THE KHYBER PAKHTUNKHWA CONTROL OF NARCOTIC SUBSTANCES ACT, 2019

(KHYBER PAKHTUNKHWA ACT NO. XXXI OF 2019)

(First published after having received the assent of the Governor of the Khyber Pakhtunkhwa in the Gazette of the Khyber Pakhtunkhwa, (Extraordinary), dated the 4th September, 2019).

AN ACT

to provide for the control of narcotic substances, narcotic drugs and psychotropic substances in order to eliminate the evils of these substances, more effectively and more forcefully for socioeconomic well being of the people of the Province of the Khyber Pakhtunkhwa.

WHEREAS it is expedient to provide for the control of narcotic substances, narcotic drugs, psychotropic substances, and control substances and the production, processing, trafficking and transportation of such drugs and substances and for matters ancillary thereto and connected therewith;

It is hereby enacted as follows:

CHAPTER-I PRELIMINARY

- 1. Short title, extent and commencement.---(1) This Act may be called the Khyber Pakhtunkhwa Control of Narcotic Substances Act, 2019.
 - (2) It shall extend to the whole of the Province of the Khyber Pakhtunkhwa.
 - (3) It shall come into force at once.
- 2. Definitions.---In this Act, unless there is anything repugnant in the subject or context,-
 - (a) "accused" means an accused, who is charged for the commission of an offence under this Act;
 - (b) "addict" means a person who is physically or mentally dependent or habitually uses narcotic substances;
 - ⁴[(b-i) "ANF" means the Anti Narcotic Force, established under the Anti Narcotic Force Act, 1997 (Act No. III of 1997):]
 - (c) "asset" means any property owned, controlled or belonging to an accused, whether directly or indirectly, or in the name of relatives or associates

⁴ Inserted vide Khyber Pakhtunkhwa Act No. VII of 2022.

whether within or outside the Province, for which they cannot reasonably

- "associate" in relation to an accused, means-(d)
 - any individual who is knowingly assisting narcotics related (i) activities or has, at the relevant time, been residing in the residential premises, including out houses and servant-quarters of an accused for assisting the accused in narcotic activities; or
 - any individual who is or has, at the relevant time, been knowingly (ii) managing the affairs or keeping the accounts of an accused, relating to narcotics activities, or
 - any individual, who is or has been, at the relevant time, a member, (iii) partner or director of any association of persons, body of individuals, firm or a private limited company involved in dealing with narcotics business.; or
 - (iv) a trustee, knowingly involved in narcotics activities or trade of any trust created by an accused in order to cover up narcotics trade or activities; or
 - (v) where the Special Court, for reasons to be recorded, considers that any property of an accused is held on his behalf by any other person knowingly involved in narcotics trade, activities or business and generating income for its further expansion, such other person;
- (e) "Authorized Officer" means,
 - an officer of the Directorate General, not below the rank of (i) [Inspector], authorized by the Director; or
 - a Police officer/official not below the rank of Sub-(ii) Inspector, authorized by the Regional Police Officer; ⁶[or]
 - an officer or official of the ANF, not below the rank of Sub-Inspector, authorized by the Regional Director.]
- (f) "cannabis" means
 - cannabis resin (charas) that is the separated resin, whether crude or (i) purified, obtained from the cannabis plant and also includes concentrated preparation and resin known as hashish oil or liquid hashish;
 - the flowering or fruiting tops of the cannabis plant (excluding the (ii) seed and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated or known; and

⁵ Substituted vide Khyber Pakhtunkhwa Act No. XXVI of 2020.

⁶ Added vide Khyber Pakhtunkhwa Act No. VII of 2022.

Added vide Khyber Pakhtunkhwa Act No. VII of 2022.

