CHAPTER 15

# Crimes Related to Narcotics

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses falling under the Chemical Substances Control Act, Article 59, subparagraph 6, the Narcotics Control Act, Article 58, paragraph 1, subparagraphs 1 through 8, paragraph 2, Article 58-2, paragraph 1, 2 Article 59, paragraph 1, subparagraphs 1 through 7 and 9 through 11, subparagraph 13, paragraph 2, Article 60, paragraph 1, subparagraphs 1 through 3, subparagraph 5, 6, paragraph 2, Article 61, paragraph 1, subparagraphs 1, 2, 3, 4, 5, 6, 8, paragraph 2, or the Act on the Aggravated Punishment, etc. of Specific Crimes, Article 11, paragraph 1, subparagraph 1, 2, paragraph 2, subparagraph 1, 2, Act on Special Cases Concerning the Prevention of Illegal Trafficking in Narcotics, Etc., Article 6, paragraph 1, paragraph 2.

PART A

# TYPES OF OFFENSES AND SENTENCING RANGE

## 1 ADMINISTERING DRUGS · MERE POSSESSION, ETC.

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|---|---|---|---|---|
| 1 | Hallucinogenic substance | – 8 mos. | 6 mos. – 1 yr. | 8 mos. – 1 yr. 6 mos. |
| 2 | Marijuana, psychotropic drugs listed under items 4, 5, and others | 6 mos. – 10 mos. | 8 mos. – 1 yr. 6 mos. | 1 yr. – 3 yrs. |
| 3 | Psychotropic drugs listed under items 2, 3 | 8 mos. – 1 yr. 6 mos. | 1 yr. – 2 yrs. 6 mos. | 2 yrs. – 5 yrs. |
| 4 | Narcotics, psychotropic drugs listed under item 1 or others | 10 mos. – 2 yrs. | 1 yr. – 4 yrs. | 3 yrs. – 6 yrs. |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| Special Sentencing Factor | Conduct | • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense<br>• Dolus Eventualis | • Morally reprehensible motives<br>• Instigating the subordinate to commit the offense<br>• Extremely high value of narcotics handled |
| | Offender /Etc. | • Hearing and/or speech disabilities<br>• Diminished mental capacity (without fault)<br>• Voluntary surrender to investigative authorities<br>• Offender's substantial cooperation with the investigation | • Habitual offender<br>• Prior convictions for the same-offense (suspended sentence of imprisonment without labor or a more severe punishment imposed within the past three years) |
| General Sentencing Factor | Conduct | • Minor participation | • Offense committed in a specially protected area such as within proximity of schools |
| | Offender /Etc. | • Diminished mental capacity (with fault) | • Post-offense evidence tampering or attempt to destroy or conceal evidence |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| | | • Drug substance abuser's voluntary and strong willingness to undergo treatment<br>• No prior criminal convictions<br>• Offender's cooperation with the investigation | • Prior convictions for same-offense (during a period exceeding three years but not exceeding ten years, after completion of a suspended sentence of imprisonment without labor or more severe punishment), or different-offense recidivism within the statutory recidivism period |

## 2 ENGAGING IN SELLING · BROKERING, OR OTHER SIMILAR ACTS

### 1. GENERAL SELLING · BROKERING, OR OTHER SIMILAR ACTS

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|---|---|---|---|---|
| 1 | Hallucinogenic substance, psychotropic drugs listed under item 4 or others | 6 mos. – 1 yr. | 10 mos. – 2 yrs. | 1 yr. 6 mos. – 4 yrs. |
| 2 | Marijuana, psychotropic drugs listed under item 2, 3, and others | 8 mos. – 2 yrs. | 1 yr. – 3 yrs. | 2 yrs. 6 mos. – 6 yrs. |
| 3 | Narcotics, psychotropic drugs listed under item 1 or others | 2 yrs. 6 mos. – 6 yrs. | 5 yrs. – 8 yrs. | 7 yrs. – 10 yrs. |
| 4 | Offense committed for profits or habitual offenders | 6 yrs. – 9 yrs. | 8 yrs. – 12 yrs. | 10 yrs. or more – life imprisonment |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| Special Sentencing Factor | Conduct | • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense<br>• Buying, giving or receiving for administering drugs, mere possession of drugs, or other similar acts<br>• Dolus Eventualis | • Organizational or professional crime<br>• Playing a leading role in an organized crime or other similar roles<br>• Morally reprehensible motives<br>• Instigating the subordinate to commit the offense<br>• Extremely high value of narcotics handled<br>• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| | Offender /Etc. | • Hearing and/or speech disabilities<br>• Diminished mental capacity (without fault)<br>• Voluntary surrender to investigative authorities<br>• Offender's substantial cooperation with the investigation | • Habitual offender (Type 1, 2)<br>• Prior convictions for the same-offense (punishment within three years, heavier than suspension of sentence of imprisonment without labor) |
| General Sentencing Factor | Conduct | • Minor participation | • Offense committed in a specially protected area such as within proximity of schools |
| | Offender /Etc. | • Diminished mental capacity (with fault)<br>• No prior criminal convictions<br>• Offender's cooperation with the investigation | • Post-offense evidence tampering or attempt to destroy or conceal evidence<br>• Prior convictions for same-offense (during a period exceeding three years but not exceeding ten years, after completion of a suspended sentence of imprisonment without labor or more severe punishment), or different-offense recidivism within the statutory recidivism period |

