

South Australia

## Controlled Substances Act 1984

An Act to regulate or prohibit the manufacture, production, sale, supply, possession, handling or use of certain poisons, drugs, medicines and other substances, and of certain medical devices; to apply certain laws of the Commonwealth relating to therapeutic goods as laws of South Australia; to repeal the *Food and Drugs Act 1908*; and for other related purposes.

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## Legislative history

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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 Act 1984*.

### 3—Repeal

- (1) The *Food and Drugs Act 1908* is repealed.

### 4—Interpretation

- (1) In this Act, unless the contrary intention appears—

**Advisory Council** means the Controlled Substances Advisory Council established under Part 2;

**analyst** means—

- (a) a person appointed as an analyst for the purposes of this Act; or
- (b) a person holding a position of a class approved by the Governor for the purposes of this Act;

**applied provisions** means the Commonwealth therapeutic goods laws that apply as a law of South Australia by virtue of section 11A;

**artificially enhanced cultivation** means—

- (a) cultivation in a solution comprised wholly or principally of water enriched with nutrients; or
- (b) cultivation involving the application of an artificial source of light or heat;

**assessment service** means a drug assessment service accredited under Division 2 of Part 5;

**authorised officer**—see section 50(1);

**cannabis** means a plant, or any part (including the seed) of a plant, of the genus *cannabis*, but does not include cannabis resin or cannabis oil;

**cannabis oil** means a substance that contains chemicals of any one or more of the following classes;

- (a) cannabinoids;
- (b) tetrahydrocannabinols;
- (c) alkyl homologues of tetrahydrocannabinols,

where the amount of soluble material in any quantity of the substance, when dissolved in the solvent known as hexane, constitutes more than 85 per cent of the weight of that quantity of substance;

**cannabis resin** means a substance that contains chemicals of any one or more of the following classes:

- (a) cannabinoids;
- (b) tetrahydrocannabinols;
- (c) alkyl homologues of tetrahydrocannabinols,

where the amount of soluble material in any quantity of the substance, when dissolved in the solvent known as hexane, constitutes more than 15 per cent but not more than 85 per cent of the weight of that quantity of substance;

**child** means a person under the age of 18 years and, in relation to the alleged commission of an offence, means a person who was, at the time of the alleged commission of the offence, under that age;

**commercial quantity** of a controlled drug, controlled precursor or controlled plant means—

- (a) in relation to a controlled drug or controlled precursor contained in a mixture—
  - (i) a quantity of the drug or precursor that equals or exceeds the amount prescribed as a commercial quantity for the drug or precursor (as the case may be) in its pure form; or
  - (ii) a quantity of the mixture that equals or exceeds the amount prescribed as a commercial quantity for any mixture containing the drug or precursor (as the case may be); or
  - (iii) a number of discrete dosage units of the mixture that equals or exceeds the number of discrete dosage units prescribed as a commercial quantity for any mixture containing the drug or precursor (as the case may be); or
- (b) in relation to a controlled drug or controlled precursor that is not contained in a mixture—a quantity of the drug or precursor that equals or exceeds the amount prescribed as a commercial quantity for the drug or precursor (as the case may be) in its pure form; or

- (c) in relation to a controlled plant—
- (i) a number of the plant that equals or exceeds the number of plants prescribed as a commercial quantity for the plant; or
  - (ii) a weight of the plant that equals or exceeds the weight prescribed as a commercial quantity for the plant;

**Commonwealth Act** means the *Therapeutic Goods Act 1989* of the Commonwealth;

**Commonwealth Minister** means the Minister of the Commonwealth responsible for the administration of the Commonwealth therapeutic goods laws;

**Commonwealth Secretary** means the Secretary of the Department of the Commonwealth that is, under the Commonwealth Minister, responsible for the administration of the Commonwealth therapeutic goods laws;

**Commonwealth therapeutic goods laws** means the Commonwealth Act and the regulations, orders and manufacturing principles under that Act;

**controlled drug** means—

- (a) a drug of dependence; or
- (b) a substance declared by the regulations to be a controlled drug for the purposes of this Act,

but does not include a controlled plant;

**controlled plant** means a growing cannabis plant or a cutting of a cannabis plant (provided that the cutting has been planted or otherwise placed in a growing medium) or any other plant declared by the regulations to be a controlled plant for the purposes of this Act;

**controlled precursor** means a substance declared by the regulations to be a controlled precursor for the purposes of this Act;

**cultivate** a controlled plant means—

- (a) plant a seed, seedling or cutting of the plant or transplant the plant; or
- (b) nurture, tend or grow the plant; or
- (c) harvest the plant (including pick any part of the plant or separate any resin or other substance from the plant); or
- (d) dry the harvested plant or part of the plant; or
- (e) take part in the process of cultivation of the plant;

**dentist** means a person registered under the *Health Practitioner Regulation National Law*—

- (a) to practise in the dental profession as a dentist (other than as a student); and
- (b) in the dentists division of that profession;

**Department** means the department of the Minister to whom the administration of this Act has been committed;

***discrete dosage unit***, in relation to a controlled drug contained in a mixture or a controlled precursor contained in a mixture, means an amount of the mixture which is prepared or apparently prepared for the purpose of being administered as a single dose;

***drug detection dog*** means a dog that has completed training of a kind approved by the Commissioner of Police for the purpose of detecting the presence of a controlled drug, controlled precursor or controlled plant;

***drug of dependence*** means a poison declared by the regulations to be a drug of dependence;

***electronic drug detection system*** means—

- (a) an electronic device of a kind approved by the Commissioner of Police; or
- (b) a system, of a kind approved by the Commissioner of Police, that involves the use of an electronic device,

for the purpose of detecting the presence of a controlled drug, controlled precursor or controlled plant;

***general drug detection*** means—

- (a) walking or otherwise placing a drug detection dog in the vicinity of a person or property; or
- (b) using an electronic drug detection system in relation to a person or property in a manner prescribed by regulation,

for the purpose of determining whether the dog or system (as the case may be) detects the presence of a controlled drug, controlled precursor or controlled plant (but does not include any other conduct by a person that would constitute a search);

***large commercial quantity*** of a controlled drug, controlled precursor or controlled plant means—

- (a) in relation to a controlled drug or controlled precursor contained in a mixture—
  - (i) a quantity of the drug or precursor that equals or exceeds the amount prescribed as a large commercial quantity for the drug or precursor (as the case may be) in its pure form; or
  - (ii) a quantity of the mixture that equals or exceeds the amount prescribed as a large commercial quantity for any mixture containing the drug or precursor (as the case may be); or
  - (iii) a number of discrete dosage units of the mixture that equals or exceeds the number of discrete dosage units prescribed as a large commercial quantity for any mixture containing the drug or precursor (as the case may be); or
- (b) in relation to a controlled drug or controlled precursor that is not contained in a mixture—a quantity of the drug or precursor that equals or exceeds the amount prescribed as a large commercial quantity for the drug or precursor (as the case may be) in its pure form; or
- (c) in relation to a controlled plant—

- (i) a number of the plant that equals or exceeds the number of plants prescribed as a large commercial quantity for the plant; or
- (ii) a weight of the plant that equals or exceeds the weight prescribed as a large commercial quantity for the plant;

**manufacture**, in relation to a controlled drug means—

- (a) undertake any process by which the drug is extracted, produced or refined; or
- (b) take part in the process of manufacture of the substance;

**medical device** has the same meaning as in the applied provisions;

**medical practitioner** means a person registered under the *Health Practitioner Regulation National Law* to practise in the medical profession (other than as a student);

**medicine** has the same meaning as in the applied provisions;

**midwife** means a person registered under the *Health Practitioner Regulation National Law* to practise in the nursing and midwifery profession as a midwife (other than as a student);

**nurse** means a person registered under the *Health Practitioner Regulation National Law* to practise in the nursing and midwifery profession as a nurse (other than as a student);

**nurse practitioner** means a nurse whose registration under the *Health Practitioner Regulation National Law* is endorsed as being qualified to practise as a nurse practitioner;

**owner**, in relation to premises, includes the occupier of the premises;

**pharmacist** means a person registered under the *Health Practitioner Regulation National Law* to practise in the pharmacy profession (other than as a student);

**poison** means a substance declared by the regulations to be a poison for the purposes of this Act;

**possession** of a substance or thing includes—

- (a) having control over the disposition of the substance or thing; and
- (b) having joint possession of the substance or thing;

**premises** means any land, building, structure, vehicle, vessel or aircraft;

**prescription drug** means a poison declared by the regulations to be a prescription drug for the purposes of this Act;

**product** of a controlled plant includes—

- (a) a seed of the plant; and
- (b) a part of the plant (whether live or dead); and
- (c) a substance separated from the plant;

**registered health practitioner** has the same meaning as in the *Health Practitioner Regulation National Law*;



***school zone*** means the grounds of a primary or secondary school and the area within 500 metres of the boundary of the school;

***sell*** means sell, barter or exchange, offer or agree to sell, barter or exchange or expose for sale, barter or exchange;

***senior police officer*** means a police officer of or above the rank of Inspector;

***simple possession offence*** means an offence against section 33L(1) other than an offence relating to a prescribed controlled drug;

***substance*** means any gaseous, liquid or solid substance and includes a plant or fungus;

***supply*** means provide or distribute or offer to provide or distribute;

***traffic*** in a controlled drug means—

- (a) sell the drug; or
- (b) have possession of the drug intending to sell it; or
- (c) take part in the process of sale of the drug;

***trafficable quantity*** of a controlled drug or controlled plant means—

- (a) in relation to a controlled drug contained in a mixture—
  - (i) a quantity of the drug that equals or exceeds the amount prescribed as a trafficable quantity for the drug in its pure form; or
  - (ii) a quantity of the mixture that equals or exceeds the amount prescribed as a trafficable quantity for any mixture containing the drug; or
  - (iii) a number of discrete dosage units of the mixture that equals or exceeds the number of discrete dosage units prescribed as a trafficable quantity for any mixture containing the drug; or
- (b) in relation to a controlled drug that is not contained in a mixture—a quantity of the drug that equals or exceeds the amount prescribed as a trafficable quantity for the drug in its pure form; or
- (c) in relation to a controlled plant—
  - (i) a number of the plant that equals or exceeds the number of plants prescribed as a trafficable quantity for the plant; or
  - (ii) a weight of the plant that equals or exceeds the weight prescribed as a trafficable quantity for the plant;

***vessel*** means any ship, boat or other water craft;

***veterinary surgeon*** means a person registered as a veterinary surgeon under the *Veterinary Practice Act 2003*;

***volatile solvent*** means a substance declared by the regulations to be a volatile solvent for the purposes of this Act.

- (2) A substance is an analogue of another for the purposes of this Act if—
  - (a) they both have substantially similar chemical structures; or

- (b) they both have substantially similar pharmacological effects.
- (3) Subject to the regulations, an analogue of a controlled drug (not being an analogue that is itself declared by regulation to be a drug of dependence or a controlled drug) is by virtue of this subsection a controlled drug.
- (4) For the purposes of this Act, a person takes part in the process of sale, manufacture or cultivation of a controlled drug or controlled plant if the person directs, takes or participates in any step, or causes any step to be taken, in the process of sale, manufacture or cultivation of the drug or plant.
- (5) For the purposes of this Act, a step in the process of sale of a controlled drug includes, without limitation, any of the following when done for the purpose of sale of the drug:
- (a) storing the drug;
  - (b) carrying, transporting, loading or unloading the drug;
  - (c) packaging the drug, separating the drug into discrete units or otherwise preparing the drug;
  - (d) guarding or concealing the drug;
  - (e) providing or arranging finance (including finance for the acquisition of the drug);
  - (f) providing or allowing the use of premises or jointly occupying premises.
- (6) For the purposes of this Act, a step in the process of manufacture of a controlled drug includes, without limitation, any of the following when done for the purpose of manufacture of the drug:
- (a) acquiring equipment, substances or materials;
  - (b) storing equipment, substances or materials;
  - (c) carrying, transporting, loading or unloading equipment, substances or materials;
  - (d) guarding or concealing equipment, substances or materials;
  - (e) providing or arranging finance (including finance for the acquisition of equipment, substances or materials);
  - (f) providing or allowing the use of premises or jointly occupying premises.
- (7) For the purposes of this Act, a step in the process of cultivation of a controlled plant includes, without limitation, any of the following when done for the purpose of cultivation of the plant:
- (a) acquiring the plant or equipment, substances or materials;
  - (b) storing the plant or equipment, substances or materials;
  - (c) carrying, transporting, loading or unloading the plant or equipment, substances or materials;
  - (d) guarding or concealing the plant or equipment, substances or materials;
  - (e) providing or arranging finance (including finance for the acquisition of the plant or equipment, substances or materials);
  - (f) providing or allowing the use of premises or jointly occupying premises.

- (8) In subsection (7)—  
*materials* includes seeds, seedlings and cuttings.

## 5—Application of Act

- (1) This Act binds the Crown.
- (2) The provisions of this Act are in addition to, and do not derogate from the obligations imposed by, the provisions of any other Act.
- (3) The provisions of this Act do not limit or derogate from any civil remedy at law or in equity.

## Part 2—Controlled Substances Advisory Council

### 6—The Controlled Substances Advisory Council

- (1) The *Controlled Substances Advisory Council* is established.
- (2) The Advisory Council consists of 10 members appointed by the Governor, on the nomination of the Minister, of whom—
  - (a) 1 (the presiding member) is an officer or employee of the Department or of another administrative unit of the Public Service, or body incorporated under the *Health Care Act 2008*, involved in the administration of this Act; and
  - (b) 1 is a medical practitioner; and
  - (c) 1 is a police officer; and
  - (ca) 1 is a legal practitioner who, in the opinion of the Minister, has experience in the administration and operation of this Act; and
  - (d) 2 are persons who, in the opinion of the Minister, have qualifications and extensive experience in the field of chemistry, pharmacy or pharmacology; and
  - (e) 1 is a person who, in the opinion of the Minister, has had extensive experience in the manufacture or sale of substances or devices to which this Act applies; and
  - (f) 2 are persons who, in the opinion of the Minister, have a wide knowledge of the factors and issues involved in controlling the manufacture, sale and supply of substances or devices to which this Act applies; and
  - (g) 1 is, in the opinion of the Minister, a suitable person to represent the interests of the general public.
- (3) The Governor may appoint a suitable person to be the deputy of a member of the Advisory Council.
- (4) If a member is for any reason absent or unable to act as a member of the Advisory Council, his or her deputy may act as a member of the Advisory Council.

### 7—Terms and conditions of office

- (1) A member of the Advisory Council will be appointed for a term of office, not exceeding 3 years, specified in the instrument of appointment and will, on the expiration of any such term, be eligible for reappointment.

- (2) The Governor may remove a member of the Advisory Council from office on the ground of—
  - (a) mental or physical incapacity to carry out satisfactorily the duties of office; or
  - (b) neglect of duty; or
  - (c) dishonourable conduct.
- (3) The office of a member of the Advisory Council becomes vacant if the member—
  - (a) dies; or
  - (b) completes a term of office and is not reappointed; or
  - (c) resigns by giving notice in writing to the Minister; or
  - (d) is removed from office by the Governor pursuant to subsection (2).
- (4) On the office of a member of the Advisory Council becoming vacant, a person must be appointed to that office in accordance with this Act.

## **8—Validity of acts of the Advisory Council**

An act or proceeding of the Advisory Council is not invalid by reason of a vacancy in the membership of the Advisory Council or of a defect in the appointment of a person to the Advisory Council.

## **9—Allowances and expenses**

A member of the Advisory Council is entitled to receive such allowances and expenses as the Governor may from time to time determine

## **10—Conduct of business**

- (1) The presiding member or, in the presiding member's absence, his or her deputy, will preside at any meeting of the Advisory Council.
- (2) In the absence of both the presiding member and the presiding member's deputy from a meeting of the Advisory Council, the members present may elect one of their number to preside at that meeting.
- (3) Six members constitute a quorum of the Advisory Council, and no business may be transacted at any meeting of the Advisory Council unless a quorum is present.
- (4) A decision carried by the votes of a majority of the members present at a meeting is a decision of the Advisory Council.
- (5) The person presiding at a meeting of the Advisory Council will, in the event of an equality of votes, have a second, or casting, vote.
- (6) Subject to this Act, the business of the Advisory Council may be conducted in a manner determined by the Advisory Council.

## **10A—Conflict of interest under Public Sector (Honesty and Accountability) Act**

A member of the Advisory Council will not be taken to have a direct or indirect interest in a matter for the purposes of the *Public Sector (Honesty and Accountability) Act 1995* by reason only of the fact that the member has an interest in a matter that is shared in common with those engaged in or associated with the manufacture or sale of substances or devices to which the *Controlled Substances Act 1984* applies generally, or a substantial section of those engaged in or associated with the manufacture or sale of such substances or devices.