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- (iii) any mixture with or without natural materials of any of the above forms of cannabis or any drink prepared there from;
- (g) "cannabis plant" means any plant of the genus cannabis;
- ⁸[(g-i) "Circle Officer" means an Officer not below the rank of Assistant Excise, Taxation and Narcotics Control Officer;]
 - (h) "coca bush" means the plant of any species of the genus erythroxylon;
 - (i) "coca derivative" means-
 - (i) Crude cocaine i.e. any extract of coca leaf which can be used, directly or indirectly, for the manufacture or production of cocaine;
 - (ii) ecgonine, that is, leavo-ecgonine having chemical formula C₉H₁₅NO₃H_{2O} and all chemical derivatives of leavo-ecgonine including benzoylecgonine from which it can be recovered;
 - (iii) cocaine, that is, methyl-benzoyl-leavo-ecgonine having the chemical formula $C_{17}H_{21}NO_4$ and its salts; and
 - (iv) all preparations containing more than 0.1 percent of cocaine;
 - (j) "coca leaf" means-
 - (i) the leaf of the coca bush except a leaf from which all ecgonine, cocaine or any other ecgonine alkaloids have been removed; and
 - (ii) any mixture thereof, with or without neutral material, but does not include any preparation containing not more than 0.1 percent of cocaine;
 - (k) "Code" means the Code of Criminal Procedure, 1898 (V of 1898);
 - (1) "controlled substance" means any substance which may be used for the production or manufacture of narcotic substances;
 - (m) "conveyance" means a conveyance of any description whatsoever and includes, any aircraft, vehicle, vessel, railways or animal;
 - (n) "Department" means the Excise, Taxation and Narcotics Control Department of Government;
 - (o) "Director" means the Director, Narcotics Control Wing, established under sub-section (1) of section 3 of this Act;
 - (p) "Director General" means the Director General of the Directorate General;

⁸ Inserted vide Khyber Pakhtunkhwa Act No. XXVI of 2020.

- (q) "Directorate General" means the Directorate General of the Excise, Taxation and Narcotics Control;
- (r) "foreign court" means a court of competent jurisdiction of a foreign country, recognized by the Federal Government from time to time;
- (s) "freezing" means prohibiting by an order made by the Special Court or an officer authorized under this Act the transfer, conversion, disposal or movement of any assets and includes the holding, controlling, assuming custody or managing any assets in pursuance of such order and, in the case of assets which are perishable, the disposal thereof;
- (t) "Government" means the Government of the Khyber Pakhtunkhwa;
- (u) "manufacture" in relation to narcotic substances, includes-
 - (i) all processes by which such drugs or substances may be obtained;
 - (ii) refining of such drugs or substances;
 - (iii) transformation of such drugs or substances; and
 - (iv) making or preparing such drugs or substances;
- (v) "manufactured drug" includes-
 - all coca derivatives, medicinal hemp, opium derivatives, cannabis in any form and any mixture of stalks and flowering or fruiting tops of the Indian hemp plant (cannabis sativa L.), Acetic Anhydride; and
 - (ii) any other narcotic substance which Government may, by notification in the official Gazette declare to be manufactured drug or which the Federal Government, from time to time, declares to be a manufactured drug;
- (w) "medicinal hemp" means any extract or tincture of hemp;
- (x) "methametaphine" means a highly addictive central nervous system stimulant that is synthetic or semi-synthetic compound C₁₀H₁₅N ⁹[and includes Ampathemine, any of its derivatives or variants, whether synthetic and otherwise, and all those substances, more commonly known as "ice"];
- (y) "Narcotics Analyst" means,-
 - (i) the Narcotics Analyst, appointed by Government under this Act; or
 - (ii) an examiner, expert and analyst, appointed under any other law for the time being in force,

⁹ Inserted vide Khyber Pakhtunkhwa Act No. VII of 2022.

for the purpose of examination, testing and analysis of the narcotics substances;

- "narcotic drug" means coca leaf, cannabis, heroin, opium, and all (z) manufactured drugs;
- "narcotic substance" means and includes the narcotic drugs, psycholpic (aa) substances and controlled substances;
- "opium" means-(ab)
 - poppy straw, that is to say, all parts of the poppy plant (i) (papaversomniferum or any other species of papaver) after moving, other than the seeds;
 - the spontaneously coagulated juice of capsules of poppy which has (ii) not been submitted to any manipulations other than those necessary for packing and transportation; and
 - (iii) any mixture, with or without natural materials, of any of the above forms of opium, but does not include any preparation containing not more than 0.2 percent of morphine;
- "opium derivative" includes-(ac)
 - (i) medicinal opium, that is, opium which has undergone the process necessary to adapt it for medicinal use;
 - (ii) prepared opium, that is, any product of opium obtained by any series of operations designed to transform opium into an extract suitable for smoking, and the dross or other residue remaining after opium is smoked;
 - morphine, that is, the principal alkaloid of opium having the (iii) chemical formula C₁₇H₁₉NO₃ and its salts;
 - (iv) diacetylmorphine, that is, the semi-synthetic substance, also known as diamorphine or heroin, having the chemical formula C21H23NO5 and its salts; and
 - all preparations containing more than 0.2 percent of morphine or (v) containing any diacetylmorphine;
- "opium poppy" means the plant of the species papaversomniferum; (ad)
- "Police Establishment" shall have the same meanings as given in the (ae) Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);
- "poppy straw concentrate" means the material obtained after the poppy (af) straw has been subjected to a process for the concentration of its alkaloids;