## 2. SELLING · GIVING OR RECEIVING, OR OTHER SIMILAR ACTS TO MINORS

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|---|---|---|---|---|
| 1 | Hallucinogenic substance | 6 mos. – 1 yr. | 10 mos. – 2 yrs. | 1 yr. 6 mos. – 3 yrs. |
| 2 | Marijuana | 1 yr. – 3 yrs. | 2 yrs. – 5 yrs. | 4 yrs. – 7 yrs. |
| 3 | Narcotics, psychotropic drugs or others | 2 yrs. 6 mos. – 6 yrs. | 5 yrs. – 9 yrs. | 7 yrs. – 12 yrs. |
| 4 | Offense committed for profits or habitual offenders | 6 yrs. – 10 yrs. | 8 yrs. – 13 yrs. | 10 yrs. or more – life imprisonment |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| Special Sentencing Factor | Conduct | • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense<br>• Dolus Eventualis | • Organizational or professional crime<br>• Playing a leading role in an organized crime or other similar roles<br>• Morally reprehensible motives<br>• Instigating the subordinate to commit the offense<br>• Extremely high value of narcotics handled<br>• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period |
| | Offender /Etc. | • Hearing and/or speech disabilities<br>• Diminished mental capacity (without fault)<br>• Voluntary surrender to investigative authorities<br>• Offender's substantial cooperation with the investigation | • Habitual offender (Type 1, 2)<br>• Prior convictions for the same-offense (punishment within three years, heavier than suspension of sentence of imprisonment without labor) |
| General Sentencing Factor | Conduct | • Minor participation | • Offense committed in a specially protected area such as within proximity of schools |
| | Offender /Etc. | • Diminished mental capacity (with fault)<br>• No prior criminal convictions<br>• Offender's cooperation with the investigation | • Abuse of trust in relationships<br>• Post-offense evidence tampering or attempt to destroy or conceal evidence<br>• Prior convictions for same-offense (during a period exceeding three years but not exceeding ten years, after completion of a suspended sentence of imprisonment without labor or more severe punishment), or different-offense recidivism within the statutory recidivism period |

## 3 IMPORTING, EXPORTING · MANUFACTURING, OR OTHER SIMILAR ACTS RELATED TO DRUGS

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|---|---|---|---|---|
| 1 | Psychotropic drugs listed under item 4 or others | 8 mos. – 2 yrs. | 1 yr. – 3 yrs. | 2 yrs. – 4 yrs. |
| 2 | Manufacturing marijuana, psychotropic drugs listed under item 3 | 10 mos. – 2 yrs. | 1 yr. – 3 yrs. 6 mos. | 2 yrs. – 5 yrs. |
| 3 | Narcotics, psychotropic drugs listed under item 1, 2, or importing, exporting marijuana or other similar acts | 2 yrs. 6 mos. – 6 yrs. | 5 yrs. – 8 yrs. | 7 yrs. – 10 yrs. |
| 4 | Offense committed for profits or habitual offenders | 6 yrs. – 9 yrs. | 8 yrs. – 12 yrs. | 10 yrs. or more – life imprisonment |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| Special Sentencing Factor | Conduct | • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense<br>• Dolus Eventualis<br>• Importing, exporting, or manufacturing narcotics for administering drugs, mere possession or others | • Organizational or professional crime<br>• Playing a leading role in an organized crime or other similar roles<br>• Morally reprehensible motives<br>• Instigating the subordinate to commit the offense<br>• Extremely high value of narcotics handled<br>• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period |
| | Offender /Etc. | • Hearing and/or speech disabilities<br>• Diminished mental capacity (without fault)<br>• Voluntary surrender to investigative authorities<br>• Offender's substantial cooperation with the investigation | • Habitual offender (Type 1, 2)<br>• Prior convictions for the same-offense (punishment within three years, heavier than suspension of sentence of imprisonment without labor) |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| General Sentencing Factor | Conduct | • Minor participation | • Offense committed in a specially protected area such as within proximity of schools |
| | Offender /Etc. | • Diminished mental capacity (with fault)<br>• No prior criminal convictions<br>• Offender's cooperation with the investigation | • Post-offense evidence tampering or attempt to destroy or conceal evidence<br>• Prior convictions for same-offense (during a period exceeding three years but not exceeding ten years, after completion of a suspended sentence of imprisonment without labor or more severe punishment), or different-offense recidivism within the statutory recidivism period |