## **11—Functions of the Advisory Council**

- (1) The functions of the Advisory Council are as follows:
  - (a) to keep under review substances and devices that are subject to this Act or that may, in the opinion of the Advisory Council, need to be brought under this Act and the controls (if any) that are, or should be, applicable to them; and
  - (b) to advise the Minister on the measures that should, in the opinion of the Advisory Council, be taken in relation to imposing, withdrawing or varying controls in respect of any of those substances or devices; and
  - (c) to monitor the administration and operation of this Act; and
  - (d) such other functions as the Minister may assign to the Advisory Council.
- (2) The Advisory Council may make recommendations to the Minister for—
  - (a) amendments to this Act; or
  - (b) making, varying or revoking regulations under this Act.
- (3) The Advisory Council must advise the Minister on any matter referred by the Minister to the Advisory Council for advice.
- (4) The Advisory Council may establish subcommittees for the purpose of giving advice to the Advisory Council in the performance of its functions.
- (5) A subcommittee will consist of such members of the Advisory Council, and such other persons co-opted by the Advisory Council, as the Advisory Council thinks fit.
- (6) The Advisory Council must, not later than 31 October in each year, report to the Minister on the administration and operation of this Act during the previous financial year.
- (7) The Minister must, as soon as practicable after receipt of a report submitted under subsection (6), cause a copy of the report to be laid before each House of Parliament.

## Part 2A—Application in South Australia of Commonwealth therapeutic goods laws

### Division 1—Applied provisions

#### 11A—Application of Commonwealth therapeutic goods laws

- (1) The Commonwealth therapeutic goods laws, as in force for the time being and as modified by or under this Part, apply as a law of South Australia.
- (2) Those Commonwealth therapeutic goods laws so apply as if they extended to—
  - (a) things done or omitted to be done by persons who are not corporations; and
  - (b) things done or omitted to be done in the course of trade and commerce within the limits of South Australia.
- (3) For the purposes of this section, the Commonwealth therapeutic goods laws are modified as follows:
  - (a) a reference to the Federal Court or the Federal Court of Australia is to be read as a reference to the District Court of South Australia;
  - (b) a reference to the Administrative Appeals Tribunal is to be read as a reference to the Administrative and Disciplinary Division of the District Court of South Australia;
  - (c) a reference to a prescribed court is to be read as a reference to a prescribed court excluding the Federal Court;
  - (d) any other modifications specified by the regulations.

#### 11B—Interpretation of Commonwealth therapeutic goods laws

- (1) The *Acts Interpretation Act 1901* of the Commonwealth, as in force for the time being—
  - (a) applies to the interpretation of the applied provisions; and
  - (b) so applies as if the applied provisions were an Act of the Commonwealth or regulations or orders under a Commonwealth Act, as the case requires.
- (2) The *Acts Interpretation Act 1915* does not apply to the applied provisions.

### Division 2—Functions and powers under applied provisions

#### 11C—Functions and powers of Commonwealth Minister

The Commonwealth Minister has the same functions and powers under the applied provisions as that Minister has under the Commonwealth therapeutic goods laws as those laws apply to the Commonwealth.

#### 11D—Functions and powers of Commonwealth Secretary

- (1) The Commonwealth Secretary has the same functions and powers under the applied provisions as that Secretary has under the Commonwealth therapeutic goods laws as those laws apply to the Commonwealth.

- (2) Without limiting subsection (1), the Commonwealth Secretary has the function of including goods in the Australian Register of Therapeutic Goods kept under the applied provisions and is authorised to cancel the inclusion of goods in that Register in accordance with those provisions.

### **11E—Commonwealth may retain fees paid to Commonwealth Secretary**

The Commonwealth may retain fees paid to, or recovered by, the Commonwealth Secretary in respect of the performance or exercise of functions or powers conferred on the Commonwealth Secretary by the applied provisions.

### **11F—Functions and powers of other persons**

An authorised person, authorised officer or official analyst appointed under the Commonwealth therapeutic goods laws has the same functions and powers under the applied provisions as that person, officer or analyst has under the Commonwealth therapeutic goods laws as those laws apply to the Commonwealth.

### **11G—Delegation by Commonwealth Minister or Commonwealth Secretary**

Any delegation by the Commonwealth Minister or the Commonwealth Secretary under section 57 of the Commonwealth Act is taken to extend to, and have effect for the purposes of, the corresponding provision of the applied provisions.

### **11H—Appointments under Commonwealth therapeutic goods laws**

The appointment of a person to an office or position under a provision of the Commonwealth therapeutic goods laws is taken to extend to, and have effect for the purposes of, the applied provisions.

## **Division 3—Offences against applied provisions**

### **11I—Application of Commonwealth criminal laws to offences against applied provisions**

- (1) The relevant Commonwealth laws apply as laws of South Australia in relation to any offence committed against the applied provisions as if the applied provisions were a law of the Commonwealth and not a law of South Australia.
- (2) For the purposes of a law of South Australia, an offence against the applied provisions—
  - (a) is taken to be an offence against the laws of the Commonwealth in the same way as if the applied provisions were a law of the Commonwealth; and
  - (b) is taken not to be an offence against the laws of South Australia.
- (3) Subsection (2) has effect for the purposes of a law of South Australia except as prescribed by the regulations.

### **11J—Functions and powers conferred on certain Commonwealth officers and authorities relating to offences**

- (1) A provision of the applied provisions applying because of section 11I that confers on a Commonwealth officer or authority a function or power in relation to an offence against the Commonwealth therapeutic goods laws also confers on the officer or authority the same function or power in relation to an offence against the corresponding provision of the applied provisions.
- (2) In performing a function, or exercising a power, conferred by subsection (1), the Commonwealth officer or authority must act as nearly as is practicable as the officer or authority would act in performing or exercising the same function or power in relation to an offence against the corresponding provision of the Commonwealth therapeutic goods laws.

### **11K—No double jeopardy for offences against applied provisions**

If—

- (a) an act or omission is both an offence against the applied provisions and an offence against the Commonwealth therapeutic goods laws; and
- (b) the offender has been punished for that offence under the Commonwealth therapeutic goods laws,

the offender is not liable to be punished for that offence under the applied provisions.

## **Division 4—Reviews and appeals**

### **11L—District Court may sit with assessors**

- (1) In proceedings for review by or on an appeal to the Administrative and Disciplinary Division of the District Court under the applied provisions, the Court will, if a Judge of the Court so determines, sit with assessors.
- (2) For the purposes of this section, if a Judge of the Court determines that the Court is to sit with assessors—
  - (a) the Minister must establish a panel of persons who may sit as assessors; and
  - (b) a member of the panel will hold office on terms and conditions specified by the Minister in the instrument of appointment (and a member of the panel whose term of office expires is eligible for reappointment); and
  - (c) subject to paragraph (d), if assessors are to sit with the District Court, the Judge of the Court on the appeal will select 2 members of the panel to sit with the Court in the proceedings; and
  - (d) a member of the panel who has a personal or direct or indirect pecuniary interest in a matter before the District Court is disqualified from participating in proceedings relating to the matter; and
  - (e) if an assessor dies or is for any reason unable to continue with any proceedings, the District Court constituted of the judicial officer who is presiding at the proceedings and the other assessor may, if the judicial officer so determines, continue and complete the proceedings.



## **Part 3—Controlled substances**

### **12—Declaration of poisons, prescription drugs, drugs of dependence, controlled drugs etc**

- (1) The Governor may, by regulation, declare, individually or by class, any substance that in the Governor's opinion has the potential to be harmful to humans to be a poison for the purposes of this Act.
- (2) The Governor may, by regulation, declare, individually or by class, a poison to be a prescription drug for the purposes of this Act.
- (3) The Governor may, by regulation, declare, individually or by class, a poison that in the Governor's opinion may lead to dependence in humans to be a drug of dependence for the purposes of this Act.
- (4) The Governor may, by regulation, declare, individually or by class, any substance that in the Governor's opinion may lead to dependence in humans or is of exceptional danger to humans to be a controlled drug for the purposes of this Act.
- (4a) The Governor may, by regulation, declare, individually or by class, a substance that in the Governor's opinion may be used in the manufacture of a controlled drug to be a controlled precursor for the purposes of this Act.
- (4b) The Governor may, by regulation, declare, individually or by class, a plant that in the Governor's opinion has the potential if it, or any product of it, is smoked or consumed by, or administered to, humans to lead to dependence in humans to be a controlled plant for the purposes of this Act.
- (7) The Governor may, by regulation, declare, individually or by class, any substance that in the Governor's opinion is a volatile solvent, or contains a volatile solvent, to be a volatile solvent for the purposes of this Act.
- (8) In any regulations made for the purposes of this section, the Governor may assign a poison or drug of dependence to a specified class or specified classes.

## **Part 4—General offences**

### **13—Manufacture and packing**

- (1) A person must not manufacture or pack a poison, medicine or medical device to which this section applies unless the person—
  - (a) is a registered health practitioner or veterinary surgeon acting in the ordinary course of his or her profession; or
  - (b) is licensed to do so by the Minister.Maximum penalty: \$10 000.
- (2) This section applies to such poisons (other than prescription drugs), medicines or medical devices as may be prescribed, individually or by class, by the regulations.

- (3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.
- (4) In this section—
- manufacture*—
- (a) in relation to a substance, means undertake any process by which the substance is extracted, produced, refined, separated into discrete units or otherwise prepared; and
- (b) in relation to a device, means undertake any process by which the device is produced.

#### **14—Sale by wholesale**

- (1) A person must not sell by wholesale a poison, medicine or medical device to which this section applies unless the person—
- (a) is a pharmacist acting in the ordinary course of his or her profession; or
- (b) is licensed to do so by the Minister.

Maximum penalty: \$10 000.

- (2) This section applies to such poisons (other than prescription drugs), medicines or medical devices as may be prescribed, individually or by class, by the regulations.
- (3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

#### **15—Sale or supply to end user**

- (1) A person must not sell by retail or supply to a person a poison, medicine or medical device to which this section applies unless the person—
- (a) is a registered health practitioner or veterinary surgeon acting in the ordinary course of his or her profession; or
- (b) is licensed to do so by the Minister.

Maximum penalty: \$10 000.

- (2) This section applies to such poisons (other than prescription drugs), medicines or medical devices as may be prescribed, individually or by class, by the regulations.
- (3) In proceedings for an offence against subsection (1), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.

## 16—Sale of certain poisons

- (1) A person must not sell a poison to which this section applies to a person under the age of 18 years.  
Maximum penalty: \$10 000.
- (2) A person must not sell a poison to which this section applies—
  - (a) unless the purchaser is known to the vendor; or
  - (b) unless the purchaser produces satisfactory evidence of his or her identity.Maximum penalty: \$10 000.
- (3) If a person seeks to purchase a poison to which this section applies, the vendor must ask the prospective purchaser the purpose for which the poison is required, and must not proceed with the sale unless the question is satisfactorily answered.  
Maximum penalty: \$10 000.
- (4) A person who sells poisons to which this section applies must keep a record of—
  - (a) the names of the purchasers of those poisons; and
  - (b) the stated purposes for which they were purchased; and
  - (c) such other matters as may be prescribed.Maximum penalty: \$10 000.
- (5) This section applies to such poisons as may be prescribed, individually or by class, by the regulations.

## 17—Sale of poisons the possession of which requires a licence

A person must not sell a poison the possession of which requires a licence under this Act unless the purchaser produces his or her licence.

Maximum penalty: \$10 000.

## 17A—Manufacture, sale, supply or possession of certain precursors

- (1) A person must not, unless he or she holds a permit from the Minister to do so, manufacture, sell or supply a poison to which this section applies (a *section 17A precursor*).  
Maximum penalty: \$15 000 or imprisonment for 3 years, or both.
- (2) A person must not, unless he or she holds a permit from the Minister to do so, be in possession of a section 17A precursor.  
Maximum penalty: \$10 000 or imprisonment for 2 years, or both.
- (3) A person must not sell a section 17A precursor unless the purchaser produces the permit under which the person is entitled to be in possession of the section 17A precursor.  
Maximum penalty: \$10 000 or imprisonment for 2 years, or both.
- (4) This section applies to such poisons as may be prescribed, individually or by class, by the regulations.

### 17B—Storage and sale of certain precursors

- (1) A person must not sell a poison to which this section applies (a *section 17B precursor*) to another person unless—
- (a) the purchaser holds an account with the seller; and
  - (b) the sale is transacted as a sale on account pursuant to a duly completed order form supplied by the purchaser; and
  - (c) the order form is accompanied by a duly completed end user statement in the form prescribed by regulation; and
  - (d) the person collecting the precursor produces his or her driver's licence, passport or other satisfactory evidence of the person's identity that includes a photograph; and
  - (e) the seller is satisfied that the person collecting the precursor is the purchaser or is acting on behalf of the purchaser; and
  - (f) the seller duly completes the seller's section of the end user statement.

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

- (2) A seller of section 17B precursors—
- (a) must, in relation to each sale of such a precursor, keep a record of—
    - (i) the name and address of the purchaser; and
    - (ii) the name of the precursor and the quantity sold; and
    - (iii) the date of the sale; and
  - (b) must retain an end user statement for at least 5 years after the date of the sale to which it relates; and
  - (c) must make the record referred to in paragraph (a) and the end user statements available for inspection at any time by an authorised officer.

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

- (3) A seller of section 17B precursors must, if at any time he or she forms a suspicion that an order or enquiry for the purchase of such a precursor may be connected to an unlawful use of the precursor, inform the Commissioner of Police of the suspicion.

Maximum penalty: \$1 000 or imprisonment for 12 months, or both.

- (4) A seller of section 17B precursors—
- (a) must keep those precursors in storage that is secure from access by any person other than the seller or a person who is authorised in writing by the seller to have such access; and
  - (b) must retain such a written authorisation while it is current and for at least 5 years after it ceases to have effect and make it available for inspection at any time by an authorised officer; and
  - (c) must cause the stock of those precursors to be checked, after each sale, by some person other than the person who directly handled the sale.

Maximum penalty: \$1 000 or imprisonment for 12 months, or both.

- (5) This section does not apply in relation to the sale of a section 17B precursor if the sale—
  - (a) is of a section 17B precursor contained in a preparation designed, packaged and labelled for human or animal therapeutic use; and
  - (b) is made to, or by, a registered health practitioner or veterinary surgeon acting in the ordinary course of his or her profession.
- (6) This section applies to such poisons as may be prescribed, individually or by class, by the regulations.

### **17C—Regulation of sale of certain precursors**

- (1) A person must not sell a poison to which this section applies (a *section 17C precursor*) to another person unless—
  - (a) the purchaser provides the seller with a duly completed end user statement in the form prescribed by regulation; and
  - (b) the purchaser produces his or her driver's licence, passport or other satisfactory evidence of the person's identity that includes a photograph; and
  - (c) the seller duly completes the seller's section of the end user statement.

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

- (2) A seller of section 17C precursors must, if at any time he or she forms a suspicion that an order or enquiry for the purchase of such a precursor may be connected to an unlawful use of the precursor, inform the Commissioner of Police of the suspicion.

Maximum penalty: \$1 000 or imprisonment for 12 months, or both.

- (3) This section does not apply in relation to the sale of a section 17C precursor if the sale—
  - (a) is of a section 17C precursor contained in a preparation designed, packaged and labelled for human or animal therapeutic use; and
  - (b) is made to, or by, a registered health practitioner or veterinary surgeon acting in the ordinary course of his or her profession.
- (4) This section applies to such poisons as may be prescribed, individually or by class, by the regulations.

### **18—Regulation of prescription drugs**

- (1) A person must not prescribe a prescription drug (not being a drug of dependence) except as follows:
  - (a) a registered health practitioner may prescribe a prescription drug (not being a drug of dependence) for a person if he or she is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner or nurse practitioner;  
or

- (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to prescribe a scheduled medicine or class of scheduled medicines and the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
- (iii) the practitioner is authorised to prescribe the drug by the regulations;
- (b) a veterinary surgeon may prescribe a prescription drug (not being a drug of dependence) for an animal if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession;
- (c) a person may prescribe a prescription drug (not being a drug of dependence) for a person or an animal if licensed to do so by the Minister.

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

- (1a) A person must not sell a prescription drug (not being a drug of dependence) by wholesale except as follows:
- (a) a pharmacist may sell a prescription drug (not being a drug of dependence) by wholesale if the pharmacist is acting in the ordinary course of the pharmacist's profession;
  - (b) a person may sell a prescription drug (not being a drug of dependence) by wholesale if licensed to do so by the Minister.

