
Article 1032: Blood relationship shall be in the categories as follows:
Category one: Father, mother, children and grandchildren.
Category two: Ancestors, brother, sister and their children.
Category three: Paternal uncles and maternal aunts and their children.
In each category, grade of relationship and the degree of relationship by marriage shall be determined on the basis of the number of generations in that category. For instance, in the first category the relationship of parents with the children shall be in the first grade and relationship with the grandchildren in the second grade. Similarly, in the second category, relationship of brother and sister with grandparents shall be in the first grade of the category two and with the children of brother and sister and father's ancestors in the second grade of category two. In category three, relationship of paternal uncle, maternal uncle, paternal aunt and maternal aunt shall be in the first grade and with their children in the second grade of category three.

Article 1033: Anyone having blood relationship of any degree and of any grade with another individual shall have relationship by marriage of the same degree with his wife or her husband. Therefore, the father-in-law and mother-in-law of a man shall be considered first grade relatives and sister-in-law and brother-in-law of a woman shall be considered her second grade relationship by marriage.

immediate relatives of blood and affinity.

Article 7: In implementation of Article 24 of the Law and considering the provisions of Article 2 to this Law, it shall be necessary to establish the intention to produce narcotics for the purpose of destroying cultivation of hemp.

Article 8: The court may obtain, if necessary and prior to the issuance of verdict, the opinion of the laboratory concerning the type of narcotics.

Note: The penalty stipulated in the verdict shall be determined on the basis of the exact amount of narcotics discovered (without cover).

Article 9: If penalty for an attributed crime is confiscation of property, the court may, by virtue of Article 27 to the Revolutionary Courts and Prosecutor's Offices By-Laws, identify and confiscate at the earliest convenience, in addition to issuing writ of attachment, through crime investigators at the Property Identification Committees or through any other proper method, all the movable (rial and foreign currency funds, domestic and foreign bank accounts, precious items, jewels, shares and letters of credit, cheques, etc.) and immovable properties upon the announcement of prohibition of transaction to the Registration and Obstruction of Bank Accounts Section at the Department Supervising Banking Affairs, and in addition to ordering preparation of their accurate list and investigation of the documents, deposit them with a trustee or confiscate them or seal them, as the case may be. The provisions of this Article may also include the run away defendants.

Note 1: In case of heavy crimes, the court may confiscate the properties, after identification equal to the amount of the fine.

Note 2: The court may transfer, within a maximum period of one week, the list of properties confiscated to the Coordination Council.

Article 10: As for the defendants arrested or those escaped, the court may issue, in implementation of Article 28 to the Revolutionary Courts and Prosecutor's Offices By-Laws, order for confiscation of their properties if it finds that the prisoner (defendant) has transferred, for the purpose of evading enforcement of law and payment of the penalties, his movable and immovable properties in any way to others including his wife and children, and issue, when the occasion arises, verdict, on the basis of Article 4 to the Law Concerning the Method of Enforcing Financial Convictions, on the cancellation of the fictitious transfer.

Article 11: If the judgment debtor declines to pay the cash fine while the court issuing the verdict ascertains that he can afford pay the fine, the said court may issue order to sell the properties exceeding exceptions and collect government incomes equal to the amount of the cash fine specified.

Article 12: The court shall be obligated to investigate, prior to making decision and issuing the verdict on confiscation of the properties, documents and deeds related to ownership of the said properties whether ordinary or official as well as the claim of ownership by a third party on the properties mentioned above, and then make a decision.

Objection of a third person to the confiscation shall be accepted, with due observation of the provisions of the Civil Procedure Code, in the court issuing the verdict upon submission of a petition.

Vehicles whose ownership by others has been proved shall be confiscated merely if the owner has had knowledge about shipment of narcotics by such vehicles.

Note 1: The debts and financial obligations of the judgment debtor the authenticity of which has been confirmed by the court shall be outside the sphere of the confiscation order, and the verdict shall be enforced after deducting the debts.

Note 2: Enforcement of the provisions of the Article above shall not prevent collection of the cash fine out of the existing funds.

Article 13: Determination of exceptions for the properties confiscated, in order to meet the reasonable living expenses for the family of the judgment debtor, shall be so that the family of the judgment debtor does not face difficulty to make ends meet and consider housing and living expenses, number of children as well as treatment and education expenses.

Article 14: If properties belonging to the judgment debtor is, in all the cases that the verdicts issued result to the confiscation of properties, identified after the issuance of the final ruling whose origin of ownership is prior to the conviction, the court issuing the initial verdict shall re-investigate the matter and issue an amended verdict.