## 4 OFFENSE AGAINST MULTITUDES

| TYPE | CLASSIFICATION | MITIGATED SENTENCING RANGE | STANDARD SENTENCING RANGE | AGGRAVATED SENTENCING RANGE |
|---|---|---|---|---|
| 1 | Type 1 | 2 yrs. – 4 yrs. | 3 yrs. – 6 yrs. | 5 yrs. – 9 yrs. |
| 2 | Type 2 | 3 yrs. 6 mos. – 7 yrs. | 6 yrs. – 10 yrs. | 8 yrs. – 13 yrs. |
| 3 | Type 3 | 6 yrs. – 9 yrs. | 8 yrs. – 11 yrs. | 10 yrs. – 15 yrs. |
| 4 | Type 4 | 8 yrs. – 12 yrs. | 10 yrs. – 15 yrs. | 13 yrs. or more – life imprisonment |

| CLASSIFICATION | | MITIGATING FACTOR | AGGRAVATING FACTOR |
|---|---|---|---|
| Special Sentencing Factor | Conduct | • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense<br>• Dolus Eventualis | • Organizational or professional crime<br>• Playing a leading role in an organized crime or other similar roles<br>• Morally reprehensible motives<br>• Instigating the subordinate to commit the offense<br>• Commercial offender where the value of narcotics is 1 billion or more (Type 1, Type 3) |
| | Offender /Etc. | • Hearing and/or speech disabilities<br>• Diminished mental capacity (without fault)<br>• Voluntary surrender to investigative authorities<br>• Offender's substantial cooperation with the investigation | • Prior convictions for the same-offense (punishment within three years, heavier than suspension of sentence of imprisonment without labor) |
| General Sentencing Factor | Conduct | • Minor participation | • Offense committed in a specially protected area such as within proximity of schools |
| | Offender /Etc. | • Diminished mental capacity (with fault)<br>• No prior criminal convictions<br>• Offender's cooperation with the investigation | • Post-offense evidence tampering or attempt to destroy or conceal evidence<br>• Prior convictions for same-offense (during a period exceeding three years but not exceeding ten years, after completion of a suspended sentence of imprisonment without labor or more severe punishment), or different-offense recidivism within the statutory recidivism period |

(unit: KRW)

# DEFINITION OF OFFENSES

## 1 ADMINISTERING DRUGS · MERE POSSESSION, ETC.

### 1. TYPE 1 — HALLUCINOGENIC SUBSTANCE

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Hallucinogenic substance<br>– Consuming, inhaling/possessing for those purposes | Chemical Substances Control Act, Article 59, subparagraph 6 | Imprisonment up to 3 years or fine up to 50 million |

(unit: KRW)

### 2. TYPE 2 — MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER ITEM 4, 5, AND OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Psychotropic item 4<br>– Possessing, owning, using, managing, compounding, administering, issuing prescription<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 5<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1 | • Imprisonment up to 5 years or fine up to 50 million<br>• Imprisonment up to 5 years or fine up to 50 million |
| • Psychotropic item 5<br>– Using/providing of the place · facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 1 | • Imprisonment up to 5 years or fine up to 50 million |
| • Marijuana, etc.<br>– Cultivating, possessing, owning, transporting, keeping, using of the marijuana<br>– Smoking, consuming marijuana or hemp seed husks/possessing marijuana, hemp seeds, or hemp seed husks for those purposes<br>– Using/providing of the place, facilities, equipment, fund, means of transportation of the marijuana | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 6<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 4<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1 | • Imprisonment up to 5 years or fine up to 50 million<br>• Imprisonment up to 5 years or fine up to 50 million<br>• Imprisonment up to 5 years or fine up to 50 million |

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Raw material for narcotics, raw material containing the component of narcotics, seeds, seedling<br>– Cultivating of the raw material, possessing, owning of the raw material, seed, seedling | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 2 | • Imprisonment up to 5 years or fine up to 50 million |
| • Raw material of psychotropic item 1<br>– Smoking, consuming of the raw material/possessing, owning for those purposes | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 3 | • Imprisonment for up to 5 years or fine up to 50 million |
| • Group 2 temporary narcotics<br>– Possessing, owning, using, transporting, managing, administering, keeping<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 8 | • Imprisonment for up to 5 years or fine up to 50 million |
| • Habitual offender | • Narcotics Control Act, Article 61, paragraph 2 | • $\frac{1}{2}$ aggravation |