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

- (1b) A person must not sell a prescription drug (not being a drug of dependence) by retail except as follows:
- (a) a pharmacist may sell a prescription drug (not being a drug of dependence) by retail if the pharmacist—
    - (i) is dispensing the drug on the prescription of a person of a class authorised to prescribe the drug; and
    - (ii) is acting in the ordinary course of the pharmacist's profession;
  - (b) a registered health practitioner may sell a prescription drug (not being a drug of dependence) by retail if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner or nurse practitioner; or
    - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to sell a scheduled medicine or class of scheduled medicines and the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to sell the drug by the regulations;
  - (c) a veterinary surgeon may sell a prescription drug (not being a drug of dependence) by retail if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession;

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- (d) a person may sell a prescription drug (not being a drug of dependence) by retail if the person is licensed to do so by the Minister.

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

- (1c) A person must not supply a prescription drug (not being a drug of dependence) to another person except as follows:
- (a) a pharmacist may supply a prescription drug (not being a drug of dependence) to a person if the pharmacist—
    - (i) is dispensing the drug on the prescription of a person of a class authorised to prescribe the drug; and
    - (ii) is acting in the ordinary course of the pharmacist's profession;
  - (b) a registered health practitioner may supply a prescription drug (not being a drug of dependence) to a person if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner, nurse or midwife; or
    - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to supply a scheduled medicine or class of scheduled medicines and the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to supply the drug by the regulations;
  - (c) a veterinary surgeon may supply a prescription drug (not being a drug of dependence) to a person for an animal if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession;
  - (d) a person may supply a prescription drug (not being a drug of dependence) to another person if licensed to do so by the Minister.

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

- (1d) A person must not administer a prescription drug (not being a drug of dependence) to another person or an animal except as follows:
- (a) a registered health practitioner may administer a prescription drug (not being a drug of dependence) to a person if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner, nurse or midwife; or
    - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to administer a scheduled medicine or class of scheduled medicines and the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to administer the drug by the regulations;
  - (b) a veterinary surgeon may administer a prescription drug (other than a drug of dependence) to an animal if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession;

- (c) a person may administer to another person or an animal a prescription drug (not being a drug of dependence) if the drug has been lawfully prescribed for, or supplied to, that other person or that animal;
- (d) a person may administer a prescription drug (not being a drug of dependence) to another person if licensed to do so by the Minister.

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

- (1e) A person must not manufacture or pack a prescription drug (not being a drug of dependence) except as follows:

- (a) a pharmacist may manufacture or pack a prescription drug (not being a drug of dependence) if the pharmacist is acting in the ordinary course of the pharmacist's profession;
- (b) a registered health practitioner may manufacture or pack a prescription drug (not being a drug of dependence) if the practitioner is acting in the ordinary course of the practitioner's profession and—
  - (i) the practitioner is a dentist, medical practitioner or nurse practitioner; or
  - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to sell, supply or administer a scheduled medicine or class of scheduled medicines, the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement and the manufacture or packing is incidental to the sale, supply or administration of the drug; or
  - (iii) the practitioner is authorised to manufacture or pack the drug by the regulations;
- (c) a veterinary surgeon may manufacture or pack a prescription drug (not being a drug of dependence) if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession;
- (d) a person may manufacture or pack a prescription drug (not being a drug of dependence) if licensed to do so by the Minister;
- (e) a person may manufacture or pack a prescription drug (not being a drug of dependence) if—
  - (i) the drug has been lawfully prescribed for the person, another person or an animal; and
  - (ii) the manufacture or packing is incidental to the administration of the drug as so prescribed.

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

- (2) A person must not prescribe a prescribed prescription drug unless the person has the qualifications or meets the requirements specified in the regulations for the purposes of this subsection.

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



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- (3) A person must not have in his or her possession a prescription drug (not being a drug of dependence) unless he or she—
- (a) is the person, or is acting on behalf of the person, for whom the drug has been lawfully prescribed or supplied; or
  - (b) is the owner, or is acting on behalf of the owner, of an animal for whom the drug has been lawfully prescribed or supplied; or
  - (c) is a person authorised by law to sell or supply prescription drugs; or
  - (d) is licensed to do so by the Minister; or
  - (e) has other lawful authority or reasonable excuse for doing so.

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

- (4) In proceedings for an offence against subsection (1) or (3), the paragraphs of the subsection are to be treated as providing exceptions, and, if the complaint negatives the exceptions or alleges that the defendant acted without lawful authority and, in the case of a complaint for an offence against subsection (3), without reasonable excuse, no proof will be required in relation to the exceptions by the prosecution but the application of an exception will be a matter for proof by the defendant.
- (5) In this section—

*manufacture*, in relation to a substance, means undertake any process by which the substance is extracted, produced, refined, separated into discrete units or otherwise prepared.

### **18A—Restriction of prescription or supply of drug of dependence in certain circumstances**

- (a1) A person must not prescribe for a person or an animal a drug of dependence except as follows:
- (a) a registered health practitioner may prescribe a drug of dependence for a person if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner or nurse practitioner; or
    - (ii) the practitioner is a registered health practitioner whose registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to prescribe a scheduled medicine or class of scheduled medicines and the drug is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to prescribe the drug by the regulations;
  - (b) a veterinary surgeon may prescribe a drug of dependence for an animal if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession.

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

- (1) A registered health practitioner must not prescribe any drug of dependence for, or supply any drug of dependence to—
- (a) a person for regular use by the person during a period exceeding 2 months, or during a period that, together with any other period for which a drug of dependence has, to the practitioner's knowledge, been prescribed or supplied by a registered health practitioner, would result in drugs of dependence being regularly used by the person during a period exceeding 2 months; or
  - (b) a person who the practitioner knows or has reasonable cause to believe is dependent on drugs,

unless the practitioner prescribes or supplies the drug in accordance with an authority granted by the Minister under this section or in circumstances that are exempted from this subsection by the regulations.

Maximum penalty: \$4 000 or imprisonment for 4 years.

- (2) For the purposes of this section, a person is dependent on drugs if—
- (a) the person—
    - (i) has acquired, as a result of the repeated administration of prescription drugs or controlled drugs, an overpowering desire for the continued administration of such drugs; and
    - (ii) is likely to suffer mental or physical distress or disorder on cessation of the administration of such drugs; or
  - (b) the person has a history of consuming or using prescription drugs or controlled drugs in a quantity or manner that—
    - (i) in the case of drugs lawfully supplied to the person—is contrary to the prescribing practitioner's instructions relating to consumption or use of the drug; and
    - (ii) in any case—presents a risk to the person's health.
- (3) An application for the authority of the Minister to prescribe or supply a drug of dependence under this section must—
- (a) be in writing and be signed by the registered health practitioner who proposes to prescribe or supply the drug; and
  - (b) contain such information as may be prescribed.
- (4) The Minister may give an authority to the registered health practitioner by whom any such application is made to prescribe for or supply to the person to whom the application relates a drug of dependence specified in the authority for therapeutic purposes.
- (5) Any such authority must be in writing and must specify—
- (a) the quantity of the drug of dependence that may be so prescribed or supplied by the practitioner; and
  - (b) the period for which any such drug may be so prescribed or supplied.
- (6) In the case of an emergency the Minister may issue a registered health practitioner authorised to prescribe a drug of dependence a temporary authority to prescribe or supply a drug of dependence under this section.

- (7) A temporary authority—
  - (a) may be applied for, and given, orally; and
  - (b) cannot operate in respect of a period longer than 2 months.
- (8) An authority or temporary authority given under this section—
  - (a) may be subject to such conditions as the Minister thinks fit; and
  - (b) may be varied or revoked by the Minister at any time by notice in writing given personally or by post to the holder of the authority or temporary authority.

### **19—Sale or supply of volatile solvents**

- (1) A person must not sell or supply a volatile solvent to another person if he or she suspects, or there are reasonable grounds for suspecting, that the other person—
  - (a) intends to inhale the solvent; or
  - (b) intends to sell or supply the solvent to a further person for inhalation by that further person.

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

- (2) If a person, acting at the request of another person, purchases a volatile solvent on behalf of the other person for the purpose of inhalation, the person is guilty of an offence.

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

- (3) A person must not sell or supply a volatile solvent to which this subsection applies to a person under the age prescribed for the volatile solvent.

Maximum penalty: \$10 000.

- (4) Subsection (3) applies to such volatile solvents as may be prescribed, individually or by class, by the regulations.
- (5) An authorised officer may confiscate a volatile solvent (together with its container) found in the possession of a person if the authorised officer has reason to suspect that the person has the solvent for the purpose of inhalation.
- (6) Anything confiscated under subsection (5) is forfeited to the Crown and may be sold, destroyed or otherwise disposed of as the Minister or the Commissioner of Police directs.

### **20—Prohibition of automatic vending machines**

- (1) A person must not—
  - (a) whether on premises of which the person is the owner or in any other place—
    - (i) install an automatic vending machine for the sale or supply of a poison, medicine or medical device; or
    - (ii) sell or supply a poison, medicine or medical device by means of an automatic vending machine; or

- (b) permit or suffer any such vending machine to be installed or operated on premises of which he or she is the owner.

Maximum penalty: \$5 000.

- (2) This section does not apply to a poison, medicine or medical device prescribed, or of a class prescribed, by regulation or in circumstances prescribed by regulation.

## **21—Sale, supply, possession or administration of other potentially harmful substances or devices**

- (1) The Minister may, by notice published in the Gazette, prohibit the sale, supply, possession or administration of—
  - (a) any substance or device specified in the order, being a substance or device that should not, in the Minister's opinion, be sold, supplied, possessed or administered pending evaluation of its harmful properties; and
  - (b) in the case of a substance, any preparation containing that substance.
- (2) A person must not contravene a notice published under subsection (1).  
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (3) The Minister may, by notice published in the Gazette, vary or revoke a notice published under subsection (1).
- (4) On publishing a notice under this section, the Minister must refer the subject matter of the notice to the Advisory Council for its consideration.

## **22—Possession**

- (1) A person must not have in his or her possession a poison to which this section applies unless licensed to do so by the Minister.  
Maximum penalty: \$10 000.
- (2) This section applies to such poisons (other than drugs of dependence) as may be prescribed, individually or by class, by the regulations.

## **23—Quality**

- (1) A person must not sell by wholesale or by retail or supply a poison, medicine or medical device that does not conform with the regulations.  
Maximum penalty: \$10 000.
- (2) It is a defence for a person charged with an offence against this section to prove that he or she did not know and could not, by the exercise of reasonable diligence, have known that the subject matter of the offence did not conform with the regulations.

## **24—Packaging and labelling**

A person must not sell by wholesale or by retail or supply to a person a poison, medicine or medical device unless—

- (a) it is enclosed in a package or container; and
- (b) the package or container conforms with the regulations; and
- (c) the package or container is labelled in accordance with the regulations.

Maximum penalty: \$10 000.

## **25—Storage**

A person must not store a poison, medicine or medical device contrary to the regulations.

Maximum penalty: \$10 000.

## **26—Transport**

A person must not transport a poison, medicine or medical device contrary to the regulations.

Maximum penalty: \$10 000.

## **27—Use**

A person must not—

- (a) use a poison, medicine or medical device for a purpose or in a manner prohibited by the regulations; or
- (b) sell, supply, prescribe, or purchase a poison, medicine or medical device for a purpose prohibited by the regulations.

Maximum penalty: \$10 000.

## **28—Prohibition of advertisement**

- (1) A person must not advertise that a poison, controlled drug, medicine or medical device to which this section applies is available for sale or supply.

Maximum penalty: \$10 000.

- (2) This section applies to such poisons, controlled drugs, medicines and medical devices as may be prescribed, individually or by class, by the regulations.

## **29—Regulation of advertisement**

A person must comply with the regulations in advertising that a poison, medicine or medical device is available for sale or supply.

Maximum penalty: \$10 000.

## **30—Forgery etc of prescriptions**

- (1) A person must not forge or fraudulently alter or utter a prescription or other document, or have in his or her possession such a prescription or document knowing it to be forged or fraudulently altered, with a view to obtaining a prescription drug.

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

- (2) A person must not knowingly, by false representation, obtain—

- (a) a prescription drug; or
- (b) a prescription for a prescription drug.

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

- (2a) A person must not, in or in connection with obtaining a prescription drug, give to the person prescribing or supplying the drug a name or address that is false.

Maximum penalty: \$10 000.

- (3) A pharmacist must retain any prescription or other document that he or she has reasonable cause to believe has been forged or fraudulently altered and must forthwith deliver any such prescription or document to the Commissioner of Police.

## Part 5—Offences relating to controlled drugs, precursors and plants

### Division 1—Preliminary

#### 31—Application of Part

- (1) This Part does not apply to—
- (a) the manufacture, sale or supply of a poison, or the sale or supply of equipment for use in connection with the consumption or administration of a poison, by a pharmacist if the pharmacist is acting in the ordinary course of the pharmacist's profession; or
  - (ab) the sale by retail of a poison, or of equipment for use in connection with the consumption or administration of a poison, by a registered health practitioner if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner or nurse practitioner; or
    - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to sell a scheduled medicine or class of scheduled medicines and the poison is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to sell the poison by the regulations; or
  - (ac) the supply of a poison, or of equipment for use in connection with the consumption or administration of a poison, by a registered health practitioner if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner, nurse or midwife; or
    - (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to supply a scheduled medicine or class of scheduled medicines and the poison is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
    - (iii) the practitioner is authorised to supply the poison by the regulations; or
  - (ad) the administration of a poison by a registered health practitioner if the practitioner is acting in the ordinary course of the practitioner's profession and—
    - (i) the practitioner is a dentist, medical practitioner, nurse or midwife; or

- (ii) the practitioner's registration is endorsed under section 94 of the *Health Practitioner Regulation National Law* as being qualified to administer a scheduled medicine or class of scheduled medicines and the poison is a scheduled medicine or of a class of scheduled medicines specified in the endorsement; or
  - (iii) the practitioner is authorised to administer the poison by the regulations; or
- (ae) the manufacture, sale, supply or administration of a poison, or the sale or supply of equipment for use in connection with the consumption or administration of a poison, by a veterinary surgeon if the veterinary surgeon is acting in the ordinary course of the veterinary surgeon's profession; or
- (af) the possession of a poison or equipment if that possession is incidental to an activity described in a preceding paragraph; or
- (ag) the manufacture, sale, supply, administration or possession of a substance, or the sale, supply or possession of equipment, by a person who is acting in accordance with a licence or permit issued by the Minister under this Act; or
- (b) the possession of a relevant controlled drug, or of equipment for use in connection with the consumption or administration of a relevant controlled drug, by—
  - (i) a person—
    - (A) for whom the drug has been lawfully prescribed; or
    - (B) to whom the drug has been lawfully supplied for the purpose of consumption or administration by the person; or
  - (ii) a person—
    - (A) being the owner of an animal for whom the drug has been lawfully prescribed; or
    - (B) to whom the drug has been lawfully supplied for the purpose of consumption by or administration to an animal owned by the person; or
  - (iii) a person acting on behalf of a person referred to in subparagraph (i) or (ii); or
- (c) the administration or supply, or the giving of permission for the administration or supply, of a relevant controlled drug to a person—
  - (i) for whom the drug has been lawfully prescribed; or
  - (ii) to whom the drug has been lawfully supplied for the purpose of consumption or administration by the person; or
- (d) the consumption or administration of a relevant controlled drug by a person—
  - (i) for whom the drug has been lawfully prescribed; or
  - (ii) to whom the drug has been lawfully supplied for the purpose of consumption or administration by the person.

- (2) In proceedings for an offence against this Part, subsection (1) is to be treated as providing exceptions, and no proof will be required in relation to any exception by the prosecution but the application of an exception will be a matter for proof by the defendant.
- (3) In this section—  
*relevant controlled drug* means a controlled drug other than a controlled drug of a kind excluded from this definition by regulation.

## **Division 2—Commercial offences**

### **Subdivision 1—Trafficking in controlled drugs**

#### **32—Trafficking**

- (1) A person who traffics in a large commercial quantity of a controlled drug is guilty of an offence.  
Maximum penalty: \$500 000 or imprisonment for life, or both.
- (2) A person who traffics in a commercial quantity of a controlled drug is guilty of an offence.  
Maximum penalty: \$200 000 or imprisonment for 25 years, or both.
- (2a) A person who, in a prescribed area, traffics in a controlled drug is guilty of an offence.  
Maximum penalty: \$75 000 or imprisonment for 15 years, or both.
- (3) A person who traffics in a controlled drug is guilty of an offence.  
Maximum penalty: \$50 000 or imprisonment for 10 years, or both.
- (4) An offence against subsection (3) involving cannabis, cannabis resin or cannabis oil (and not involving any other controlled drug) must be prosecuted, and dealt with by the Magistrates Court, as a summary offence but if the Court determines that a person found guilty of such an offence should be sentenced to a term of imprisonment exceeding 2 years, the Court must commit the person to the District Court for sentence.
- (5) If, in any proceedings for an offence against subsection (1), (2), (2a) or (3) it is proved that the defendant had possession of a trafficable quantity of a controlled drug, it is presumed, in the absence of proof to the contrary—
  - (a) in a case where it is alleged that the defendant was taking part in the process of sale of the drug, that the defendant—
    - (i) was acting for the purpose of sale of the drug; and
    - (ii) had the relevant belief concerning the sale of the drug necessary to constitute the offence; or
  - (b) in any other case—that the defendant had the relevant intention concerning the sale of the drug necessary to constitute the offence.