Article 15: Any exploitation and utilization of movable and immovable properties especially the confiscated vehicles including those carrying materials or otherwise by all natural persons and legal entities shall be prohibited prior to the issuance of the final verdict.

The violators shall be prosecuted according to the legal provisions, as the case may be. The Headquarters or the Coordination Council or the beneficiary shall have the responsibility for the prosecution on the basis of their rights.

Note 1: The properties confiscated shall be put at the disposal of the Headquarters or the Coordination Council for protection and safeguarding under the supervision of the court concerned.

The secretariat of the Headquarters shall be required to draw up, within a period of one month, the instruction for safeguarding and administering the properties, and provide the facilities required for safeguarding the said properties after the approval of the Headquarters.

Note 2: If the ruling for confiscation of the immovable properties is issued on the basis of vacation of the land excluding the exceptions and the rights of third persons, enforcement of the court verdicts shall be dependent on the vacation.

Note 3: After determination of the final verdict on the properties, the Headquarters shall be obligated to confiscate the properties within a maximum period of ten days.

Article 16: It shall be prohibited to sell the properties prior to the issuance of the final verdict or authorization of the verdicts covered by Article 32 (execution and confiscation of properties) unless the said properties are included in Note 2 to Article 10 of the Islamic Penal Code⁵. In such a case, the properties shall be sold, through a public auction, by the Property Sale Committee after coordination with the court issuing the verdict and the funds resulting from the sale shall be transferred to the escrow account of the Islamic Revolutionary Court until the final determination and issuance of a verdict by the court.

Article 17: The vehicles confiscated in implementation of Article 30 to the Law, in favor of the government (Headquarters) and transferred to the discovering organization upon the approval of the Headquarters shall be utilized on the basis of conditions to be determined by the Headquarters.

⁵ **Note 2 to Article 10 of the Islamic Penal Code:**

A property whose maintenance involves inconsistent expenses for the government or gets spoiled or results to a sharp decline in its price and keeping the property is not necessary for legal procedures as well as properties which get spoiled rapidly shall be sold at current prices on the order of the public prosecutor or the court, as the case may be, and the funds earned shall be kept in trust at the Justice Administration Fund until a final decision shall be issued.

Note 1: Should such vehicles lack, at the discretion of the highest authority of the discovering organization at the province and agreement of the secretariat of the Headquarters, the efficiency required for combating (narcotics), it shall be sold, through auction, by the Property Sale Committee with the representative of the discovering organization in attendance and observation of the regulations concerned, and the funds so collected shall be spent merely for equipping and strengthening the departments and units of the discovering organization and supporting the respected families of martyrs and the disabled as a result of fight (against narcotics) at the province.

Note 2: The instructions on the method of selling the vehicles, subject of Article (30) to the Law and the method of spending the funds earned, shall be drawn up, within a period of one month, by the secretariat of the Headquarters and in cooperation with the discovering organization upon observation of the laws and regulations concerned and shall meet the approval of the Headquarters.

Article 18: In case the accused is acquitted or the verdict for confiscation is revoked, the actual property, and if not available, the official expert price at the time of enforcement of the verdict (day of payment) shall be paid out of the credits allocated to the Headquarters.

Note: In the above cases, if the subject of confiscation is the vehicle, subject of Article 30 and sold, the current expert price shall be paid by the Headquarters out of the 20% share of the discovering organization.

Article 19: In order to facilitate and expedite payment of the discovery fees to crime investigators and the share of the Judiciary, the court shall be required to submit, at the end of each month, the list of properties collected from the convicts together with a copy of them to the secretariat of the headquarters and the discovering organization. The secretariat of the Headquarters shall also be required to send, as soon as possible, the three-month fiscal report related to payment of the discovery fee to the organization concerned.

Article 20: In implementation of the By-Laws to the commotion and Pardon Committee approved on December 10, 1994, for narcotics convicts, it shall be necessary to obtain the view of the secretary of the Headquarters or his fully authorized representative. The secretary of the Headquarters shall be required to introduce his fully authorized representative in each township to the Islamic Revolutionary Court concerned.

Article 21: In implementation of Note 1 to Article 31 of the Law and for the purpose of

ensuring payment of fine installments on time, enforcers or verdicts shall release the detainee necessarily upon collection of security equal to the amount of fine guaranteed by a reputable person whose bail has been justified. The provisions of the letter of guarantee or the contracts concluded shall be drawn up in a way that confiscation of the subject of security or collection of the amount of guarantee and the banking letter of credit shall be rapidly carried out by the enforcer of the verdicts. The funds so collected shall be transferred to the account of the Headquarters and the properties confiscated shall be delivered to the Property Sale Committee.