(unit: KRW)

## 3. TYPE 3 — PSYCHOTROPIC DRUGS LISTED UNDER ITEMS 2,3

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Psychotropic item 2<br>– Possessing, owning, using, managing, compounding, administering, issuing prescription<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 2<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1 | • Imprisonment up to 10 years or fine up to 100 million<br>• Imprisonment up to 5 years or fine up to 50 million |
| • Psychotropic item 3<br>– Possessing, owning, using, managing, compounding, administering, issuing prescription<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 2<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 1 | • Imprisonment up to 10 years or fine up to 100 million<br>• Imprisonment up to 5 years or fine up to 50 million |
| • Habitual offender | • Narcotics Control Act, Article 60, paragraph 2<br>• Narcotics Control Act, Article 61, paragraph 2 | • $\frac{1}{2}$ aggravation<br>• $\frac{1}{2}$ aggravation |

(unit: KRW)

## 4. TYPE 4 — NARCOTICS, PSYCHOTROPIC DRUGS LISTED UNDER ITEM 1 OR OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics<br>– Possessing, owning, managing, giving or receiving<br>– Using/providing of the place, facilities, equipment, fund, means of Transportation for narcotics | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 9<br>• Narcotics Control Act, Article 60, paragraph 1, subparagraph 1 | • 1 year or more imprisonment<br>• Imprisonment up to 10 years or fine up to 100 million |
| • Heroin, its salts, or any substances containing them<br>– Possessing, owning, managing, giving or receiving, transporting, using, administering, providing | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 3 | • 1 year or more imprisonment |
| • Psychotropic item 1<br>– Possessing, owning, using, managing<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 5<br>• Narcotics Control Act, Article 60, paragraph 1, subparagraph 1 | • 1 year or more imprisonment<br>• Imprisonment up to 10 years or fine up to 100 million |
| • Group 1 temporary narcotics<br>– Possessing, owning, using, transporting, managing, administering keeping<br>– Using/providing of the place, facilities, equipment, fund, means of transportation | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 13<br>• Narcotics Control Act, Article 60, paragraph 1, subparagraph 5 | • 1 year or more imprisonment<br>• Imprisonment for up to 10 years or fine up to 100 million |
| • Habitual offender | • Narcotics Control Act, Article 59, paragraph 2<br>• Narcotics Control Act, Article 60, paragraph 2 | • 3 years or more imprisonment<br>• $\frac{1}{2}$ aggravation |

(unit: KRW)

## 2 ENGAGING IN SELLING · BROKERING, OR OTHER SIMILAR ACTS

### 1. GENERAL SELLING · BROKERING, OR OTHER SIMILAR ACTS

#### (1) TYPE 1 — HALLUCINOGENIC SUBSTANCE LISTED UNDER ITEM 4 OR OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Hallucinogenic substance to adults<br>– Selling, providing | • Chemical Substances Control Act, Article 59, subparagraph 6 | • Imprisonment up to 3 years or fine up to 50 million |
| • Psychotropic item 4<br>– Trading, brokering, giving or receiving, providing | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 5 | • Imprisonment up to 5 years or fine up to 50 million |
| • Marijuana and Others<br>– Giving or receiving of marijuana<br>– Trading, brokering hemp seeds, hemp seed husks | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 6<br>• Narcotics Control Act, Article 61, paragraph 1, subparagraph 4 | • Imprisonment up to 5 years or fine up to 50 million<br>• Imprisonment up to 5 years or fine up to 50 million |
| • Group 2 temporary narcotics<br>– Trading, brokering, giving or receiving, possessing, owning, providing for those purposes | • Narcotics Control Act, Article 61, paragraph 1, subparagraph 8 | • Imprisonment for up to 5 years or fine up to 50 million |
| • Habitual offender | • Narcotics Control Act, Article 61, paragraph 2 | • $\frac{1}{2}$ aggravation |

(unit: KRW)

#### (2) TYPE 2 — MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER ITEMS 2, 3, AND OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Psychotropic item 2<br>– Trading, brokering, giving or taking, or providing | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 2 | • Imprisonment up to 10 years or fine up to 100 million |
| • Psychotropic item 3<br>– Trading, brokering, giving or receiving, or providing | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 2 | • Imprisonment up to 10 years or fine up to 100 million |
| • Marijuana<br>– Trading, brokering/possessing, owning for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 7 | • 1 year or more imprisonment |
| • Raw material containing narcotics component, seed, seedling<br>– Managing, giving or receiving, or extracting the components | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 2 | • 1 year or more imprisonment |