(6) In this section—

**prescribed area** means—

- (a) prescribed licensed premises or an area being used in connection with prescribed licensed premises; or
- (b) premises at which members of the public are gathered for a public entertainment or an area being used in connection with such premises;

**Example—**

Areas *being used in connection with* premises would include—

- (a) a car parking area specifically provided for the use of patrons of the premises;
- (b) an area in which people are queuing to enter the premises.

**prescribed licensed premises** means—

- (a) premises in respect of which 1 of the following classes of licence is in force under the *Liquor Licensing Act 1997*:
  - (i) a hotel licence;
  - (ii) a restaurant licence that includes an extended trading authorisation;
  - (iii) an entertainment venue licence;
  - (iv) a club licence that includes an extended trading authorisation;
  - (v) a special circumstances licence that includes an extended trading authorisation;
  - (vi) a licence of a class prescribed by regulation;
- (b) the premises defined in the casino licence, within the meaning of the *Casino Act 1997*, as the premises to which the licence relates;
- (c) premises subject to a licence prescribed by regulation;

**public entertainment** means a dance, performance, exhibition or event that is calculated to attract and entertain members of the public, whether admission is open, procured by the payment of money or restricted to members of a club or a class of persons with some other qualification or characteristic.

## Subdivision 2—Manufacture of controlled drugs

### 33—Manufacture of controlled drugs for sale

- (1) A person who manufactures a large commercial quantity of a controlled drug intending to sell any of it or believing that another person intends to sell any of it is guilty of an offence.

Maximum penalty: \$500 000 or imprisonment for life, or both.

- (2) A person who manufactures a commercial quantity of a controlled drug intending to sell any of it or believing that another person intends to sell any of it is guilty of an offence.

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

- (3) A person who manufactures a controlled drug intending to sell any of it or believing that another person intends to sell any of it is guilty of an offence.

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

- (4) If—

- (a) in any proceedings for an offence against subsection (1), (2) or (3) it is proved that the defendant manufactured a trafficable quantity of a controlled drug; or
- (b) in any proceedings for an offence of attempting or conspiring to commit an offence against subsection (1), (2) or (3) it is proved that the defendant attempted or conspired (as the case may require) to manufacture a trafficable quantity of a controlled drug,

it is presumed, in the absence of proof to the contrary, that the defendant had the relevant intention or belief concerning the sale of the drug necessary to constitute the offence.

### **33A—Sale, manufacture etc of controlled precursor**

- (1) A person who sells a large commercial quantity of a controlled precursor, believing that the person to whom it is 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 sells a commercial quantity of a controlled precursor, believing that the person to whom it is 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 sells a controlled precursor, believing that the person to whom it is 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.

- (4) A person who manufactures a controlled precursor—

- (a) intending to unlawfully manufacture a controlled drug; and
- (b) intending to sell any of the drug so manufactured or believing that another person intends to sell any of it,

is guilty of an offence.

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

- (5) A person who manufactures a controlled precursor—

- (a) intending to sell any of the precursor to another person; and
- (b) believing that that person, or another person, intends to use the controlled precursor to unlawfully manufacture a controlled drug,

is guilty of an offence.

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

### **Subdivision 3—Cultivation and sale of controlled plants**

#### **33B—Cultivation of controlled plants for sale**

- (1) A person who cultivates a large commercial quantity of a controlled plant intending to sell any of them or their products or believing that another person intends to sell any of them or their products is guilty of an offence.  
Maximum penalty: \$500 000 or imprisonment for life, or both.
- (2) A person who cultivates a commercial quantity of a controlled plant intending to sell any of them or their products or believing that another person intends to sell any of them or their products is guilty of an offence.  
Maximum penalty: \$200 000 or imprisonment for 25 years, or both.
- (3) A person who cultivates a controlled plant intending to sell it or any of its products or believing that another person intends to sell it or any of its products is guilty of an offence.  
Maximum penalty: \$50 000 or imprisonment for 10 years, or both.
- (4) An offence against subsection (3) involving a cannabis plant (and not involving any other controlled plant) must be prosecuted, and dealt with by the Magistrates Court, as a summary offence but if the Court determines that a person found guilty of such an offence should be sentenced to a term of imprisonment exceeding 2 years, the Court must commit the person to the District Court for sentence.
- (5) If, in any proceedings for an offence against subsection (1), (2) or (3), it is proved that the defendant cultivated a trafficable quantity of a controlled plant, it is presumed, in the absence of proof to the contrary, that the defendant had the relevant intention or belief concerning the sale of the plants or their products necessary to constitute the offence.

#### **33C—Sale of controlled plants**

- (1) A person who—
  - (a) sells a large commercial quantity of a controlled plant; or
  - (b) has possession of a large commercial quantity of a controlled plant intending to sell any of them or their products,is guilty of an offence.  
Maximum penalty: \$500 000 or imprisonment for life, or both.
- (2) A person who—
  - (a) sells a commercial quantity of a controlled plant; or
  - (b) has possession of a commercial quantity of a controlled plant intending to sell any of them or their products,is guilty of an offence.  
Maximum penalty: \$200 000 or imprisonment for 25 years, or both.
- (3) A person who—
  - (a) sells a controlled plant; or
  - (b) has possession of a controlled plant intending to sell it or its products,

is guilty of an offence.

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

- (4) An offence against subsection (3) involving a cannabis plant (and not involving any other controlled plant) must be prosecuted, and dealt with by the Magistrates Court, as a summary offence but if the Court determines that a person found guilty of such an offence should be sentenced to a term of imprisonment exceeding 2 years, the Court must commit the person to the District Court for sentence.
- (5) If, in any proceedings for an offence against subsection (1), (2) or (3) it is proved that the defendant had possession of a trafficable quantity of a controlled plant, it is presumed, in the absence of proof to the contrary, that the defendant had the relevant intention concerning the sale of the plants or their products necessary to constitute the offence.

### **Subdivision 4—Sale of equipment for use in connection with consumption of controlled drugs**

#### **33D—Sale of equipment**

A person who—

- (a) sells a piece of equipment for use in connection with the smoking, consumption or administration of a controlled drug, or the preparation of such a drug for smoking, consumption or administration; or
- (b) has possession of a piece of equipment, intending to sell it for such use,

is guilty of an offence.

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

### **Division 3—Offences involving children and school zones**

#### **33E—Application of Division**

- (1) A person is not guilty of an offence against this Division if, at the time of the offence, the person was a child.
- (2) Subject to subsection (3), a person may be guilty of an offence against this Division involving another person who was a child whether or not the person knew that the other person was a child.
- (3) However, it is a defence to a charge of an offence against this Division involving another who was a child if it is proved that the defendant believed on reasonable grounds that the other person had attained 18 years of age.

#### **33F—Sale, supply or administration of controlled drug to child**

A person who—

- (a) sells, supplies or administers a controlled drug to a child; or
- (b) has possession of a controlled drug intending to sell, supply or administer the drug to a child,

is guilty of an offence.

Maximum penalty: \$1 000 000 or imprisonment for life, or both.

### **33G—Sale, supply or administration of controlled drug in school zone**

- (1) A person who—
  - (a) sells, supplies or administers a controlled drug to another person in a school zone; or
  - (b) has possession, in a school zone, of a controlled drug intending to sell, supply or administer the drug to another person,

is guilty of an offence.

Maximum penalty: \$1 000 000 or imprisonment for life, or both.

- (2) If, in any proceedings for an offence against this section it is proved that the defendant had possession of a trafficable quantity of a controlled drug, it is presumed, in the absence of proof to the contrary that the defendant had the relevant intention concerning the sale or supply of the drug necessary to constitute the offence.

### **33GA—Sale of equipment to child for use in connection with consumption of controlled drugs**

A person who—

- (a) sells a piece of equipment to a child for use in connection with the smoking, consumption or administration of a controlled drug, or the preparation of such a drug for smoking, consumption or administration; or
- (b) has possession of a piece of equipment, intending to sell it to a child for such use,

is guilty of an offence.

Maximum penalty: \$20 000 or imprisonment for 2 years, or both.

### **33H—Procuring child to commit offence**

A person who procures a child to commit an offence against this Part is guilty of an offence.

Maximum penalty: \$1 000 000 or imprisonment for life, or both.

## **Division 4—Other offences**

### **33I—Supply or administration of controlled drug**

- (1) A person who—
  - (a) supplies or administers a controlled drug (other than cannabis, cannabis resin or cannabis oil) to another person; or
  - (b) has possession of a controlled drug (other than cannabis, cannabis resin or cannabis oil) intending to supply or administer the drug to another person,

is guilty of an offence.

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

- (2) A person who—
  - (a) supplies or administers cannabis, cannabis resin or cannabis oil to another person; or

(b) has possession of cannabis, cannabis resin or cannabis oil intending to supply or administer the cannabis, cannabis resin or cannabis oil to another person, is guilty of an offence.

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

### **33J—Manufacture of controlled drugs**

(1) A person who manufactures a controlled drug is guilty of an offence.

Maximum penalty: \$35 000 or imprisonment for 7 years, or both.

(2) A person who has possession of—

- (a) a controlled precursor; or
- (b) any prescribed equipment,

intending to use it to manufacture a controlled drug is guilty of an offence.

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

### **33K—Cultivation of controlled plants**

(1) A person who—

- (a) cultivates a controlled plant (other than a cannabis plant); or
- (ab) cultivates a cannabis plant by artificially enhanced cultivation; or
- (b) cultivates more than the prescribed number of cannabis plants; or
- (c) cultivates a cannabis plant intending to supply the plant or to supply or administer any product of the plant to another person,

is guilty of an offence.

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

(2) A person who cultivates not more than the prescribed number of cannabis plants is guilty of an offence.

Maximum penalty: \$1 000 or imprisonment for 6 months, or both.

(3) A court sentencing a person for an offence against subsection (2) that is a simple cannabis offence (within the meaning of section 45A) must not impose any sentence of imprisonment in relation to the offence.

### **33L—Possession or consumption of controlled drug etc**

(1) A person who—

- (a) has possession of a controlled drug (other than cannabis, cannabis resin or cannabis oil); or
- (b) smokes, consumes or administers to himself or herself, or permits another person to administer to him or her, a controlled drug (other than cannabis, cannabis resin or cannabis oil); or
- (c) has possession of any piece of equipment for use in connection with the smoking, consumption or administration of a controlled drug (other than cannabis, cannabis resin or cannabis oil), or the preparation of such a drug for smoking, consumption or administration,

is guilty of an offence.

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

- (2) A person who—
- (a) has possession of any cannabis, cannabis resin or cannabis oil; or
  - (b) smokes or consumes any cannabis, cannabis resin or cannabis oil; or
  - (c) has possession of any piece of equipment for use in connection with the smoking or consumption of cannabis, cannabis resin or cannabis oil, or the preparation of cannabis, cannabis resin or cannabis oil for smoking or consumption,

is guilty of an offence.

Maximum penalty: \$500.

### **33LA—Possession of prescribed equipment**

- (1) A person who, without reasonable excuse (proof of which lies on the person), has possession of any prescribed equipment is guilty of an offence.

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

- (2) In this section—

*prescribed equipment* means—

- (a) a document containing instructions for the manufacture of a controlled drug or the cultivation of a controlled plant; or
- (b) equipment of a kind prescribed by regulation.

### **33LB—Possession of a prescribed quantity of a controlled precursor**

- (1) Subject to subsection (3), a person who has possession of a prescribed quantity of a controlled precursor is guilty of an offence.

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

- (2) Subject to subsection (3), a person who has possession of a prescribed quantity of a controlled precursor and—

- (a) a prescribed quantity of another kind of controlled precursor; or
- (b) any prescribed equipment,

is guilty of an offence.

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

- (3) A person is not guilty of an offence against this section if the person has a reasonable excuse for possession of the substances or equipment the subject of the alleged offence.
- (4) In proceedings for an offence against this section, subsection (3) is to be treated as providing an exception and no proof will be required in relation to that exception by the prosecution but the application of the exception will be a matter of proof by the defendant.

(5) In this section—

*prescribed quantity* of a controlled precursor means—

- (a) in relation to a controlled precursor contained in a mixture—
  - (i) a quantity of the precursor that equals or exceeds the amount prescribed for the purposes of this section for the precursor in its pure form; or
  - (ii) a quantity of the mixture that equals or exceeds the amount prescribed for the purposes of this section for a mixture containing the precursor; or
- (b) in relation to a controlled precursor that is not contained in a mixture—a quantity of the precursor that equals or exceeds the amount prescribed for the purposes of this section for the precursor in its pure form.

## **Division 5—General provisions relating to offences**

### **33M—Interpretation**

In this Division—

*controlled substance* means a controlled drug, controlled precursor or controlled plant.

### **33N—Aggregation of offences**

- (1) If—
  - (a) a person has committed offences against this Part in relation to different batches of controlled substances (whether or not controlled substances of the same kind); and
  - (b) the offences were committed by the person on the same occasion or within 7 days of each other or in the course of an organised commercial activity relating to controlled substances carried on by the person,

the person may be charged with a single offence against this Part in respect of all of the different batches of controlled substances and, subject to section 33O, the quantity of controlled substances concerned for the purposes of that offence is the total quantity of the controlled substances in the different batches.

- (2) If the prosecution seeks to rely on this section to charge a person with a single offence in respect of different batches of controlled substances—
  - (a) the fact that the prosecution intends to do so must be set out in the charge; and
  - (b) the charge must contain adequate particulars of the defendant's conduct in relation to each of the batches or in relation to the total quantity of the controlled substances in the different batches; and
  - (c) it is not necessary for the prosecution to specify, if the charge relates to conduct of the defendant on different occasions, the exact dates of each occasion or to specify the exact quantity of each batch.



- (3) The presumption under section 32(5), 33(4) or 33B(5) may only apply in a case where the prosecution seeks to rely on this section if—
  - (a) the charge relates to conduct of the defendant on the same occasion; or
  - (b) the charge relates to conduct of the defendant on different occasions within 7 days of each other and on at least one occasion involved a trafficable quantity of a controlled substance.
- (4) Nothing in this section prevents a person being charged with separate offences in respect of different batches of controlled substances.
- (5) However, if a person has been convicted or acquitted of a single offence against this Part in respect of different batches of controlled substances, the person may not be charged with a separate offence in respect of any of the batches.
- (6) A person may not be charged with a single offence against this Part in respect of different batches of controlled substances if the person has been convicted or acquitted of a separate offence in respect of any of the batches.

### **330—Offences involving more than one kind of substance**

- (1) If a person is charged with a single offence against this Part and the charge relates to more than one kind of controlled substance, the quantity of the controlled substances for the purposes of the charge is to be determined as follows:
  - (a) the quantity is a trafficable quantity if the sum of the fractions obtained by dividing the actual quantity of each kind of controlled substance by the quantity prescribed in relation to that kind of controlled substance (in its pure form) for the purposes of the definition of *trafficable quantity* in section 4 is equal to or greater than 1;
  - (b) the quantity is a commercial quantity if the sum of the fractions obtained by dividing the actual quantity of each kind of controlled substance by the quantity prescribed in relation to that kind of controlled substance (in its pure form) for the purposes of the definition of *commercial quantity* in section 4 is equal to or greater than 1;
  - (c) the quantity is a large commercial quantity if the sum of the fractions obtained by dividing the actual quantity of each kind of controlled substance by the quantity prescribed in relation to that kind of controlled substance (in its pure form) for the purposes of the definition of *large commercial quantity* in section 4 is equal to or greater than 1.
- (2) If there is no quantity prescribed in relation to a particular kind of controlled substance in its pure form for the purposes of the relevant definition, the quantity of that controlled substance must be disregarded for the purposes of a calculation under this section.