Note: Non-payment of three consecutive or non-consecutive installments shall cause all the remaining installments to become present and reference shall be made to the security depositor or the guarantors mentioned above. The provisions of this Note shall be stated in the contract related to the collection of security.

Article 22: In implementation of Article 35 of the Constitution⁶ and the Precedent Verdict No. 15 dated September 19, 1984 issued by the Full Board of the Supreme Court⁷ as well as the Sole Article approved on October 3, 1991 by the State Expediency Council⁸, the court shall be

⁶ **Article 35 to the Constitution:** Both parties to a lawsuit have the right in all courts of law to select an attorney, and if they are unable to do so, arrangements must be made to provide them with legal counsel.

⁷ Considering that Article 35 to the Constitution of the Islamic Republic of Iran has attached special importance to the right of legal counsel and considering the provisions of Article 9 to the Law Concerning Establishment of Criminal Courts and assuming the provisions of Note 2 of Article 7 and Article 12 to Legal Bill Concerning Establishment of General Courts, approved on September 11, 1979 and the subsequent amendments and considering the circular issued by the Guardians Council on October 9, 1982, shall be legally valid. Interference of the court appointed attorney at criminal courts and in cases that the main punishment for the crime is execution or life imprisonment shall be necessary "provided that the accused has not personally employed an attorney. Therefore, the verdict issued by branch No. 16 of the Supreme Court issued concerning the matter and on the basis of this view, shall be legal and justified. This verdict, according to the Sole Article of the law related to the precedent verdict, approved in 1949 in similar cases shall be binding for all branches of the Supreme Court and the courts.

⁸ Parties to the dispute shall be entitled to select an attorney and all courts of law, set up on the basis of the law, shall be required to accept the attorney.

Note 1: Parties to the dispute at the Special Court for Clergy (SCC) shall also be entitled to select an attorney. The court (SCC) may determine a number of competent clerics as attorneys-at-law so that the defendant may choose an attorney from amongst them.

Note 2: If a court deprives, at the discretion of the Supreme Court, a defendant of the right to choose an attorney, the verdict issued shall be null and void. Issuance of such a verdict shall be subject to, for the first time, third grade disciplinary punishment, and, for the second time, suspension of service from judicial position.

Note 3: An attorney in the position of defense shall enjoy respect and job security for his judicial position.

required, in all the crimes mentioned in the law whose punishment is life imprisonment or execution, to:

- a. Initially notify to the accused to allow him determine an attorney for his defence.
- b. Determine a court appointed attorney if the accused is unable to choose an attorney.

Note 1: It shall be necessary for the court appointed attorney to attend at least one session of the third trial. Moreover, the defendant's lawyer shall be given the opportunity required for studying the file and preparing statement of defence.

Note 2: In other cases, the court shall be required, if demanded by the defendant, to determine a court appointed attorney.

Note 3: It shall be prohibited to determine one attorney for two or more defendants in one file due to conflict of defence on the part of the clients.

Note 4: For the purpose of protecting the sources and rapporteurs, their identity shall merely be put at the disposal of the judge investigating the case.

Note 5: Any violation of the above cases shall be subject to disciplinary prosecution.

Article 23: All cases resulting to issuance of death sentence shall be counted in pages, after completion of computer forms, and sealed and shall be submitted, in implementation of Article 32 to the Law, to the Secretariat of the Public Prosecutor's Office by the court issuing the verdict.

Article 24: If a death sentence is confirmed by the Head of the Supreme Court or the Public Prosecutor, the file shall be returned to the court issuing the verdict for execution.

Note: Enforcer of court verdicts shall be required to immediately send and notify, after execution of the death sentence, the matter together with a form filled about the particulars of the judgment debtor to the Public Prosecutor's Office and the Headquarters.

Article 25: If the death sentence is not confirmed and the verdict issued is revoked, the file shall be returned to the court issuing the verdict in order to, in case of following the ruling of the supreme authority, issue, after retrial and re-investigation, the appropriate verdict other than the death sentence.

Note 1: If the court issuing the verdict holds to its view, it shall submit, with reasons for reference to another branch, the file to the head of 1st branch of the Islamic Revolutionary Court (In case there is no equal branch available in the judicial sphere, the file shall be referred to the nearest court at the district). The latter court may issue an appropriate verdict other than death sentence and return, if insists on the verdict revoked and supports the death sentence, the file to the Public Prosecutor's Office with evidence and reasons without issuing a verdict.

Each one of the two authorities stated in Article 32 to the Law, while confirming the view, may return the case to the court for issuance of verdict provided that it accepts the reasons provided by the secondary court. Otherwise, it may directly issue a verdict or submit the file to a special branch for investigation and issuance of verdict.