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Raw material of narcotics, psychotropic<br>– Trading, brokering, giving or receiving for the purpose of manufacturing/possessing, owning, using for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 4 | • 1 year or more imprisonment |
| • Raw material of psychotropic item 1<br>– Trading, brokering, giving or receiving/possessing, owning for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 6 | • 1 year or more imprisonment |
| • Habitual offender | • Narcotics Control Act, Article 59, paragraph 2<br>• Narcotics Control Act, Article 60, paragraph 2 | • 3 years or more imprisonment<br>• $\frac{1}{2}$ aggravation |

(unit: KRW)

### (3) TYPE 3 — NARCOTICS, PSYCHOTROPIC DRUGS LISTED UNDER ITEM 1 OR OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics<br>– Trading, brokering/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 | • Imprisonment for life or 5 years or more imprisonment |
| • Psychotropic item 1<br>– Trading, brokering, giving or receiving/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 3 | • Imprisonment for life or 5 years or more imprisonment |
| • Group 1 temporary narcotics<br>– Trading, brokering, giving or receiving, providing/possessing, owning for those purposes | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 8 | • Imprisonment for life or 5 years or more imprisonment |

### (4) TYPE 4 — OFFENSE COMMITTED FOR PROFITS OR HABITUAL OFFENDERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics, psychotropic item (a), Group 1 temporary narcotics<br>– Trading, assisting of the trade, giving or receiving, etc. For purpose to gain profit<br>– Habitual trading, assisting of the trade, giving or receiving, etc. | • Narcotics Control Act, Article 58, paragraph 2<br>• Narcotics Control Act, Article 58, paragraph 2 | • Death, imprisonment for life or imprisonment not less than 10 years<br>• Death, imprisonment for life or imprisonment not less than 10 years |

## 2. TRADING · GIVING OR RECEIVING, OR OTHER SIMILAR ACTS TO MINORS

### (1) TYPE 1 – HALLUCINOGENIC SUBSTANCE

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Hallucinogenic substance to minors<br>– Selling, providing | • Chemical Substances Control Act, Article 59, subparagraph 6 | • Imprisonment for up to 3 years or fine up to 50 million |

(unit: KRW)

### (2) TYPE 2 – MARIJUANA

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Marijuana to minors<br>– Giving or receiving, providing, smoking, consuming | • Narcotics Control Act, Article 58–2, paragraph 1 | • 2 years or more imprisonment |
| • Habitual offender | • Narcotics Control Act, Article 58–2, paragraph 2 | • 3 years or more imprisonment |

### (3) TYPE 3 – NARCOTICS, PSYCHOTROPIC ITEM AND OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics, psychotropic item, temporary narcotics to minors<br>– Trading, giving or receiving, compounding, administering, providing<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 7 | • Imprisonment for life, or 5 years or more imprisonment |

### (4) TYPE 4 – OFFENSE COMMITTED FOR PROFIT OR HABITUAL OFFENDERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Offenders with purpose to gain profit or Habitual offender<br>– Trading, giving or receiving, compounding, administering, providing to minors | • Narcotics control Act, Article 58, paragraph 2 | • Death, imprisonment for life, or 10 years or more imprisonment |
| • Habitual trading, giving or receiving, compounding, administering, providing to minors | • Narcotics Control Act, Article 58, paragraph 2 | • Death, imprisonment for life, or 10 years or more imprisonment |

## 3 IMPORTING, EXPORTING · MANUFACTURING, OR OTHER SIMILAR ACTS RELATED TO DRUGS

### 1. TYPE 1 — PSYCHOTROPIC DRUGS LISTED UNDER ITEM 4 OR OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Raw plant material of narcotics<br>– Cultivating for purpose of importing or exporting, trading, manufacturing/possessing, owning of the raw material, seeds, or seedling containing its components for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 1 | • 1 year or more imprisonment |
| • Hemp plant<br>– Cultivating hemp plant for purpose of exporting, trading, manufacturing marijuana | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 11 | • 1 year or more imprisonment |
| • Psychotropic item 4<br>– Importing or exporting, manufacturing/possessing, owning for those purposes | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 3 | • Imprisonment up to 10 years or fine up to 100 million |
| • Group 2 temporary narcotics<br>– Importing or exporting, manufacturing/possessing, owning for those purposes | • Narcotics Control Act, Article 60, paragraph 1, subparagraph 6 | • Imprisonment up to 10 years or fine up to 100 million |
| • Habitual offender | • Narcotics Control Act, Article 59, paragraph 2<br>• Narcotics Control Act, Article 60, paragraph 2 | • 3 years or more imprisonment<br>• $\frac{1}{2}$ aggravation |

(unit: KRW)