### **330A—Basis for determining quantity of controlled substance**

- (1) If, for the purposes of the definition of *trafficable quantity*, *commercial quantity* or *large commercial quantity* in section 4(1) or the definition of *prescribed quantity* in section 33LB, the regulations prescribe more than 1 of the following in relation to a particular controlled drug or controlled precursor:
  - (a) an amount for the drug or precursor in its pure form;

- (b) an amount for a mixture containing the drug or precursor;
- (c) a number of discrete dosage units for a mixture containing the drug or precursor,

then, in proceedings for an offence against this Part involving that drug or precursor contained in a mixture, the question of whether or not the quantity of the drug or precursor the subject of the proceedings was a trafficable quantity, commercial quantity, large commercial quantity or prescribed quantity will be determined by reference to—

- (d) if the charge alleges a particular quantity of the drug or precursor in its pure form—the prescribed amount for the drug or precursor in its pure form; or
  - (e) if the charge alleges a particular quantity of the mixture containing the drug or precursor—the prescribed amount for a mixture containing the drug or precursor; or
  - (f) if the charge alleges a particular number of discrete dosage units of the mixture containing the drug or precursor—the prescribed number of discrete dosage units for a mixture containing the drug or precursor.
- (2) If, for the purposes of the definition of *trafficable quantity*, *commercial quantity* or *large commercial quantity* in section 4(1), the regulations prescribe both a number of a particular controlled plant and a weight of that plant, then, in proceedings for an offence against this Part involving that plant, the question of whether or not the quantity of the plant the subject of the proceedings was a trafficable quantity, commercial quantity or large commercial quantity will be determined by reference to—
- (a) if the charge alleges a particular number of the plant—the prescribed number for the plant; or
  - (b) if the charge alleges a particular weight of the plant—the prescribed weight for the plant.

### **33P—Knowledge or recklessness with respect to identity or quantity**

- (1) In any proceedings against a person for an offence against this Part relating to a controlled substance, the prosecution must establish that the person knew, or was reckless with respect to, the fact that the substance was or was to be a controlled substance.
- (2) The prosecution need not establish that the person knew, or was reckless with respect to, the particular identity of the controlled substance.

### **33Q—Alternative conviction—mistake as to identity of controlled substance**

- (1) If, in any proceedings against a person for an offence against this Part relating to a particular quantity of a controlled substance—
  - (a) the court is satisfied that, at the time of the conduct constituting the offence, the person was under a mistaken belief about the identity of the controlled substance; and
  - (b) the person would have been guilty of another equivalent or lesser offence against this Part if his or her mistaken belief had been correct,

the court may find the person not guilty of the offence charged but guilty of the other equivalent or lesser offence (and the person is liable to be punished accordingly).

- (2) The burden of proving a mistaken belief as to the identity of a controlled substance lies on the defendant.
- (3) For the purposes of this section, an equivalent or lesser offence is an offence for which the maximum penalty is the same as or less than the maximum penalty for the offence charged.

### **33R—Alternative verdicts**

- (1) If, in any proceedings against a person for an offence against this Part, the court is not satisfied that the person committed the offence but is satisfied that the person committed another equivalent or lesser offence against this Part, the court may find the person not guilty of the offence charged but guilty of the other equivalent or lesser offence (and the person is liable to be punished accordingly).
- (2) For the purposes of this section, an equivalent or lesser offence is an offence for which the maximum penalty is the same as or less than the maximum penalty for the offence charged.

### **33S—No accessorial liability for certain offences**

Section 267 of the *Criminal Law Consolidation Act 1935* does not apply—

- (a) in relation to an offence against section 32, 33 or 33B; or
- (b) in circumstances prescribed by regulation.

## **Division 6—Procedure in relation to simple possession offences**

### **34—Application of this Division**

This Division does not apply in relation to a child who is alleged to have committed a simple possession offence.

### **35—Accreditation of drug assessment and treatment services**

- (1) The Minister may, by instrument in writing, accredit such suitably qualified persons or bodies as drug assessment services or drug treatment services as are necessary for the purposes of this Division.
- (2) Without limiting subsection (1), the Minister may establish panels of persons with a view to the accreditation of such a panel as a drug assessment service under that subsection.
- (3) The Minister may, in an instrument of accreditation, impose conditions on the accreditation.
- (4) The Minister may, by notice in writing to an accredited drug assessment service or drug treatment service—
  - (a) vary or revoke any of the conditions imposed on the accreditation or impose further conditions; or
  - (b) revoke the accreditation.

### **36—Referral for assessment**

- (1) If a person is alleged to have committed a simple possession offence, a police officer must refer the person to a nominated assessment service and give the person a notice that sets out particulars of the date, place and time at which the person must attend the service.
- (2) A copy of the referral notice must be forwarded to the nominated assessment service.
- (3) A referral under this section operates as a stay of proceedings (if any) for the alleged offence.

### **37—Assessment of referred person**

- (1) On a person being referred to an assessment service under this Division, the service must proceed to carry out and complete its assessment as expeditiously as reasonably practicable.
- (2) For the purposes of carrying out the assessment, the service may, by notice in writing given personally or by post, require the person to—
  - (a) give written consent to—
    - (i) the release of the person's medical and other treatment records to the service and to any drug treatment service that is to provide treatment to the person pursuant to an undertaking under this Division;
    - (ii) the release to the service of—
      - (A) records held by or on behalf of an assessment service or any agency or instrumentality of the Crown relating to previous assessments of, or undertakings entered into by, the person under this Division; and
      - (B) the person's criminal record (ie, record of any convictions recorded against the person); or
  - (b) attend the service for such further number of interviews as the service thinks fit; or
  - (c) submit to an examination, by the service or by any other person, to determine whether the person is experiencing physical, psychological or social problems connected with the misuse of drugs and, if so, the treatment (if any) appropriate for the person.
- (3) The assessment service must, by notice in writing to the person given personally or by post, terminate the person's referral to the service—
  - (a) if the person fails, without reasonable excuse, to attend the service in accordance with the referral notice or with any other notice requiring the person to attend; or
  - (b) if at any time during the assessment it becomes apparent to the service that—
    - (i) it would not in the circumstances be appropriate to require the person to enter into an undertaking under this Division; or
    - (ii) the person does not admit to the allegation (but the service is not required to ascertain this); or

- (iii) the person does not want the service to deal with the matter, and may, in the same manner, terminate the referral—
- (c) if the person hinders, or does not cooperate with, the service in carrying out the assessment; or
  - (d) if the person, without reasonable excuse, refuses or fails to comply with a requirement under this Division to give written consent to the release of records or to submit to an examination; or
  - (e) if the person refuses to comply with a requirement to enter into an undertaking under this Division or, without reasonable excuse, contravenes or fails to comply with an undertaking entered into under this Division.
- (4) A notice under subsection (3) must set out a short statement of the service's reasons for the termination.
- (5) The service must give a copy of the notice of termination to the Commissioner of Police.

### **38—Undertakings**

- (1) An assessment service may, on the completion of an assessment under this Division, require the person alleged to have committed the offence to enter into a written undertaking relating to—
- (a) the treatment that the person will undertake; or
  - (b) participation by the person in a programme of an educative, preventive or rehabilitative nature; or
  - (c) any other matters that will, in the opinion of the service, assist the person to overcome any personal problems that may tend to lead, or that may have led, to the misuse of drugs.
- (2) The undertaking can only require the person to undergo treatment with a drug treatment service that is accredited under this Division.
- (3) If the person enters into the undertaking—
- (a) the person must be given a copy of the undertaking; and
  - (b) any complaint laid against the person for the alleged simple possession offence must be withdrawn; and
  - (c) the person must, if remanded in custody for the alleged simple possession offence but not otherwise subject to detention, be released from detention or, if on bail for the offence, the bail agreement must be discharged.
- (4) The undertaking will be effective for a period, not exceeding 6 months, determined by the service and specified in the undertaking.
- (5) The service may, at the request or with the consent of the person bound by the undertaking, vary the terms of the undertaking, but not so that the total period of the undertaking exceeds 6 months.
- (6) The service must notify the Commissioner of Police that the person has entered into an undertaking, of any extension to the period of the undertaking and, if it occurs, of the expiry of the undertaking.

### **39—Release from custody for the purposes of assessment or undertaking**

If a person who is in custody has been given a notice under this Division requiring the person to attend an assessment service or any other place, or has entered into an undertaking under this Division requiring the person to attend at any place, the manager of the place in which the person is being detained must cause the person to be brought to the service or other place as required by the notice or undertaking.

### **40—Prosecution of simple possession offences**

- (1) A prosecution for a simple possession offence alleged to have been committed by a person cannot proceed unless the person has been referred to an assessment service under this Division and the referral has been terminated by the service.
- (2) The fact that a person alleged to have committed a simple possession offence participates in an assessment or enters into an undertaking under this Division does not constitute an admission of guilt, and will not be regarded as evidence tending to establish guilt, in relation to the alleged offence.
- (3) If the referral of a person is terminated under this Division, evidence—
  - (a) of anything said or done by the person in the course of being assessed or carrying out an undertaking; or
  - (b) of the reasons for the termination,is not admissible in any proceedings against the person for the alleged offence.
- (4) On the expiry of an undertaking under this Division, the person who entered into it is immune from prosecution for the alleged offence to which the undertaking related.

### **40A—Confidentiality**

A person who is, or has been, engaged in duties related to the administration of this Division must not disclose information relating to a person referred for assessment under this Division, being information obtained in the course of those duties, unless the disclosure is made—

- (a) in the administration of this Division; or
- (b) as authorised or required by law; or
- (c) with the consent of the person to whom the information relates.

Maximum penalty: \$10 000.

## **Part 6—Offences, penalties etc**

### **44—Matters to be considered when court fixes penalty**

- (1) In determining the penalty to be imposed on a person convicted of an indictable or minor indictable offence against this Act, the court must take into consideration—
  - (a) subject to subsection (2), the nature of the substance or goods involved in the commission of the offence; and
  - (b) the quantity of the substance or goods involved in the commission of the offence; and

- (c) the personal circumstances of the convicted person (being a natural person), including the circumstances relating to the person's use (if at all) of any controlled drug; and
  - (d) in the case of an offence against Part 5 Division 2 or 3—
    - (i) the commercial or other motives of the convicted person in committing the offence; and
    - (ii) the financial gain that is likely to have accrued to the convicted person as a result of the commission of the offence (but this is not to be taken into consideration if that financial gain is the subject of an application under the *Criminal Assets Confiscation Act 2005*); and
  - (da) in the case of an offence against section 33F, 33H or 33I—whether the offence occurred within a school zone or at or near any prescribed place; and
  - (e) any other relevant factor.
- (2) In determining the penalty to be imposed in respect of a summary or indictable offence against Part 5 involving a controlled drug (other than cannabis, cannabis resin or cannabis oil), the degree of physical or other harm generally associated with the consumption of that particular type of controlled drug, as compared with other types of controlled drugs, is not a relevant consideration and the court must determine the penalty on the basis that controlled drugs are all categorised equally as very harmful.
- (3) If a person is convicted by a court of an indictable offence against this Act and an offence against section 32 of the *Criminal Law Consolidation Act 1935* constituted of having the custody or control of a firearm or imitation firearm for the purpose of—
- (a) using, or causing or permitting another person to use, the firearm in the course of committing the indictable offence against this Act; or
  - (b) carrying, or causing or permitting another person to carry, the firearm when committing the indictable offence against this Act,

the court must make any sentences of imprisonment imposed for the 2 offences cumulative unless the court is satisfied that special reasons exist for not doing so.

#### **45—Offences committed by body corporate**

If a body corporate is guilty of an offence against this Act, each member of the governing body of the body corporate is guilty of an offence and liable to the same penalty as is prescribed for the principal offence, unless the member proves that he or she exercised all reasonable diligence to prevent the commission of the offence by the body corporate.

#### **45A—Expiation of simple cannabis offences**

- (1) A prosecution for a simple cannabis offence cannot be commenced except by—
- (a) the Director of Public Prosecutions; or
  - (b) a police officer; or
  - (c) a person authorised in writing by the Director of Public Prosecutions to commence the prosecution.

- (2) Subject to this section, if a person (not being a child) is alleged to have committed a simple cannabis offence, then before a prosecution is commenced, an expiation notice must be given to the alleged offender under the *Expiation of Offences Act 1996*.
- (3) Expiation fees (which may vary according to any factor) may be fixed by regulation for the purposes of this section.
- (7) Non-compliance with subsection (2) does not invalidate a prosecution.
- (8) For the purposes of this section—  
***simple cannabis offence*** means—
  - (a) an offence against section 33K(2) involving the cultivation (not being artificially enhanced cultivation) of cannabis plants other than an offence involving the cultivation of a number of cannabis plants in excess of the number prescribed by regulation for the purposes of this paragraph; or
  - (b) an offence against section 33L(2)(a) other than an offence involving the possession of quantities of cannabis, cannabis resin or cannabis oil in excess of the quantity prescribed by regulation for the purposes of this paragraph; or
  - (c) an offence against section 33L(2)(b) other than an offence alleged to have been committed in—
    - (i) a public place; or
    - (ii) a place of a kind prescribed by regulation; or
  - (d) an offence against section 33L(2)(c).

## **Part 7—Search, seizure, forfeiture and analysis**

### **50—Authorised officers**

- (1) The following persons are authorised officers for the purposes of this Act:
  - (a) a police officer; and
  - (b) any other person appointed by the Minister, by instrument in writing, to be an authorised officer for the purposes of this Act.
- (2) The Minister must provide an authorised officer appointed under subsection (1)(b) with a certificate of identification.
- (3) An authorised officer appointed under subsection (1)(b) must, on demand by a person in relation to whom the officer is exercising any powers under this Act, produce the certificate of identification for the inspection of that person.

### **51—Analysts**

- (1) Subject to subsection (2), the Governor may appoint such number of persons to be analysts as the Governor thinks necessary or desirable for the purposes of this Act.
- (2) No person who has a direct or indirect interest in the manufacture, production, sale or supply of any substance or device to which this Act applies may be appointed as an analyst.



## 52—Power to search, seize etc

- (1) Subject to this section, an authorised officer may—
  - (a) enter at any time any premises for the purposes of ascertaining whether the provisions of this Act, or of a licence, authority or permit granted under this Act, are being complied with or have been contravened; and
  - (b) if reasonably necessary for that purpose, break into or open any part of the premises, or anything in or on the premises; and
  - (c) for the purposes of paragraph (a) or (b), require the driver of any vehicle, the master of any vessel or the pilot of any aircraft to stop that vehicle, vessel or aircraft.
- (2) While an authorised officer is in or on any premises pursuant to this section, the officer may—
  - (a) inspect or search the premises or any equipment or other thing on the premises;
  - (b) require any person to produce any books, papers or documents (including a written record that reproduces, in an understandable form, information stored by computer, microfilm or other process) or any substance, equipment or device;
  - (c) examine any books, papers or documents (including a written record that reproduces, in an understandable form, information stored by computer, microfilm or other process) and take extracts from any of them or make copies of any of them;
  - (d) examine any substance, equipment or device;
  - (e) take and remove from the premises samples of any substance or goods;
  - (f) carry out any tests;
  - (g) take any photographs or films or make any audio or audiovisual record;
  - (h) require the holder of a licence, authority or permit under this Act to produce that licence, authority or permit for inspection;
  - (i) if the officer suspects on reasonable grounds that an offence against this Act has been committed, seize and remove from the premises anything that the officer has reasonable cause to suspect affords evidence of the offence;
  - (j) give such directions as are reasonably necessary for, or incidental to, the effective exercise of the officer's powers under this Act.
- (3) The powers conferred by subsection (1)(b) may only be exercised by an authorised officer who is a police officer.
- (4) An authorised officer must not exercise the powers conferred by subsection (1)(a) and (b) except on the authority of a warrant issued by a senior police officer, magistrate or justice, unless the powers are being exercised in relation to—
  - (a) premises that are used by a registered health practitioner or veterinary surgeon in the ordinary course of his or her profession; or
  - (b) premises that are used in the course of an activity in respect of which a licence, authority or permit has been granted under this Act; or

- (c) premises that are used for a non-residential purpose and in which the authorised officer reasonably suspects poisons, medicines, medical devices or volatile solvents are being stored, used or sold,
- provided that the powers are exercised during ordinary business hours.
- (5) A senior police officer, magistrate or justice must not issue a warrant under subsection (4) unless satisfied, on information given on oath—
- (a) that there are reasonable grounds for suspecting that an offence against this Act has been, is being, or is about to be, committed; and
  - (b) that a warrant is reasonably required in the circumstances.
- (6) An authorised officer who is a police officer may search any person whom the officer reasonably suspects has in his or her possession any substance or equipment in contravention of this Act.
- (9) If an authorised officer who is a police officer reasonably suspects that any substance or equipment that would afford evidence of an offence against this Act is in any vehicle, vessel or aircraft, the officer may—
- (a) require the driver of the vehicle, the master of the vessel or the pilot of the aircraft to stop the vehicle, vessel or aircraft; and
  - (b) detain and search the vehicle, vessel or aircraft; and
  - (c) seize and remove from the vehicle, vessel or aircraft anything that the officer reasonably suspects would afford evidence of an offence against this Act.
- (10) Nothing in this section derogates from the power of a police officer to do anything authorised under section 52A or 52B.
- (11) A police officer may, in exercising powers pursuant to a warrant issued under subsection (4) or any other powers under this section, use a drug detection dog or an electronic drug detection system.