- (ag) "prescribed" means prescribed by rules;
- (ah) "property" includes-
 - all forms of property, whether corporeal or incorporeal, movable, tangible or intangible, real estate or personal property of every description;
 - (ii) property used to commit, or to abet the commission of, an offence punishable under this Act;
 - (iii) all kinds of shares or interest in any corporate body, company, firm, business concern, society or fund, registered under the relevant law for the time being in force; and
 - (iv) all documents of title to land, goods or property wherever situated money or valuable security issued by Government of Pakistan;
- (ai) "Province" means the Province of the Khyber Pakhtunkhwa;
- (aj) "psychotropic substance" means the substance, specified in the Schedule appended to this Act and such substances as Government may, by notification in the official Gazette, declare to be a psychotropic substance;

¹⁰[(aj-i)"Regional Director" means the Regional Director of ANF:]

- (ak) "Regional Police Officer" means the Regional Police Officer, as defined in the Khyber Pakhtunkhwa Police Act, 2017 (Khyber Pakhtunkhwa Act No. II of 2017);
- (al) "relative" in relation to an accused, means any lineal descendent of the accused and includes any other person holding property for or on his behalf;

11[Deleted]

- (an) "rules" mean the rules made under this Act;
- (ao) "Special Court" means the Special Court, established under section 22 of this Act;
- (ap) "tracing" means the finding out the true nature, source, disposition, movement or ownership of assets and includes determining the movement or conversion of assets by any means; and
- (aq) "transportation" means to bring in to the Province, bring out of the Province or transport within the Province any narcotics substances, otherwise than across National frontiers.

¹⁰ Inserted vide Khyber Pakhtunkhwa Act No. VII of 2022.

¹¹ Deleted vide Khyber Pakhtunkhwa Act No. XXVI of 2020.

- 3. Narcotics Control Wing.—(1) There shall be Narcotics Control Wing, within the Directorate General, dealing with all matters concerning narcotics provided under this Act.
- (2) The Narcotics Control Wing shall be headed by a Director under the supervision and control of the Director General, who shall be assisted by such officers and staff members of the Department, as Government may appoint from time to time.
- (3) The officers and members of the staff mentioned in sub-section (2) shall be civil servants within the meaning of the Khyber Pakhtunkhwa Civil Servants Act, 1973 (Khyber Pakhtunkhwa Act No. XVIII of 1973).

CHAPTER -II PROHIBITION AND PUNISHMENT

4. Prohibition on cultivation.---No one shall cultivate any cannabis plant, coca bush or opium poppy:

Provided that ¹²[Department] may, subject to such conditions as it may specify, permit under a license cultivation or gathering of any such narcotic plant, coca bush or opium poppy or any portion thereof exclusively for medical, scientific or industrial purposes.

- 5. Punishment for contravention of section 4.---Whoever contravenes the provisions of section 4 shall be punished with imprisonment which may extend to seven year or with fine or with both.
- 6. Prohibition of narcotics substance.—No one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, any narcotic substances, except for medical, scientific or industrial purposes in the manner and subject to such conditions as may be specified by or under this Act.
- 7. Prohibition of interprovincial carriage of narcotic substances, etc.--No one shall-
 - (a) bring into the Province; or
 - (b) bring out of the Province; or
 - (c) transport within the Province,

any narcotic substances, save in accordance with the conditions provided in the proviso of section 4 of this Act.