### 2. TYPE 2 — MANUFACTURING MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER ITEM 3

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Marijuana<br>– Manufacturing/possessing, owning for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 7 | • 1 year or more imprisonment |
| • Psychotropic item 3<br>– Importing or exporting, manufacturing/possessing, owning for those purposes | • Narcotics Control Act, Article 59, paragraph 1, subparagraph 10 | • 1 year or more imprisonment |
| • Habitual offender | • Narcotics Control Act, Article 59, paragraph 2 | • 3 years or more imprisonment |

## 3. TYPE 3 — NARCOTICS, PSYCHOTROPIC DRUGS LISTED UNDER ITEMS 1, 2, IMPORTING, EXPORTING MARIJUANA OR OTHERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics<br>– Importing or exporting, manufacturing/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 | • Imprisonment for life, or 5 years or more imprisonment |
| • Psychotropic item 1<br>– Importing or exporting, manufacturing/possessing, owning for those purposes<br>– Extracting the component from the raw material/importing or exporting/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 3<br>• Narcotics Control Act, Article 58, paragraph 1, subparagraph 4 | • Imprisonment for life, or 5 years or more imprisonment<br>• Imprisonment for life, or 5 years or more imprisonment |
| • Psychotropic item 2<br>– Importing or exporting, manufacturing/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 6 | • Imprisonment for life, or 5 years or more imprisonment |
| • Raw material of narcotics, and psychotropic drugs<br>– Importing or exporting, manufacturing the raw material with the purpose to manufacture narcotics or psychotropic drugs/possessing, owning of the raw material for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 2 | • Imprisonment for life, or 5 years or more imprisonment |
| • Group 1 temporary narcotics<br>– Importing or exporting, manufacturing/possessing, owning for those purposes | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 8 | • Imprisonment for life, or 5 years or more imprisonment |
| • Marijuana<br>– Importing or exporting/possessing, owning for those purposes<br>※ However, habitual offenders fall under Type 4 | • Narcotics Control Act, Article 58, paragraph 1, subparagraph 5 | • Imprisonment for life, or 5 years or more imprisonment |

(unit: KRW)

### 4. TYPE 4 — OFFENSE COMMITTED FOR PROFITS OR HABITUAL OFFENDERS

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Narcotics, psychotropic items 1, 2, marijuana, raw material of narcotics and psychotropic drugs, Group 1 temporary narcotics<br>– Importing or exporting, manufacturing, etc. for the purpose to gain profit | • Narcotics Control Act, Article 58, paragraph 2 | • Death, imprisonment for life, or 10 years or more imprisonment |
| – Habitual importing or exporting, manufacturing, etc. | • Narcotics Control Act, Article 58, paragraph 2 | • Death, imprisonment for life, or 10 years or more imprisonment |

## 4 OFFENSE AGAINST MULTITUDES

### 1. TYPE 1

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Crimes involving narcotics or psychotropic drugs under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60, paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 5 million or more but less than 50 million | • Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 2 | • Imprisonment for life, or 3 years or more imprisonment |
| • Crimes committed as a business, Narcotics Control Act, Article 59, paragraph 1 through 3 (limited to acts related to subparagraphs 4 through 7 and 10 through 13 of paragraph 1 of the same Article; excluding narcotics in subparagraph 4 of the same paragraph) or Article 60, paragraph 1, subparagraph 2, 3 | • Act on Special Cases Concerning the Prevention of Illegal Trafficking in Narcotics Article 6, paragraph 2 | • 3 years or more imprisonment |

(unit: KRW)

## 2. TYPE 2

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Crimes of narcotics, psychotropic under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60 paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 50 million or more but less than 1 billion<br>• Crimes under the Narcotics Control Act, Article 58, paragraph 1, subparagraphs 1 through 4, 6, and 7, which the value of the concerned narcotics, etc. is 5 million or more but less than 50 million | • Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 1<br>• Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 1, subparagraph 2 | • Imprisonment for life, or 7 years or more imprisonment<br>• Imprisonment for life, or 7 years or more imprisonment |

(unit: KRW)

## 3. TYPE 3

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Crimes of narcotics, psychotropic under the Narcotics Control Act, Article 59, paragraph 1, paragraph 2, Article 60, paragraph 1, paragraph 2, which the value of the concerned narcotics, etc. is 1 billion or more | • Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 2, subparagraph 1 | • Imprisonment for life, or 7 years or more imprisonment |
| • Crimes under the Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 through 4, 6, and 7, which the value of the concerned narcotics, etc. is 50 million or more but less than 1 billion | • Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 1, subparagraph 1 | • Imprisonment for life, or 10 years or more imprisonment |
| • Crimes committed as a business, Narcotics Control Act, Article 59, paragraphs 1 through 3 (limited to acts related to subparagraphs 1 through 4, and 9 of paragraph 1 of the same Article; excluding psychotropics in subparagraph 4 of the same paragraph) or Article 60, paragraph 1, subparagraph 4 | • Act on Special Cases concerning the Prevention of Illegal Trafficking in Narcotics Article 6, paragraph 1 | • Death, imprisonment for life, or 10 years or more imprisonment |