### **52A—General drug detection powers**

- (1) A police officer may carry out general drug detection in relation to—
- (a) any property in an area to which this section applies; and
  - (b) any person who is in, or is apparently attempting to enter or to leave, an area to which this section applies; and
  - (c) any property in the possession of such a person.
- (2) This section applies to the following areas:
- (a) licensed premises or a carparking area specifically provided for the use of patrons of any licensed premises;
  - (b) a public venue or a carparking area specifically provided for the use of patrons of any public venue;
  - (c) a public passenger carrier or any place at which public passenger carriers may take up, or set down, passengers;
  - (d) a public place in relation to which the exercise of powers under this section is authorised in accordance with subsection (3).

- (3) A senior police officer may authorise the exercise of powers under this section in relation to a public place.
- (4) An authorisation granted by a senior police officer under subsection (3)—
  - (a) must be granted in accordance with any guidelines issued by the Commissioner in relation to such authorisations; and
  - (b) must define the public place to which the authorisation relates; and
  - (c) may be subject to conditions specified by the officer granting the authorisation; and
  - (d) operates for an initial period (not exceeding 14 days) specified by the officer granting the authorisation; and
  - (e) may be renewed from time to time by a senior police officer for a further period (not exceeding 14 days).
- (5) An authorisation granted under subsection (3) may be varied or revoked by a senior police officer at any time.
- (6) A police officer exercising powers under this section may—
  - (a) enter and remain in any premises or place necessary for the purpose of exercising those powers; and
  - (b) give such directions as are reasonably necessary for, or incidental to, the effective exercise of those powers.
- (7) A police officer may only detain a person, by directions given under this section, for so long as is reasonably necessary to carry out general drug detection in relation to the person and any property in the possession of the person.
- (8) In this section—

***licensed premises*** means—

- (a) licensed premises within the meaning of the *Liquor Licensing Act 1997*, other than premises in respect of which only a restaurant licence or residential licence is in force; and
- (b) the premises defined in the casino licence, within the meaning of the *Casino Act 1997*, as the premises to which the licence relates;

***public passenger carrier*** means a bus, tram, train, vessel or aircraft used for the purpose of carrying passengers for hire or reward;

***public place*** includes—

- (a) a place to which free access is permitted to the public, with the express or tacit consent of the owner or occupier of that place; and
- (b) a place to which the public are admitted on payment of money, the test of admittance being the payment of money only; and
- (c) a road, street, footway, court, alley or thoroughfare which the public are allowed to use, notwithstanding that that road, street, footway, court, alley or thoroughfare is on private property;

*public venue* means a place where members of the public are gathered for an entertainment or an event or activity of any kind, whether admission is open, procured by the payment of money or restricted to members of a club or a class of persons with some other qualification or characteristic, but does not include a church or place of public worship.

### **52B—Special powers relating to drug transit routes**

- (1) A senior police officer may, if he or she reasonably suspects that an area is being, or is likely to be, used for the transport of controlled drugs, controlled precursors or controlled plants in contravention of this Act, authorise the exercise of powers under this section in relation to the area.
- (2) An authorisation granted by a senior police officer under subsection (1)—
  - (a) must be granted in accordance with any guidelines issued by the Commissioner in relation to such authorisations; and
  - (b) must define the area to which the authorisation relates; and
  - (c) may be subject to conditions specified by the officer granting the authorisation; and
  - (d) operates for an initial period (not exceeding 14 days) specified by the officer granting the authorisation; and
  - (e) may be renewed from time to time by a senior police officer for a further period (not exceeding 14 days).
- (3) An authorisation granted under subsection (1) may be varied or revoked by a senior police officer at any time.
- (4) An area may only be subject to an authorisation under this section if—
  - (a) the whole of the area is situated more than 30 kilometres from the General Post Office at Adelaide; and
  - (b) the total size of the area is not more than 5 square kilometres.
- (5) If the exercise of powers under this section in relation to an area is authorised, a police officer may—
  - (a) require the driver of a vehicle within the area to stop the vehicle (whether at a drug detection point established in accordance with subsection (7) or at any other location); and
  - (b) detain the vehicle and carry out general drug detection in relation to the vehicle and any persons or property in or on the vehicle; and
  - (c) allow a drug detection dog to enter any part of the vehicle not designed for the purpose of carrying passengers while the vehicle is moving; and
  - (d) direct a person to open any part of the vehicle and give such other directions as are reasonably necessary for, or incidental to, the effective exercise of powers under this section.
- (6) A police officer may only detain a person who is in a vehicle, by directions given under this section, for so long as is reasonably necessary to carry out general drug detection in relation to the vehicle and any persons or property in the vehicle.

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- (7) A drug detection point may be established by police officers at any time on or in the vicinity of any road within an area in relation to which the exercise of powers under this section is authorised for the purpose of exercising those powers in relation to persons driving motor vehicles on the road.
  - (8) A drug detection point must be established in such a way, and consist of such facilities and warning and other devices, as the Commissioner of Police considers necessary in order to enable vehicles to be stopped in a safe and orderly manner.
  - (9) The Commissioner of Police must—
    - (a) establish procedures to be followed by police officers in the exercise of powers under this section, being procedures designed to prevent as far as reasonably practicable any undue delay or inconvenience to persons being subjected to the powers; and
    - (b) establish procedures to ensure that the exercise of powers under this section is not authorised in relation to more than 3 areas at any one time.

### **52C—Report to Minister on issue of authorisations**

- (1) The Commissioner of Police must, on or before 30 September in each year (other than the calendar year in which this section comes into operation), provide a report to the Attorney-General specifying the following information in relation to the financial year ending on the preceding 30 June:
  - (a) the number of authorisations granted by senior police officers under sections 52A and 52B during that financial year;
  - (b) the public places or areas in relation to which those authorisations were granted;
  - (c) the periods during which the authorisations applied;
  - (d) the number of occasions on which a drug detection dog or electronic drug detection system indicated detection of the presence of a controlled drug, controlled precursor or controlled plant in the course of the exercise of powers under sections 52A and 52B.
- (2) The Attorney-General must, within 12 sitting days after receipt of a report under this section, cause copies of the report to be laid before each House of Parliament.

### **52D—General provisions relating to exercise of powers**

- (1) Nothing in this Part derogates from the power of a police officer to do anything pursuant to a general search warrant issued under the *Summary Offences Act 1953*.
- (2) An authorised officer may, in exercising powers under this Part, be assisted by such persons as the authorised officer considers necessary or desirable in the circumstances.
- (3) A person must not—
  - (a) hinder or obstruct an authorised officer, or a person accompanying an authorised officer, in the exercise of the powers conferred by this Part; or
  - (b) refuse or fail to comply with a requirement made of the person, or a direction given to the person, pursuant to section 52, 52A or 52B.

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

- (4) In any proceedings, an apparently genuine document purporting to be a certificate signed by the Commissioner of Police (or a delegate of the Commissioner of Police), and certifying that—
- (a) a particular public place was subject to an authorisation properly granted by a senior police officer in accordance with section 52A(3) during a period specified in the certificate; or
  - (b) a particular area was subject to an authorisation properly granted by a senior police officer in accordance with section 52B(1) during a period specified in the certificate; or
  - (c) a dog used during a specified period to carry out general drug detection within a specified area, or at a specified place, was a drug detection dog; or
  - (d) a device or system used during a specified period to carry out general drug detection within a specified area, or at a specified place, was an electronic drug detection system,

constitutes proof, in the absence of proof to the contrary, of the matters so certified.

- (5) For the avoidance of doubt, an indication—
- (a) by a drug detection dog that the dog has detected the presence of a controlled drug, controlled precursor or controlled plant; or
  - (b) by an electronic drug detection system that the system has detected the presence of a controlled drug, controlled precursor or controlled plant,

constitutes reasonable grounds to suspect that a controlled drug, controlled precursor or controlled plant is present.

### **52E—Seized property and forfeiture**

- (1) Subject to this section, seized property must be held pending proceedings for an offence against this Act relating to the property.
- (2) If seized property—
- (a) is a controlled drug, controlled plant, controlled precursor or a poison; or
  - (b) is, in the opinion of the Commissioner of Police, likely to constitute a danger if stored pending proceedings for an offence against this Act relating to the property,

the Commissioner of Police may direct that the property be destroyed, whether or not a person has been or is to be charged with an offence in relation to it.

- (3) Property referred to in subsection (2) may be destroyed at the place at which it was seized or at any other suitable place.
- (4) If a charge is laid, or is to be laid, for an offence in relation to property referred to in subsection (2)—
- (a) samples of the property that provide a true representation of the nature of the property must be taken and kept for evidentiary purposes; and
  - (b) the defendant is entitled to have a portion of the sample analysed by an analyst (see section 53); and
  - (c) the defendant must be given written notice of that entitlement.

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- (5) Possession of samples taken under this section must remain at all times within the control of the Commissioner of Police or his or her nominee.
- (6) The regulations may make provision relating to the taking of samples of seized property and analysis of those samples.
- (6a) If a person is convicted of an offence in relation to property destroyed in accordance with subsection (2), the court may order the convicted person to pay the reasonable costs of destruction to the Commissioner of Police.
- (7) If the Magistrates Court on application by an authorised officer, or any court hearing proceedings under this Act, finds that seized property—
- (a) was the subject of an offence against this Act; or
  - (b) consists of equipment, devices, substances, documents or records acquired, used or intended for use for, or in connection with, the manufacture, or the smoking, consumption or administration, of a controlled drug or the cultivation of a controlled plant,
- the court may, by order, forfeit the property to the Crown.
- (8) Property that is the subject of an order for forfeiture under this section may be sold, destroyed or otherwise disposed of as the Commissioner of Police directs.
- (9) Subject to subsections (10) and (11), if seized property has not been forfeited to the Crown in proceedings under this Act commenced within the prescribed period after its seizure, a person from whose lawful possession the property was seized, or a person with legal title to it, is entitled to recover from the Commissioner of Police (if necessary, by action in a court of competent jurisdiction) the property itself, or if it has been damaged or destroyed or has deteriorated, compensation of an amount equal to its market value at the time of its seizure.
- (10) Subsection (9) does not apply to property that has been destroyed under subsection (2) if the property—
- (a) was the subject of an offence against this Act; or
  - (b) consists of equipment, devices, substances, documents or records acquired, used or intended for use for, or in connection with, the manufacture, or the smoking, consumption or administration, of a controlled drug or the cultivation of a controlled plant.
- (11) Despite subsection (9), a court hearing proceedings under that subsection in relation to property that has not been destroyed under subsection (2) may, if it thinks fit, make an order under subsection (7) for forfeiture of the property to the Crown.
- (12) Nothing in this section affects the operation of the *Criminal Assets Confiscation Act 2005*.
- (13) In this section—
- prescribed period*** means two years or such longer period as the Magistrates Court may, on application by an authorised officer, allow;
- seized property*** means anything—
- (a) seized under this Act; or

- (b) seized otherwise than under this Act that is evidence of an offence against this Act.

### **53—Analysis**

- (1) An authorised officer may cause any substance seized or taken pursuant to this Part to be analysed by, or under the supervision of, an analyst.
- (1a) An analysis under this section may include a determination as to the weight, amount or quantity of any substance (and such determination must comply with any requirements prescribed by regulation).
- (2) Any person may, for the purposes of ascertaining whether a substance is, or is not, a particular poison, prescription drug, drug of dependence, controlled drug, controlled precursor, controlled plant or medicine, or for any other evidentiary purpose, cause the substance to be analysed by, or under the supervision of, an analyst.
- (3) A person who initiates an analysis pursuant to subsection (2) must do so in the prescribed manner and on payment of the prescribed fee.
- (4) An analyst must, on the completion of an analysis pursuant to this section, certify in the prescribed form the results of the analysis, and—
  - (a) in the case of an analysis initiated by an authorised officer who is a police officer—must forward the certificate to the Commissioner of Police; or
  - (b) in the case of an analysis initiated by any other authorised officer—must forward the certificate to the Department; or
  - (c) in any other case—must forward the certificate to the person who initiated the analysis.

## **Part 8—Miscellaneous**

### **55—Licences, authorities and permits**

- (1) The Minister may, in the Minister's absolute discretion, grant or refuse a licence, authority or permit for the purposes of this Act.
- (2) The Minister may grant a licence, authority or permit subject to such conditions as the Minister thinks fit and specifies in the licence, authority or permit and may at any time, by notice in writing given personally or by post to the holder, vary or revoke a condition, or attach a further condition, to the licence, authority or permit.
- (2a) If a person who holds a licence, authority or permit contravenes or fails to comply with a condition of that licence, authority or permit, the holder is guilty of an offence.  
Maximum penalty: \$5 000.
- (2b) The Minister may fix fees payable in respect of a licence, authority or permit (including application fees, fees for grant and renewal and periodic fees) and may waive or reduce a fee payable if the Minister considers it appropriate to do so.
- (3) On the expiry of the term of a licence granted under this Act, the Minister must, if application for renewal has been made in the due manner and the appropriate fee paid, renew the licence for a further term.



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- (4) The Minister may, by notice in writing given personally or by post to the holder of a licence, authority or permit granted under this Act, suspend or revoke the licence, authority or permit if—
    - (a) the holder obtained it improperly; or
    - (b) the holder is found guilty of an offence against this Act; or
    - (c) the holder has, in the opinion of the Minister, contravened or failed to comply with a condition of the licence, authority or permit.
  - (5) A person whose licence, authority or permit is suspended or revoked under subsection (4)(c) may appeal to the Administrative and Disciplinary Division of the District Court against the suspension or revocation.
  - (6) Subject to subsection (8), an appeal must be instituted within 1 month of the suspension or revocation.
  - (7) The Minister must, if required by the appellant, state in writing the reasons for the suspension or revocation.
  - (8) If the reasons of the Minister are not given to the appellant, in writing, at the time of making the decision to suspend or revoke and the appellant (within 1 month of the making of the decision) requires the Minister to state the reasons in writing, the time for instituting the appeal runs from the time at which the appellant receives the written statement of those reasons.

#### **56—Permits for research etc**

- (1) The Minister may issue a permit authorising, subject to such conditions as may be specified in the permit, the person named in the permit to manufacture, cultivate, sell, supply, administer or have in his or her possession a poison, controlled drug, controlled precursor, controlled plant, medicine or medical device for the purposes of analysis, research, instruction or training.
- (2) Despite any other provision of this Act, the holder of a permit issued under this section is not guilty of an offence against this Act in respect of anything done pursuant to and in accordance with the permit.

#### **57—Power of Minister to prohibit certain activities**

- (1) If a person—
  - (a) has been convicted of an offence against this Act; or
  - (b) has, in the opinion of the Minister, contravened or failed to comply with a condition of a licence, authority or permit granted under this Act; or
  - (c) has, in the opinion of the Minister, prescribed, supplied or administered a prescription drug in an irresponsible manner,the Minister may, by order, prohibit the person from manufacturing, producing, packaging, selling, supplying, prescribing, administering, using or having possession of any substance or device specified in the order.
- (2) The Minister may, by subsequent order, revoke an order under subsection (1).
- (3) The Minister must publish an order made under subsection (1) or (2) in the Gazette and must cause a copy of the order to be served personally or by post on the person to whom it applies.

- (4) A person must not contravene an order made under this section.  
Maximum penalty: \$10 000 or imprisonment for 2 years.
- (5) A person to whom an order under subsection (1) applies may appeal to the Administrative and Disciplinary Division of the District Court against the order.
- (6) Subject to subsection (8), an appeal must be instituted within 1 month of the making of the order.
- (7) The Minister must, if required by the appellant, state in writing the reasons for the order.
- (8) If the reasons of the Minister are not given to the appellant, in writing, at the time of making the order and the appellant (within 1 month of the making of the order) requires the Minister to state the reasons in writing, the time for instituting the appeal runs from the time at which the appellant receives the written statement of those reasons.

### **57A—Warnings**

- (1) Subject to this section, if the Minister is satisfied that—
  - (a) a substance or device might be dangerous to persons consuming or using the substance or device (whether because of a failure to comply with a requirement under this Act or otherwise); or
  - (b) an advertisement or other published material relating to a substance or device contains instructions or other material that might be dangerous to persons consuming or using the substance or device,the Minister may take such action as the Minister thinks fit to warn the public against the risks or potential risks.
- (2) The Minister may only take action under this section—
  - (a) in relation to a substance, if the substance is a poison or medicine or is a substance that the Minister is satisfied has the potential to be harmful to humans or is or may be used, or is designed to be used, as a medicine; or
  - (b) in relation to a device, if the device is a medical device or is a device that the Minister is satisfied is or may be used, or is designed to be used, as a medical device.
- (3) For the purpose of subsection (1), the Minister may publish the trade name or description of a substance or device and may identify manufacturers, sellers, suppliers or importers of the substance or device.