- 8. Prohibition on trafficking or financing the trafficking of narcotic substances, etc.—No one shall-
 - (a) organize, manage, traffic in, or finance the transportation, manufacturing or trafficking of any narcotic substance; or

Substituted vide Khyber Pakhtunkhwa Act No.XXVI of 2020.

- (b) use violence or arms for committing or attempt to commit an offence punishable under this Act.
- 9. Punishment for contravention of sections 6, 7 and 8.---(1) Whoever contravenes the provisions of sections 6, 7 and 8 shall be punished with-
 - (a) imprisonment, which may extend upto two years, or with fine, or with both, if the quantity of the Narcotics drug, psychotropic substance

 13 [except methamphetamine] or controlled substance is less than fifty grams 14 [:]

¹⁵[Provided that offences relating to or involving methamphetamine, as provided in section 10, shall be dealt in accordance with section 11 of this Act; or]

- (b) imprisonment, which may extend upto three years and with fine which may extend upto rupees one lac but shall not be less than rupees fifty thousand, if the quantity of the narcotic substance exceeds fifty grams but does not exceeds one hundred grams; or
- (c) imprisonment, which may extend upto seven years and with fine, which may extend upto rupees three lacs but shall not be less than rupees one lac, if the quantity of the narcotic substance exceeds one hundred grams but does not exceed one kilogram; or
- (d) death, imprisonment for life or imprisonment for a term which may extend to fourteen years and with fine which may extend be up to rupees one million and not less than five lacs, if the quantity of narcotic substance exceeds the limits of one kilogram:

Provided that if the quantity exceeds ten kilograms, the punishment shall not be less than imprisonment for life in any case.

- (2) In case of non-payment of fine, as specified in clauses (a), (b), (c) and (d) of subsection (1), the accused shall undergo for further imprisonment for such term as the Special Court may deem fit.
- 10. Prohibition of methamphetamine.—No one shall produce, manufacture, extract, prepare, possess, offer for sale, sell, purchase, distribute, deliver on any terms whatsoever, transport, dispatch, methamphetamine, except for medical, scientific or industrial purposes in the manner and subject to such conditions, as may be specified by Government.
- 11. Punishment for contravention of section 10,---Whoever, contravenes the provisions of section 10 shall be punished with-

¹³ Inserted vide Khyber Pakhtunkhwa Act No.XXVI of 2020.

Semi-colon and the word "or" replaced vide Khyber Pakhtunkhwa Act No.XXVI of 2020.

¹⁵ Inserted vide Khyber Pakhtunkhwa Act No.XXVI of 2020.

- (a) imprisonment, upto seven (07) years and shall also be liable to fine not less than rupees three (03) lac., if the quantity of methamphetamine does not exceed 100 grams;
- (b) imprisonment, not less than ten (10) years and shall also be liable to fine not less than rupees five (05) lac, if the quantity of methamphetamine exceeding 100 grams, but does not exceed one (01) kilogram;
- (c) death, imprisonment for life or imprisonment for a term which may extend upto fourteen (14) years and with a fine which may extend to rupees one (01) million, if the quantity of methamphetamine exceeds one (01) kilogram;

Provided that if the quantity of methamphetamine exceeds five (05) kilograms, the punishment shall not be less than imprisonment for life in any case.

- 12. Prohibition on owning, operating premises or machinery for manufacture of narcotic substances and methamphetamine etc.—No one shall own, manage, operate or control any premises, place, equipment or machinery for the purpose of manufacture or production of cannabis, cocaine, opium, opium derivatives, narcotic substances, methamphetamine, save as otherwise provided in the license, permit or authorization, as the case may be.
- 13. Punishment for contravention of section 12.—Whoever contravenes the provision of section 12 shall be punished with imprisonment which may extend to twenty-five years but shall not be less than ten years and shall also be liable to fine which may extend to rupees five million but shall not be less than rupees one million.
- 14. Prohibition of acquisition and possession of assets derived from narcotic substance and methamphetamine etc.---No one shall knowingly-
 - (a) possess, acquire, use, convert, assign or transfer any assets which have been derived, generated or obtained, directly or indirectly, either in his own name or in the name of his associate, relative or any other person through an act or omission relating to narcotic substances and methamphetamine, which constitutes an offence punishable under this Act, the Prohibition (Enforcement of Hadd) Order, 1979 or under any other relevant law for the time being in force;
 - (b) hold or possess on behalf of accused any assets referred to in clause (a);
 and
 - (c) conceal or disguise the true nature, source, location, disposition, movement, title or ownership of such assets by making false declaration in relation thereto.