(unit: KRW)

## 4. TYPE 4

| ELEMENTS OF OFFENSE | APPLICABLE LAW | SENTENCING RANGE BY LAW |
|---|---|---|
| • Crimes under the Narcotics Control Act, Article 58, paragraph 1, subparagraph 1 through 4, 6, and 7, which the value of the concerned narcotics, etc. is 1 billion or more | • Act on the Aggravated Punishment of Specific Crimes, Article 11, paragraph 1, subparagraph 1 | • Imprisonment for life, or 10 years or more imprisonment |

(unit: KRW)

## DEFINITION OF SENTENCING FACTORS

### 1. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES CONCERNING THE OFFENDER'S PARTICIPATION IN, OR MOTIVES FOR, THE OFFENSE

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Offense committed as a result of single incident of mere curiosity
  - Other cases with comparable factors

### 2. BUYING, OR GIVING OR RECEIVING, FOR ADMINISTERING DRUGS · MERE POSSESSION, ETC.

- This refers to cases where the buying, and/or giving or receiving is solely for the purpose of one's own administering or carrying.

### 3. IMPORTING, EXPORTING OR MANUFACTURING FOR ADMINISTERING DRUGS · MERE POSSESSION, ETC.

- This refers to cases where the importing, exporting or manufacturing is solely for the purpose of one's own administering or carrying.

### 4. MORALLY REPREHENSIBLE MOTIVES

- This applies where one or more of the following are present:
  - Offense committed by delivering narcotics to another person, or secretly mixing them into another person's food or drink, for the purpose of having that person criminally punished
  - Offense was committed out of retaliation, grievance, or hatred
  - Offense was committed by using, administering, or providing drugs to another person without consent.
  - Offense was committed as a means to carry out another crime.
  - Other cases with comparable factors

## 5. EXTREMELY HIGH VALUE OF NARCOTICS HANDLED

- This applies where one or more of the following are present:
  - Cases where a person commits an offense excluded from Article 11, paragraph 1 of the Act on the Aggravated Punishment of Specific Crimes (among the offenses under Narcotics Control Act, Article 58, paragraph 1, subparagraphs 1 through 4, 6, and 7, offenses related to trading, giving or receiving, and providing, or offenses related to carrying or possessing for the purpose of trading, brokerage of trading, giving or receiving; and offenses under Article 58, paragraph 1, subparagraph 5 and 8 of the Narcotics Control Act) and where the value of the narcotics can be assessed as equivalent to or exceeding 50 million KRW
  - Cases where a person commits an offense excluded from Article 11, paragraph 2 of the Act on the Aggravated Punishment of Specific Crimes (among the offenses prescribed in Article 59, paragraphs 1 and 2 of the Narcotics Control Act, offenses related to raw materials other than narcotics and psychotropic drugs), and where the value thereof can be assessed as equivalent to or exceeding 50 million KRW

## 6. ORGANIZATIONAL OR PROFESSIONAL CRIME

- This applies where one or more of the following are present:
  - Offender is a member of an organization or having an association with a criminal organization
  - Multiple persons were involved in an organized manner to commit the crime
  - Offense committed through the use of professional devices or technology
  - Other cases with comparable factors

## 7. WHERE THE OFFENSE WAS COMMITTED AGAINST UNSPECIFIED OR MULTIPLE PERSONS OR WAS REPEATEDLY COMMITTED OVER A CONSIDERABLE PERIOD

- This applies where one or more of the following are present:
  - Cases where means with high-dissemination such as SNS (Social Network Service) or Dark Web were used
  - Cases where food or drinks containing narcotics was distributed to unspecified or multiple persons
  - Other cases with comparable factors

## 8. OFFENDER'S SUBSTANTIAL COOPERATION WITH THE INVESTIGATION

- This indicates cases in which the offender provided accurate and detailed facts for the investigation of one or more of the following offenses to the extent that the prosecution was possible or facilitated any possible future prosecutions:
  - Compared with the offense Type applicable to the offender, ❶ an offense of a more serious Type; or ❷ an offense of the same Type but more serious in terms of the number of offenders involved, the stage of commission, or the quantity, frequency, or duration involving the narcotics.
  - Offense falling within Type 4 of Engaging in Selling, Brokering, or Other Similar Acts; Type 4 of Importing, Exporting, or Manufacturing Drugs or Other Similar Acts Related to Drugs; or Type 3, Type 4 of Offenses Against Multitudes Category.
- However, this is not applicable in cases in which the offender deliberately engaged in drug-related crimes for the purpose of deriving benefit under the 'Offender's Cooperation with the Investigation' among sentencing factors.