## **58—Publication of information**

- (1) If the Minister believes on reasonable grounds that a person has a history of consuming poisons or medicines in a quantity or manner that presents a risk to the person's health or has obtained or attempted to obtain a poison, medicine or medical device by false pretences or other unlawful means or for an unlawful purpose, the Minister may, for the purpose of preventing or restricting the supply of such a substance or device to that person, publish information relating to that person to all or any of the following classes of persons:
  - (a) persons concerned in the management of hospitals or nursing homes who are responsible for the supply of such substances or devices to patients attending the hospitals or nursing homes; and
  - (b) registered health practitioners; and
  - (c) veterinary surgeons; and
  - (f) any other prescribed class of persons, being persons who deal in or supply such substances or devices in the ordinary course of their business or profession.
- (1a) The Minister may publish information to a class of persons referred to in subsection (1)—
  - (a) by publishing the information to a professional association prescribed by regulation whose members belong to that class of persons; or
  - (b) in any other manner the Minister thinks fit.
- (2) Information published under this section is privileged unless it is proved that it was done with malice.
- (3) A person to whom information was published under this section must not communicate that information to any other person except so far as it may be necessary to do so in order to achieve the purpose of the publication.

## **60—Minister may require certain information to be given**

- (1) For the purpose of ascertaining—
  - (a) whether any substance or device is, or ought to be, one to which this Act applies; or
  - (b) whether any requirements under this Act relating to a substance or device are appropriate and effective,

the Minister may, by notice in writing given personally or by post to a person who manufactures, produces, packs, sells, supplies, imports or advertises a substance or device, require that person to furnish to the Minister such information relating to the substance or device as may be specified in the notice.

- (2) If the Minister has reasonable cause to believe that there is extensive misuse of a prescription drug or a volatile solvent in a particular area, the Minister may, by notice in writing given personally or by post to a registered health practitioner, veterinary surgeon or supplier practising or operating in, or in the vicinity of, that area, require him or her to furnish to the Minister such particulars as may be specified relating to—
- (a) in the case of a registered health practitioner (other than a pharmacist) or veterinary surgeon—the quantities in which and the number and frequency of occasions on which a prescription drug specified in the notice was prescribed, supplied or administered by him or her;
  - (b) in the case of a pharmacist or supplier—the quantities in which and the number and frequency of occasions on which a prescription drug or volatile solvent specified in the notice was supplied by him or her.
- (3) A notice under this section may require any such information or particulars to be furnished in such manner and within such period, being not less than 14 days, as may be specified in the notice.
- (4) A person to whom a notice under this section has been given must not fail to comply with the notice.

Maximum penalty: \$5 000.

### 60A—Confidentiality

- (1) A person must not divulge—
- (a) information relating to trade processes; or
  - (b) medical records or details of medical treatment of a person, obtained (whether by that person or some other person) in the administration or enforcement of this Act except—
    - (c) in connection with the administration or enforcement of this Act; or
    - (d) as authorised or required by law; or
    - (e) with the consent of the person from whom the information was obtained or to whom the information relates; or
    - (f) for the purpose of any legal proceedings arising out of the administration or enforcement of this Act; or
    - (g) to a law enforcement, prosecution or health authority of another jurisdiction as may be reasonably required for the purpose of the administration or enforcement of a law of that jurisdiction.

Maximum penalty: \$10 000

- (2) Subsection (1)(b) does not prevent the disclosure of statistical or other information that could not reasonably be expected to lead to the identification of any person to whom it relates.

## 60B—False or misleading information

A person must not make a statement that is false or misleading in a material particular (whether by reason of the inclusion or omission of any particular) in any information provided, or record kept, under this Act.

Maximum penalty: \$5 000.

## 61—Evidentiary provisions

- (1) In any proceedings for an offence against this Act, an apparently genuine document purporting to be signed by the Minister and to certify that a person named in the certificate did, or did not, hold a licence, authority or permit under this Act on a specified day will, in the absence of proof to the contrary, be proof of the matters so certified.
- (2) In any proceedings for an offence against this Act, an apparently genuine document purporting to be signed by an analyst and to certify that an analysis of a substance referred to in the certificate was carried out by, or under the supervision of, the analyst will, in the absence of proof to the contrary, be proof of any facts stated in the certificate—
  - (a) tending to identify the substance analysed or tending to identify the substance analysed as an analogue of another substance for the purposes of this Act; and
  - (ab) as to the weight, amount or quantity of the substance analysed; and
  - (b) relating to the nature and results of the analysis.
- (2a) In any proceedings for an offence against this Act, an apparently genuine document purporting to be a certificate issued under a corresponding law and to certify that an analysis of a substance referred to in the certificate was carried out in accordance with the corresponding law will, in the absence of proof to the contrary, be proof of any facts stated in the certificate—
  - (a) tending to identify the substance analysed or tending to identify the substance analysed as an analogue of another substance for the purposes of this Act; and
  - (ab) as to the weight, amount or quantity of the substance analysed; and
  - (b) relating to the nature and results of the analysis.
- (3) In any proceedings for an offence against this Act, an apparently genuine document purporting to be signed by the Minister and to certify that a person named in the certificate is an authorised officer, or an analyst, as the case may be, will, in the absence of proof to the contrary, be proof of the matter certified.
- (4) In this section—

*corresponding law* means a law of the Commonwealth, another State, or a Territory that is prescribed by regulation for the purposes of this definition.

## 62A—Delegation

- (1) The Minister may delegate a power or function vested in or conferred on the Minister by or under this Act—
  - (a) to a particular person or body; or

- (b) to the person for the time being holding or acting in a particular office or position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
  - (a) may be absolute or conditional; and
  - (b) does not derogate from the power of the delegator to act in a matter; and
  - (c) is revocable at will by the delegator.

### 63—Regulations

- (1) The Governor may make such regulations as are contemplated by, or as are necessary or expedient for the purposes of, this Act.
- (2) The Minister must consult with the Advisory Council in relation to any regulation proposed to be made under this Act (other than a regulation proposed to be made under section 33LA).
- (3) No regulation may be made prescribing an amount relating to a controlled drug, controlled precursor or controlled plant for the purposes of Part 5 or section 45A except on the recommendation of the Advisory Council.
- (4) Without limiting the generality of subsection (1), the regulations may—
  - (a) regulate, restrict or prohibit the manufacture, production, packaging, sale (whether by wholesale or retail), supply, prescribing, administration, possession, use, handling, labelling, storing, transporting, disposal or advertising of any poison, controlled precursor, medicine, medical device or volatile solvent;
  - (b) prescribe standards, or provide for the prescription by a person, a committee of persons or an authority, of standards, with which any poison, controlled precursor, medicine or medical device must conform;
  - (ba) regulate the installation, sale, supply or operation of an automatic vending machine for the sale or supply of a poison, medicine or medical device (in circumstances in which that is not prohibited);
  - (c) prescribe the form of any notice, application, certificate, warrant or other document to be given, made or granted under this Act;
  - (d) prescribe fees in respect of anything to be done under this Act, and provide for the remission of fees in specified circumstances;
  - (e) provide for or regulate the classes, application for, grant, term, refusal, renewal, suspension or revocation of licences and permits under this Act by a person, a committee of persons or an authority;
  - (f) require any specified person, or persons of a specified class, to keep records or provide information in relation to any poison, controlled drug, controlled precursor, controlled plant, medicine, medical device or volatile solvent;
  - (g) provide for and regulate the inspection, examination, testing or analysis of any substance or goods;

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- (h) exempt, conditionally or unconditionally, any person, poison, controlled precursor, medicine or medical device from any provision of this Act or the applied provisions, or provide for all or any of those exemptions to be given by a person or committee of persons or an authority;
    - (i) prescribe penalties, not exceeding \$5 000, for breach of, or non-compliance with, any regulation.
  - (5) The regulations may refer to or, by reference, incorporate (with or without modifications) any code, standard, pharmacopoeia or other document published inside or outside of this State, either as in force at the time the regulations are made or as in force from time to time.
  - (5a) If a code, standard, pharmacopoeia or other document is referred to or incorporated in the regulations (or in a code, standard, pharmacopoeia or other document referred to or incorporated in the regulations)—
    - (a) a copy of the code, standard, pharmacopoeia or other document must be kept available for inspection by members of the public, without charge and during normal office hours, at an office or offices specified in the regulations; and
    - (b) evidence of the contents of the code, standard, pharmacopoeia or other document may be given in any legal proceedings by production of a document apparently certified by the Minister to be a true copy of the code, standard, pharmacopoeia or other document.
  - (6) Any regulation under this Act may be of general or limited application according to—
    - (a) the classes of persons or things; or
    - (b) the circumstances; or
    - (c) any other specified factor,to which the regulation is expressed to apply.
  - (7) The regulations may provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister.

## Legislative history

### Notes

- Amendments of this version that are uncommenced are not incorporated into the text.
- Please note—References in the legislation to other legislation or instruments or to titles of bodies or offices are not automatically updated as part of the program for the revision and publication of legislation and therefore may be obsolete.
- Earlier versions of this Act (historical versions) are listed at the end of the legislative history.
- For further information relating to the Act and subordinate legislation made under the Act see the Index of South Australian Statutes or [www.legislation.sa.gov.au](http://www.legislation.sa.gov.au).

### Principal Act and amendments

New entries appear in bold.

Year	No	Title	Assent	Commencement
<b>1984</b>	<b>52</b>	<b><i>Controlled Substances Act 1984</i></b>	<b>24.5.1984</b>	<b>9.5.1985 (<i>Gazette 9.5.1985 p1399</i>) except s 19—3.3.1986 (<i>Gazette 27.2.1986 p421</i>) and except s 22—1.7.1988 (<i>Gazette 19.5.1988 p1246</i>) and except s 21—9.2.1989 (<i>Gazette 9.2.1989 p354</i>) and except ss 12(7), 13—18 &amp; 23—29—4.1.1996 (<i>Gazette 4.1.1996 p2</i>) and except ss 3(1), 12(5), (6) &amp; 20—1.7.2011 (<i>Gazette 9.6.2011 p2544</i>)</b>
1986	17	<i>Crimes (Confiscation of Profits) Act 1986</i>	20.3.1986	1.3.1987 ( <i>Gazette 19.2.1987 p381</i> )
1986	43	<i>Statutes Amendment (Analysts) Act 1986</i>	4.9.1986	16.10.1986 ( <i>Gazette 16.10.1986 p1373</i> )
1986	64	<i>Controlled Substances Act Amendment Act 1986</i>	6.11.1986	20.11.1986 ( <i>Gazette 20.11.1986 p1638</i> ) except s 8—30.4.1987 ( <i>Gazette 30.4.1987 p1133</i> ) and except s 7—29.3.1990 ( <i>Gazette 29.3.1990 p884</i> )
1990	28	<i>Controlled Substances Act Amendment Act 1990</i>	26.4.1990	26.4.1990
1990	29	<i>Controlled Substances Act Amendment Act (No. 2) 1990</i>	26.4.1990	26.9.1991 ( <i>Gazette 26.9.1991 p890</i> )
1991	13	<i>Pharmacists Act 1991</i>	4.4.1991	21.11.1991 ( <i>Gazette 21.11.1991 p1328</i> )
1991	49	<i>Director of Public Prosecutions Act 1991</i>	21.11.1991	6.7.1992 ( <i>Gazette 25.6.1992 p1869</i> )
1991	69	<i>Statutes Repeal and Amendment (Courts) Act 1991</i>	12.12.1991	6.7.1992 ( <i>Gazette 2.7.1992 p209</i> )
1992	44	<i>Controlled Substances (Classification of Offences) Amendment Act 1992</i>	10.9.1992	6.7.1992: s 2
1994	27	<i>Controlled Substances (Destruction of Cannabis) Amendment Act 1994</i>	26.5.1994	13.10.1994 ( <i>Gazette 13.10.1994 p944</i> )



1995	98	<i>Controlled Substances (General Offences—Poisons) Amendment Act 1995</i>	14.12.1995	4.1.1996 ( <i>Gazette 4.1.1996 p2</i> )
1996	34	<i>Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996</i>	2.5.1996	Sch (cl 12)—3.2.1997 ( <i>Gazette 19.12.1996 p1923</i> )
1999	59	<i>Controlled Substances (Miscellaneous) Amendment Act 1999</i>	19.8.1999	19.8.1999
2000	34	<i>South Australian Health Commission (Administrative Arrangements) Amendment Act 2000</i>	6.7.2000	Sch 1 (cl 4)—6.7.2000 ( <i>Gazette 6.7.2000 p5</i> )
2000	87	<i>Controlled Substances (Drug Offence Diversion) Amendment Act 2000</i>	14.12.2000	1.10.2001 ( <i>Gazette 27.9.2001 p4295</i> )
2002	47	<i>Controlled Substances (Cannabis) Amendment Act 2002</i>	12.12.2002	1.2.2003 ( <i>Gazette 16.1.2003 p180</i> )
2004	48	<i>Controlled Substances (Repeal of Sunset Provision) Amendment Act 2004</i>	16.12.2004	30.9.2004: s 2
2005	19	<i>Criminal Assets Confiscation Act 2005</i>	9.6.2005	Sch 1 (cll 2—4)—2.4.2006 ( <i>Gazette 16.2.2006 p578</i> )
2005	80	<i>Controlled Substances (Serious Drug Offences) Amendment Act 2005</i>	8.12.2005	Pt 2 (ss 4(2), (4), 5, 6, 12, 18, 19(2), 21, 23—28)—12.1.2006 ( <i>Gazette 12.1.2006 p43</i> ); ss 4(1), (3), (5)—(12), 7—11, 13—17, 19(1), (3), (4), 20, 22, 29, 30 & Sch 1 (cl 6)—3.12.2007 ( <i>Gazette 22.11.2007 p4294</i> )
2007	35	<i>Statutes Amendment (Petroleum Products) Act 2007</i>	20.9.2007	Pt 2 (s 4)—1.7.2008 ( <i>Gazette 13.3.2008 p1006</i> )
2007	50	<i>Controlled Substances (Possession of Prescribed Equipment) Amendment Act 2007</i>	29.11.2007	26.9.2008 ( <i>Gazette 25.9.2008 p4575</i> ) except s 4—19.10.2008 ( <i>Gazette 16.10.2008 p4834</i> )
2008	3	<i>Health Care Act 2008</i>	13.3.2008	Sch 4 (cl 4)—1.7.2008 ( <i>Gazette 26.6.2008 p2563</i> )
2008	11	<i>Summary Offences (Drug Paraphernalia) Amendment Act 2008</i>	8.5.2008	Sch 1 (cll 1 & 2)—8.6.2008 ( <i>Gazette 5.6.2008 p1872</i> )
2008	32	<i>Controlled Substances (Controlled Drugs, Precursors and Cannabis) Amendment Act 2008</i>	31.7.2008	10.9.2009 ( <i>Gazette 10.9.2009 p4410</i> )
2008	33	<i>Controlled Substances (Drug Detection Powers) Amendment Act 2008</i>	31.7.2008	Pt 2 (ss 4—8)—23.10.2008 ( <i>Gazette 23.10.2008 p4931</i> )
2009	84	<i>Statutes Amendment (Public Sector Consequential Amendments) Act 2009</i>	10.12.2009	Pt 37 (ss 68 & 69)—1.2.2010 ( <i>Gazette 28.1.2010 p320</i> )
2010	5	<i>Health Practitioner Regulation National Law (South Australia) Act 2010</i>	1.7.2010	Sch 1 (cl 6)—1.7.2010 ( <i>Gazette 1.7.2010 p3338</i> )
2010	17	<i>Controlled Substances (Miscellaneous) Amendment Act 2010</i>	14.10.2010	28.11.2010 ( <i>Gazette 25.11.2010 p5401</i> )
2011	3	<b><i>Controlled Substances (Therapeutic Goods and Other Matters) Amendment Act 2011</i></b>	3.3.2011	<b>9.6.2011 except ss 4—26, 28—32 &amp; Sch 1—1.7.2011 (<i>Gazette 9.6.2011 p2544</i>)</b>

**Controlled Substances Act 1984—1.7.2011 to 27.8.2011**

Legislative history

2011 25 *Controlled Substances (Offences Relating to Instructions) Amendment Act 2011* 21.7.2011 28.8.2011 (*Gazette 18.8.2011 p3490*)

**Provisions amended**

New entries appear in bold.

Entries that relate to provisions that have been deleted appear in italics.