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and quantity of the narcotic substances and methamphetamine, involved in commission of such offence.

21. Offence cognizable and non-bailable.—All the offences under this Act shall be cognizable and non-bailable.

CHAPTER -III SPECIAL COURTS

- 22. Establishment of the Special Courts.—(1) Government shall, by notification in the official Gazette, establish as many Special Courts as it considers necessary and appoint, after consultation with the Chief Justice of the Peshawar High Court, the Judges for each of such Special Court and where it establishes more than one Special Court, it shall specify in the notification the place of sitting of each Special Court and the territorial limits within which it shall exercise jurisdiction under this Act.
- (2) There shall be two classes of Special Courts to try offences under this Act, namely:
 - (a) Special Courts having the power to try all offences, except as referred in clause (a) of section 9 and clause (a) of section 11 of this Act; and
 - (b) Special Courts having the power to try offences, as referred to in clause (a) of section 9 and clause (a) of section 11 of this Act.
 - (3) No person shall be appointed as a Judge of the Special Court unless,-
 - (a) in clause (a) of sub-section (2), he is a District and Sessions Judge or Additional District and Sessions Judge of the district concerned; and
 - (b) in clause (b) of sub-section (2), he is a Judicial Magistrate of the district concerned.

16[Deleted]

- ¹⁷[(5) Notwithstanding anything contained in sub-section (1), Government may, in consultation with the Chief Justice of the Peshawar High Court, designate and confer the powers of a Special Court referred to-
 - (a) in sub-section (2), in clause (a), on any Sessions Judge or Additional Sessions Judge; and
 - (b) in sub-section (2), in clause (b), on any Judicial Magistrate, First Calss.

Provided that any consultation of Government or consent of the Chief Justice in pursuance to the provisions of Khyber Pakhtunkhwa Control of

¹⁶ Deleted vide Khyber Pakhtunkhwa Act No. IV of 2021.

¹⁷ Added vide Khyber Pakhtunkhwa Act No. XXVI of 2020.

Narcotics Substances (Amendment) Ordinance, 2020 (Ordinance No. II of 2020) shall be deemed to be sufficient for the purposes of this sub-section.]

- 23. Jurisdiction to try offences.---The Special Court shall have the exclusive jurisdiction to try all offences cognizable under this Act.
- 24. Appeal.---An appeal, under this Act, shall be made against the decision of the Special Courts in the following manner:
 - (a) against the decision of the Special Court, as specified in clause (a) of subsection (2) of section 22, to the Peshawar High Court; and
 - (b) against the decision of the Special Court, as specified in clause (b) of subsection (2) of section 22, to the Court of the District and Sessions Judge or Additional District and Sessions Judge of the district concerned.
- 25. Transfer of cases.—(1) Where more Special Courts than one are established within the territorial jurisdiction of Peshawar High Court, it may, by order in writing, transfer a case, at any stage, from one Special Court to another Special Court, in accordance with section 526 of the Code, as if the Special Court was a Court of Sessions.
- (2) On the establishment of Special Courts under section 22, all cases where the sentence of an offence is two years or less, shall stand transferred to the respective Special Courts comprising a Judicial Magistrate and all other cases to the respective Special Courts comprising of District and Sessions Judges or Additional District and Sessions Judges of the district concerned.
- (3) Notwithstanding anything hereinbefore contained, a remand may be granted by the nearest Special Court comprising a Judicial Magistrate of the district concerned.
- ¹⁸[26. Application of the Code.---(1) Except as otherwise provided in this Act, the provisions of the Code shall mutatis mutandis apply to all proceedings under this Act.
- (2) In the case of offences punishable under this Act, bail shall not ordinarily be granted unless the Special Court is of the opinion that it is a prima facie case for the grant of bail and against the security of a substantial amount.]