## 9. HABITUAL OFFENDER (TYPE 1, 2)

- This means habitual offenders of Subsection (1), (2), Section 2 of this Chapter[1], and Type 1, 2, Section 3 of this Chapter.[2]

## 10. MINOR PARTICIPATION

- This refers to cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the offense.



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1) 2. ENGAGING IN SELLING · BROKERING, OR OTHER SIMILAR ACTS
1. GENERAL SELLING · BROKERING, OR OTHER SIMILAR ACTS
2. SELLING, BROKERING, OR OTHER SIMILAR ACTS TO MINORS

2) 3 IMPORTING, EXPORTING · MANUFACTURING, OR OTHER SIMILAR ACTS RELATED TO DRUGS
TYPE 1 — PSYCHOTROPIC DRUGS LISTED UNDER ITEM 4 OR OTHERS
TYPE 2 — MANUFACTURING MARIJUANA, PSYCHOTROPIC DRUGS LISTED UNDER ITEM 3

## 11. DRUG SUBSTANCE ABUSER'S VOLUNTARY AND ACTIVE INTENTION TO UNDERGO TREATMENT

- This indicates cases in which under an objective judgment, the offender, a drug substance abuser, demonstrates a clear indication of intent to undergo treatment prior to the narcotics enforcement; has continuously received treatment, and the offender expresses a pro-active attitude toward the treatment.

## 12. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the defendant has never committed a crime even once prior to the relevant offense. However, this excludes cases where crimes were committed repeatedly over a prolonged period.

## 13. OFFENDER'S COOPERATION WITH THE INVESTIGATION

- This indicates cases in which the offender cooperated with the investigation but not to the extent as set forth in the 'Offender's substantial cooperation with the investigation'.
- However, this is not applicable in cases in which the offender deliberately engaged in drug-related crimes for the purpose of deriving benefit of 'Cooperation with the Investigation' among sentencing factors.

# PRINCIPLES APPLICABLE TO SENTENCING FACTORS

## 1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

## 2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

# GENERAL APPLICATION PRINCIPLES

## 1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

## 2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

## 3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating grounds listed in the Sentencing Factor Table of this guideline, such grounds shall be considered as extenuating circumstances among mitigating factors.

# GUIDELINES ON SENTENCING MULTIPLE OFFENSES

## 1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

## 2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

## 3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

# GUIDELINE ON SUSPENDING A SENTENCE

| CLASSIFICATION | ADVERSE | AFFIRMATIVE |
|---|---|---|
| Primary Circumstance | • Morally reprehensible motives<br>• Organizational or professional crime<br>• Leading role in an organized crime or other similar roles<br>• Drug-related offense against minors<br>• Habitual offender<br>• Offense committed against multitudes, or high value of narcotics handled<br>• Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period (Engaging in Selling, Brokering, or Other Similar Acts, and Importing, Exporting, Manufacturing, or Other Similar Acts Related to Drugs)<br>• Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)] | • Cases where the defendant prevented or hindered the commission of the crime by a co-offender<br>• In cases where there are special circumstances that extenuate the offender's involvement in the offense or motives to commit the offense<br>• Dolus Eventualis<br>• Buying, or giving or receiving, for administering drugs or mere possession (Engaging in Selling, Brokering, or Other Similar Acts)<br>• Importing, exporting, or manufacturing for administering drugs or mere possession (Importing, Exporting, Manufacturing, or Other Similar Acts)<br>• Offender's substantial cooperation with the investigation<br>• Voluntary surrender to investigative authorities<br>• No prior criminal convictions |
| General Circumstance | • Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment<br>• Lack of social/family ties<br>• Absence of sincere remorse<br>• Leading role as a co-offender<br>• Post-offense evidence tampering or attempt to destroy or conceal evidence | • Stable social/family ties<br>• Sincere remorse<br>• No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment<br>• Minor participation as a co-offender<br>• The offender's physical condition is severely impaired<br>• Cases where detaining the offender would impose excessive hardship on dependent family members<br>• Offender's cooperation with the investigation<br>• Drug substance abuser's voluntary and active intention to undergo treatment (Offense regarding drug administration and/or mere possession etc. of drugs) |

## DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.
- Sincere Remorse

  This refers to cases where, following investigation and assessment of the specific circumstances in which the defendant acknowledged the offense, voluntary efforts toward damage recovery or prevention of re-offending, etc. the defendant is recognized as having sincerely repented of the offense.

## PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:

  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.

  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.

  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.