Note 2: The procedure mentioned in Note 1 above may also apply to verdicts other than death sentence.

Note 3: In case each one of the two authorities mentioned in Article 32 to the Law believe in removing deficiency from the file, they shall explicitly announce the case of deficiency and the court shall be required to remove the deficiency at extraordinary time and return the file.

Article 26: The judge in charge of executing judgments of the court shall be obligated to, if decides that the verdict issued is against Sharia or legal principles or is without adequate reasons or accepts the objection of the judgment debtor or the objection of his attorney-at-law or the objection of a third person to confiscation of the property, announce and mention, in each case, his objection with evidence and reasons to the judge issuing the verdict.

Under such circumstances, if the response of the court is satisfactory, the verdict shall be enforced, otherwise, or in cases where the court itself learns its error, it shall despatch the file, in implementation of the latter part of Article 32 to the Law, to the secretariat of the Public Prosecutor's Office.

Note 1: The measures taken by the judge executing judgments shall not nullify the powers of the Head of Justice Administration or the Presiding judge of the first branch of the Islamic Revolutionary Court.

Note 2: In cases where the file is despatched to the Public Prosecutor's Office, enforcement of lashing sentence shall be suspended until determination of a final judgement.

Article 27: If the court, due to slip of the pen such as mentioning the exact particulars of the judgment debtor, makes an error not influencing the basis of the verdict, it shall rectify the verdict. The rectification shall be notified to the judgment debtor in the rectificative judgment.

Article 28: If the action committed by the judgment debtor, with the presumption of proof, is not a crime or is subject to a general amnesty or is not, on the basis of legal considerations, subject to prosecution and/or is without reason, the verdict issued by the supreme authority shall be quashed without return.

Under such circumstances, the matter shall immediately be announced, through appropriate methods, to the court so that it may release without condition the prisoner.

Article 29: In implementation of Article 33 to the Law, specialized committees under the title of general training, prevention, treatment and rehabilitation, propagation and confronting supply etc. by the secretariat of the Headquarters. The combination of members and work statement of the committees, considering its legal powers, shall be determined by the secretariat of the Headquarters and approved by the Headquarters.

Article 30: Considering the provisions of Article 37 to the Law, if punishment for a crime includes imprisonment or execution, a temporary detention order shall be issued with due observation of Articles 130 and the repeated 130 to the Criminal Procedure Code.

Article 31: In implementation of the latter part of Article 38 to the Law, if the Head of the Supreme Court or the Public Prosecutor decide, personally or on the basis of the court's demand, that the judgment debtor deserves amnesty, enforcement of the verdict shall be suspended until comments by the Amnesty Committee of the Judiciary and acceptance or rejection of the amnesty proposal by the Supreme Leader.

In this case, the court may immediately send the file, through the amnesty board, to the Amnesty Committee of the Judiciary.

Note: The method of enforcement of the Note to Article 38 of the Law, in relation with the convicts sentenced to execution and life imprisonment, shall be the same as the one mentioned at the beginning of the Article above.

Article 32: Considering the mentioning of 22 names of industrial and chemical items in Table Nos. 1 and 2 to Article 12 of the 1988 Convention, the accurate names of these items, in Article 40 to the Law, are as follows:

1.anhdride acetic 2.acetone 3.acidan 4.hydrocloric acid 5.isosafrole 6.lysergic acid 7.methyl ethyl ketone 8.phenylacetic acid 9.(a.phenyl, b.propane) 10.potassium permanganate 11.safrole 12.sulfuric acid 13.toluene 14.ephidrine, and eight other chemical substances.

Note 1: Since there is public access, due to certain consumptions, to some of the said items, the criterion for establishing a crime by the court, in all cases of discovering the said materials, shall be the bad intention of the perpetrator with due consideration of the amount of materials and other factors.

Note 2: The medicines described in Article 40 to the Law have their titles in the 1988 Convention and apart from the law related to materials, approved in 1975 which was approved at the 1971 Convention.

Note 3: The Ministry of Health and Medical Education shall be required to draw up, within a maximum period of two months, the executive by-laws related to narcotic materials and enforce it after the approval of the Headquarters.

Article 33: The Coordination Councils shall be obligated to set up, considering the country's divisions (township-city-district) sub-councils combating narcotics.

Note: Committees selling confiscated properties shall merely be set up in Tehran and provincial capitals.

Article 34: This Executive By-Law, comprising 34 Articles and 28 Notes was approved by the Headquarters Combating Narcotics on January 12, 1999 and all by-laws repugnant to this By-Law shall be null and void.