

South Australia

Controlled Substances (Offences Relating to Instructions) Amendment Act 2011

An Act to amend the *Controlled Substances Act 1984*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Controlled Substances (Offences Relating to Instructions) Amendment Act 2011*.

2—Commencement

This Act will come into operation on a day to be fixed by proclamation.

3—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Controlled Substances Act 1984*

4—Amendment of section 33A—Sale, manufacture etc of controlled precursor

Section 33A(1), (2) and (3)—delete subsections (1), (2) and (3) and substitute:

- (1) A person who—
- (a) sells a large commercial quantity of a controlled precursor;
or
 - (b) has possession of a large commercial quantity of a controlled precursor intending to sell it,

believing that the person to whom it is, or is to be, sold or another person intends to use any of it to unlawfully manufacture a controlled drug is guilty of an offence.

Maximum penalty: \$200 000 or imprisonment for 25 years, or both.

- (2) A person who—
- (a) sells a commercial quantity of a controlled precursor; or
 - (b) has possession of a commercial quantity of a controlled precursor intending to sell it,

believing that the person to whom it is, or is to be, sold or another person intends to use any of it to unlawfully manufacture a controlled drug is guilty of an offence.

Maximum penalty: \$75 000 or imprisonment for 15 years, or both.

- (3) A person who—
- (a) sells a controlled precursor; or
 - (b) has possession of a controlled precursor intending to sell it,

believing that the person to whom it is, or is to be, sold or another person intends to use any of it to unlawfully manufacture a controlled drug is guilty of an offence.

Maximum penalty: \$50 000 or imprisonment for 10 years, or both.

5—Substitution of heading to Part 5 Division 2 Subdivision 4

Heading to Part 5 Division 2 Subdivision 4—delete the heading and substitute:

Subdivision 4—Sale of equipment etc

6—Insertion of section 33DA

After section 33D insert:

33DA—Sale of instructions

- (1) A person who, without reasonable excuse (proof of which lies on the person)—
 - (a) sells a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant; or
 - (b) has possession of a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant, intending to sell it,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 3 years, or both.

- (2) In this section—

document includes any record of information whether in documentary, magnetic, electronic or other form.

7—Insertion of section 33GB

After section 33GA insert:

33GB—Sale of instructions to a child

- (1) A person who, without reasonable excuse (proof of which lies on the person)—
 - (a) sells to a child a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant; or
 - (b) has possession of a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant, intending to sell it to a child,

is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 3 years, or both.

- (2) In this section—

document includes any record of information whether in documentary, magnetic, electronic or other form.

8—Substitution of section 33LA

Section 33LA—delete the section and substitute:

33LA—Possession or supply of prescribed equipment

A person who, without reasonable excuse (proof of which lies on the person)—

- (a) has possession of any prescribed equipment; or

- (b) supplies to another person any prescribed equipment; or
- (c) has possession of any prescribed equipment intending to supply it to another person,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years, or both.

9—Insertion of section 33LAB

After section 33LA insert:

33LAB—Possession or supply of instructions

- (1) A person who, without reasonable excuse (proof of which lies on the person)—

- (a) has possession of a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant; or
- (b) supplies to another person a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant; or
- (c) has possession of a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant intending to supply it to another person,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years, or both.

- (2) In this section—

document includes any record of information whether in documentary, magnetic, electronic or other form.

10—Amendment of section 33LB—Possession or supply of prescribed quantity of controlled precursor

Section 33LB(1), (2), (3) and (4)—delete subsections (1), (2), (3) and (4) and substitute:

- (1) A person who, without reasonable excuse (proof of which lies on the person)—

- (a) has possession of a prescribed quantity of a controlled precursor; or
- (b) supplies to another person a prescribed quantity of a controlled precursor; or
- (c) has possession of a prescribed quantity of a controlled precursor intending to supply it to another person,

is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 3 years, or both.

- (2) A person who, without reasonable excuse (proof of which lies on the person)—
- (a) —
 - (i) has possession of a prescribed quantity of a controlled precursor; or
 - (ii) supplies to another person a prescribed quantity of a controlled precursor; or
 - (iii) has possession of a prescribed quantity of a controlled precursor intending to supply it to another person; and
 - (b) —
 - (i) has possession of a prescribed quantity of another kind of controlled precursor or any prescribed equipment; or
 - (ii) supplies to another person a prescribed quantity of another kind of controlled precursor or any prescribed equipment; or
 - (iii) has possession of a prescribed quantity of another kind of controlled precursor or any prescribed equipment intending to supply it to another person,

is guilty of an offence.

Maximum penalty: \$15 000 or imprisonment for 5 years, or both.