CHAPTER -IV WARRANT OF SEARCH AND ARREST AND INVESTIGATION

27. Power to issue warrants.--(1) The Special Court may issue to an authorized officer, a warrant for the arrest of any person whom it has reason to believe to have committed an offence punishable under this Act or for the search, whether by day or by night, of any building, place,



¹⁸ Substituted vide Khyber Pakhtunkhwa Act No. XXVI of 2020.

SCHEDULE (see section 2) PSYCHOTROPHIC SUBSTANCES

INTERNATIONAL NON- PROPRIETARY NAMES. 1.		OTHER NON-PROPRIETARY OR TRIVAL NAMES. 2.	CHEMICAL NAMES. 3.
2.	AMOBARBITAL.		5-ethyl-5-barbituric acid.
3.	ALLOBARBITAL.		5.5-deallybarturic acid.
4.	ALPRAZOLAM.		8-chloro-l-methyl-6-phenyl-eH-s- triazolo [4, 3-a] 11,4] benzodiaxepine.
5.	AMPHEPRAMONE.		2-(diethylamino) propiolphenone.
6.	BROLAMFETAMINE.		(+/-)4-bromO-2, 5-dimethoxy-a-methyphenethylamine.
7.	BUPRENORPHINE.	:	21-cyclopropyl-7-a-[(s)-l-hydroxy-1,2,2-trimethylporpyl]-6, 14-endo-ethano-6, 7, 8, 14-tetrahydrooripavine.
8.	BUTALBITAL.		5-allyl-5-isobutylbarbituric acid.
9.	BARBITAL.		5,.5-diethylbarbituric acid.
10.	BENZFETAMINE.	Benzphetamine.	N-benzyl-N, a- dimethylphenethylmine.
11.	BROMAZEPAM.		7-bromo-1, 3-dihydro-5 (2-pyridyl) 2H 1, 4-benzodiazepin-2-one.
12	CATHINONE.		(-)-(s)-2 aminopropiophenone.
		DET.	3-[2(diethyl amine) ethyl] indole.
		DMA.	(+/-)-2, 5-dimethoxy-a- methylphenethy-lamine.
		рмнр.	3-(1,2-dimethypheptye)-7,8,9,10- tetrahydro-6,6,9-trimethyl-6h- dibenzo[b,d][pyram-1-01].

81	TETRAZEPAM		7-chloro-5-cyclohexen-1-ul) -1,3- dihedrol-methyl-2H-1,4- benzodiazepin-2-one
82	TRIAZOLAM		8-chloro-6(0-chlorophenyl)-1-methyl- 4H-sitrizazolo [4.3a] [1,4] benzodiazepine
83	TENAMFETAMINE	MDA	a-methyl-3,4- (methylenedioxy), phenethylamine.
_	TENOCYCLINDINE	ТСР	1-[1-2-thienyl] clohexyl] piperidine
	Tetrahydrocannabinol the following isomers and their stereo chemical variants		
			7,8,9,10-tetrahydro-6,6,9-trimethyl1- 3pentyl-6H-dibenzo [b,d] pyran-1-01
			(9R,10aR-8,9,10a-tetraphydro-6,6 trimethyl-3-pentyl-6H-dibenzo [b,d] pyman-1-01.)
		*	(6aR,9R,10aR) 6a,7,10,10,10a- tetrahydro-6,6,9-trimethyl-3-pentyl- 6H-dibenzo [b,d] pyrran-1-01
			6a,7,8,9-tetrahudro-6,6,9-trimethyl-3- pentyl-6H-dibenzo [b,d] pyrran-1-01
			6a,7,8,9-tetrahudro-6,6,9-trimethyl-3- pentyl-6H-dibenzo [b,d] pyrran-1-01
			(6aR,10aR) 6a,7,8,910,10,10a-tetraphy dro-6,6,9-trimethyl-3-pentyl-6H- dibenzo [b,d] pyrran-1-01
85	VINYLBITAL		5-(1-methylbutyl) vinyl barbituric acid
86	MECLOQUALONE		3(0-chlorophenyl)-2-methyl-4(3H)-quinazolione.

87 ALPHA-PVP	FLAKKA, MOJO	α-pyrrolidinopentiophenone (also known as α-pyrrolidinovalerophenone, α-PVP,O-2387, β-keto-prolintane, prolintanone,ordesmethylphrovaleron e) (Formula C15H21NO
		Molar mass 231.34g.mol-1