Provision	How varied	Commencement
Long title	amended by 59/1999 s 13 (Sch) <b>amended by 3/2011 s 4</b>	19.8.1999 <b>1.7.2011</b>
Pt 1		
s 2	<i>deleted by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
s 3		
s 3(2)	<i>deleted by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
s 4		
s 4(1)	s 4 redesignated as s 4(1) by 64/1986 s 3(b)	20.11.1986
<b>Advisory Council</b>	<b>the Advisory Council amended to read Advisory Council by 3/2011 Sch 1</b>	<b>1.7.2011</b>
analyst	substituted by 43/1986 s 5(a)	16.10.1986
<b>applied provisions</b>	<b>inserted by 3/2011 s 5(1)</b>	<b>1.7.2011</b>
artificially enhanced cultivation	inserted by 32/2008 s 4(1)	10.9.2009
<i>assessment panel</i>	<i>deleted by 87/2000 s 3</i>	<i>1.10.2001</i>
assessment service	inserted by 87/2000 s 3	1.10.2001
authorised officer	substituted by 32/2008 s 4(2)	10.9.2009
<i>botanist</i>	<i>deleted by 43/1986 s 5(b)</i>	<i>16.10.1986</i>
cannabis	substituted by 29/1990 s 3(a)	26.9.1991
cannabis oil	substituted by 29/1990 s 3(a)	26.9.1991
cannabis resin	substituted by 29/1990 s 3(a)	26.9.1991
child	substituted by 29/1990 s 3(b)	26.9.1991
commercial quantity	inserted by 80/2005 s 4(1)	3.12.2007
	amended by 32/2008 s 4(3)	10.9.2009
<b>Commonwealth Act</b>	<b>inserted by 3/2011 s 5(2)</b>	<b>1.7.2011</b>
<b>Commonwealth Minister</b>	<b>inserted by 3/2011 s 5(2)</b>	<b>1.7.2011</b>
<b>Commonwealth Secretary</b>	<b>inserted by 3/2011 s 5(2)</b>	<b>1.7.2011</b>
<b>Commonwealth therapeutic goods laws</b>	<b>inserted by 3/2011 s 5(2)</b>	<b>1.7.2011</b>
controlled drug	inserted by 80/2005 s 4(1)	3.12.2007
controlled plant	inserted by 80/2005 s 4(1)	3.12.2007
controlled precursor	inserted by 80/2005 s 4(1)	3.12.2007

cultivate	inserted by 80/2005 s 4(1)	3.12.2007
dentist	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 80/2005 s 4(2)	12.1.2006
	substituted by 5/2010 Sch 1 cl 6(1)	1.7.2010
Department	the Department inserted by 34/2000 Sch 1 cl 4(a)	6.7.2000
	<b>the Department amended to read Department by 3/2011 Sch 1</b>	<b>1.7.2011</b>
discrete dosage unit	inserted by 32/2008 s 4(4)	10.9.2009
	substituted by 17/2010 s 4	28.11.2010
drug detection dog	inserted by 33/2008 s 4(1)	23.10.2008
electronic drug detection system	inserted by 33/2008 s 4(2)	23.10.2008
general drug detection	inserted by 33/2008 s 4(2)	23.10.2008
<i>the Health Commission</i>	<i>deleted by 3/2008 Sch 4 cl 4</i>	<i>1.7.2008</i>
large commercial quantity	inserted by 80/2005 s 4(3)	3.12.2007
	amended by 32/2008 s 4(5)	10.9.2009
manufacture	inserted by 80/2005 s 4(3)	3.12.2007
<b>medical device</b>	<b>inserted by 3/2011 s 5(3)</b>	<b>1.7.2011</b>
medical practitioner	amended by 59/1999 s 13 (Sch)	19.8.1999
	substituted by 5/2010 Sch 1 cl 6(2)	1.7.2010
<b>medicine</b>	<b>inserted by 3/2011 s 5(4)</b>	<b>1.7.2011</b>
<b>midwife</b>	<b>inserted by 3/2011 s 5(4)</b>	<b>1.7.2011</b>
nurse	amended by 64/1986 s 3(a)	20.11.1986
	amended by 80/2005 s 4(4)	12.1.2006
	substituted by 5/2010 Sch 1 cl 6(3)	1.7.2010
<b>nurse practitioner</b>	<b>inserted by 3/2011 s 5(5)</b>	<b>1.7.2011</b>
pharmacist	substituted by 13/1991 (Sch 2)	21.11.1991
	substituted by 5/2010 Sch 1 cl 6(4)	1.7.2010
<i>plant</i>	<i>deleted by 29/1990 s 3(c)</i>	<i>26.9.1991</i>
possession	substituted by 80/2005 s 4(5)	3.12.2007
<i>produce</i>	<i>deleted by 80/2005 s 4(6)</i>	<i>3.12.2007</i>
product	inserted by 80/2005 s 4(6)	3.12.2007
<i>prohibited substance</i>	<i>deleted by 80/2005 s 4(7)</i>	<i>3.12.2007</i>
<b>registered health practitioner</b>	<b>inserted by 3/2011 s 5(6)</b>	<b>1.7.2011</b>
<i>related person or body</i>	<i>deleted by 17/1986 s 13 (Sch)</i>	<i>1.3.1987</i>
sell	substituted by 80/2005 s 4(8)	3.12.2007
senior police officer	inserted by 33/2008 s 4(3)	23.10.2008
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
school zone	inserted by 29/1990 s 3(d)	26.9.1991

**Controlled Substances Act 1984—1.7.2011 to 27.8.2011**

Legislative history

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simple possession offence	substituted by 80/2005 s 4(9)	3.12.2007
supply	substituted by 80/2005 s 4(10)	3.12.2007
<i>therapeutic device</i>	<i>deleted by 3/2011 s 5(7)</i>	<b>1.7.2011</b>
<i>therapeutic substance</i>	<i>deleted by 3/2011 s 5(7)</i>	<b>1.7.2011</b>
traffic	inserted by 80/2005 s 4(11)	3.12.2007
trafficable quantity	inserted by 80/2005 s 4(11)	3.12.2007
	amended by 32/2008 s 4(6)	10.9.2009
veterinary surgeon	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 4(2)	inserted by 64/1986 s 3(b)	20.11.1986
s 4(3)	inserted by 64/1986 s 3(b)	20.11.1986
	substituted by 80/2005 s 4(12)	3.12.2007
s 4(4)—(8)	inserted by 80/2005 s 4(12)	3.12.2007
s 5		
s 5(2) and (3)	amended by 59/1999 s 13 (Sch)	19.8.1999
Pt 2		
s 6		
s 6(1)	substituted by 59/1999 s 13 (Sch)	19.8.1999
s 6(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(b)	6.7.2000
	amended by 80/2005 s 5(1), (2)	12.1.2006
	amended by 32/2008 s 5	10.9.2009
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 6(4)	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 7		
s 7(1)	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 7(2) and (3)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 7(4)	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
ss 8 and 9	amended by 59/1999 s 13 (Sch)	19.8.1999
s 10		
s 10(1)	substituted by 59/1999 s 13 (Sch)	19.8.1999
s 10(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 10(3)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 80/2005 s 6	12.1.2006
s 10(4)—(6)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 10A	inserted by 84/2009 s 68	1.2.2010
s 11		
s 11(3)	amended by 59/1999 s 13 (Sch)	19.8.1999

	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 11(5)—(7)	amended by 59/1999 s 13 (Sch)	19.8.1999
<b>Pt 2A</b>	<b>inserted by 3/2011 s 6</b>	<b>1.7.2011</b>
Pt 3		
s 12		
s 12(1) and (3)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 12(4)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 80/2005 s 7(1)	3.12.2007
s 12(4a) and (4b)	inserted by 80/2005 s 7(2)	3.12.2007
<i>s 12(5) and (6)</i>	<i>amended by 59/1999 s 13 (Sch) but deleted by 3/2011 s 7(1) immediately following commencement</i>	<b>1.7.2011</b>
s 12(7)	amended by 59/1999 s 13 (Sch)	19.8.1999
<b>s 12(8)</b>	<b>amended by 3/2011 s 7(2)</b>	<b>1.7.2011</b>
Pt 4		
s 13		
s 13(1)	amended by 98/1995 s 3	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(c)	6.7.2000
	amended by 80/2005 s 8(1)	3.12.2007
	<b>amended by 3/2011 s 8(1), (2)</b>	<b>1.7.2011</b>
<b>s 13(2)</b>	<b>amended by 3/2011 s 8(3)</b>	<b>1.7.2011</b>
s 13(3)	inserted by 59/1999 s 2	19.8.1999
s 13(4)	inserted by 80/2005 s 8(2)	3.12.2007
s 14		
s 14(1)	amended by 98/1995 s 4	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(d)	6.7.2000
	<b>amended by 3/2011 s 9(1)</b>	<b>1.7.2011</b>
<b>s 14(2)</b>	<b>amended by 3/2011 s 9(2)</b>	<b>1.7.2011</b>
s 14(3)	inserted by 59/1999 s 3	19.8.1999
s 15		
s 15(1)	amended by 98/1995 s 5	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(e)	6.7.2000
	<b>amended by 3/2011 s 10(1), (2)</b>	<b>1.7.2011</b>
<b>s 15(2)</b>	<b>amended by 3/2011 s 10(3)</b>	<b>1.7.2011</b>
s 15(3)	inserted by 59/1999 s 4	19.8.1999
s 16		
s 16(1) and (2)	amended by 98/1995 s 6	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 16(3)	amended by 98/1995 s 6	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999

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	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 16(4)	amended by 98/1995 s 6	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 17	amended by 98/1995 s 7	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 17A	inserted by 32/2008 s 6	10.9.2009
s 17B	inserted by 32/2008 s 6	10.9.2009
<b>s 17B(5)</b>	<b>amended by 3/2011 s 11</b>	<b>1.7.2011</b>
s 17C	inserted by 32/2008 s 6	10.9.2009
<b>s 17C(3)</b>	<b>amended by 3/2011 s 12</b>	<b>1.7.2011</b>
s 18	substituted by 98/1995 s 8	4.1.1996
s 18(1)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(f)	6.7.2000
	<b>substituted by 3/2011 s 13(1)</b>	<b>1.7.2011</b>
<b>s 18(1a)—(1e)</b>	<b>inserted by 3/2011 s 13(1)</b>	<b>1.7.2011</b>
s 18(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>substituted by 3/2011 s 13(1)</b>	<b>1.7.2011</b>
s 18(3)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(g)	6.7.2000
	amended by 80/2005 s 9	3.12.2007
s 18(4)	inserted by 59/1999 s 5	19.8.1999
<b>s 18(5)</b>	<b>inserted by 3/2011 s 13(2)</b>	<b>1.7.2011</b>
s 18A	inserted by 80/2005 s 10	3.12.2007
<b>s 18A(a1)</b>	<b>inserted by 3/2011 s 14(1)</b>	<b>1.7.2011</b>
<b>s 18A(1)</b>	<b>amended by 3/2011 s 14(2)—(4)</b>	<b>1.7.2011</b>
<b>s 18A(2)</b>	<b>amended by 3/2011 s 14(5)</b>	<b>1.7.2011</b>
<b>s 18A(3)</b>	<b>amended by 3/2011 s 14(6)</b>	<b>1.7.2011</b>
<b>s 18A(4)</b>	<b>amended by 3/2011 s 14(7)</b>	<b>1.7.2011</b>
<b>s 18A(5)</b>	<b>amended by 3/2011 s 14(8)</b>	<b>1.7.2011</b>
s 18A(6)	amended by 32/2008 s 7(1)	10.9.2009
	<b>amended by 3/2011 s 14(9)</b>	<b>1.7.2011</b>
s 18A(8)	substituted by 32/2008 s 7(2)	10.9.2009
s 19		
s 19(1)	s 19 amended by 98/1995 s 9	4.1.1996
	s 19 amended by 59/1999 s 13 (Sch)	19.8.1999
	s 19 redesignated as s 19(1) by 35/2007 s 4	1.7.2008
s 19(2)—(6)	inserted by 35/2007 s 4	1.7.2008
s 20		
s 20(1)	amended by 98/1995 s 10	
	amended by 59/1999 s 13 (Sch)	
	amended by 80/2005 s 11(1), (2)	
	<b>amended by 3/2011 s 15(1)</b>	<b>1.7.2011</b>
s 20(2)	substituted by 80/2005 s 11(3)	

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	<b>amended by 3/2011 s 15(1), (2)</b>	<b>1.7.2011</b>
s 21		
s 21(1)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 80/2005 s 12(1), (2)	12.1.2006
s 21(2)	amended by 98/1995 s 11	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 21(4)	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 22		
s 22(1)	amended by 98/1995 s 12	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(h)	6.7.2000
s 23		
s 23(1)	amended by 98/1995 s 13	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 16</b>	<b>1.7.2011</b>
s 23(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 24	substituted by 98/1995 s 14	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 17</b>	<b>1.7.2011</b>
s 25	amended by 98/1995 s 15	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 18</b>	<b>1.7.2011</b>
s 26	amended by 98/1995 s 16	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 19</b>	<b>1.7.2011</b>
s 27	substituted by 98/1995 s 17	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 20</b>	<b>1.7.2011</b>
s 28		
s 28(1)	amended by 98/1995 s 18	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 21(1)</b>	<b>1.7.2011</b>
s 28(2)	<b>amended by 3/2011 s 21(2)</b>	<b>1.7.2011</b>
s 29	amended by 98/1995 s 19	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 s 22</b>	<b>1.7.2011</b>
s 30		
s 30(1)	amended by 98/1995 s 20(a)	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 30(2)	amended by 98/1995 s 20(b)	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 30(2a)	inserted by 98/1995 s 20(c)	4.1.1996

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	amended by 59/1999 s 13 (Sch)	19.8.1999
s 30(3)	amended by 59/1999 s 13 (Sch)	19.8.1999
Pt 5		
heading	substituted by 80/2005 s 13	3.12.2007
<i>Pt 5 Div 1 before substitution by 80/2005</i>		
s 31		
s 31(1)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 31(2)	<i>amended by 64/1986 s 4</i>	20.11.1986
	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 31(3)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
	<i>amended by 34/2000 Sch 1 cl 4(i)</i>	6.7.2000
s 31(4)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 31(5)	<i>inserted by 59/1999 s 6</i>	19.8.1999
s 32		
s 32(1)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 32(2)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
	<i>amended by 34/2000 Sch 1 cl 4(j)</i>	6.7.2000
s 32(3) and (4)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 32(5)	<i>amended by 64/1986 s 5</i>	20.11.1986
	<i>amended by 29/1990 s 4(a)</i>	26.9.1991
	<i>amended by 69/1991 s 16(a), (b)</i>	6.7.1992
	<i>amended by 44/1992 s 3(a), (b)</i>	6.7.1992
	<i>B(b)(iii) deleted by 44/1992 s 3(c)</i>	6.7.1992
	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 32(5a)	<i>inserted by 28/1990 s 2</i>	26.4.1990
s 32(6)	<i>substituted by 29/1990 s 4(b)</i>	26.9.1991
s 32(7)	<i>inserted by 59/1999 s 7</i>	19.8.1999
s 33		
s 33(1)	<i>amended by 64/1986 s 6(a)</i>	20.11.1986
	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
	<i>amended by 34/2000 Sch 1 cl 4(k)</i>	6.7.2000
s 33(1a)	<i>inserted by 64/1986 s 6(b)</i>	20.11.1986
	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
	<i>amended by 34/2000 Sch 1 cl 4(l)</i>	6.7.2000
s 33(2)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999
s 33(3)	<i>amended by 64/1986 s 6(c)</i>	20.11.1986
	<i>amended by 34/2000 Sch 1 cl 4(m)</i>	6.7.2000
s 33(4)	<i>amended by 64/1986 s 6(d)</i>	20.11.1986
	<i>amended by 34/2000 Sch 1 cl 4(n)</i>	6.7.2000
s 33(5)	<i>amended by 64/1986 s 6(e)</i>	20.11.1986
	<i>amended by 34/2000 Sch 1 cl 4(o), (p)</i>	6.7.2000
s 33(6)	<i>amended by 59/1999 s 13 (Sch)</i>	19.8.1999



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Pt 5 Div 1	substituted by 80/2005 s 14	3.12.2007
s 31		
s 31(1)	amended by 32/2008 s 8(1), (2) <b>amended by 3/2011 s 23</b>	10.9.2009 <b>1.7.2011</b>
s 31(3)	inserted by 32/2008 s 8(3)	10.9.2009
Pt 5 Div 2	substituted by 80/2005 s 14	3.12.2007
s 32		
s 32(2a)	inserted by 17/2010 s 5(1)	28.11.2010
s 32(5)	amended by 17/2010 s 5(2)	28.11.2010
s 32(6)	inserted by 17/2010 s 5(3)	28.11.2010
s 33		
s 33(4)	substituted by 32/2008 s 9	10.9.2009
s 33D	amended by 11/2008 Sch 1 cl 1	8.6.2008
Pt 5 Div 3	inserted by 80/2005 s 14	3.12.2007
s 33GA	inserted by 11/2008 Sch 1 cl 2	8.6.2008
Pt 5 Div 4	inserted by 80/2005 s 14	3.12.2007
s 33J		
s 33J(1)	s 33J redesignated as s 33J(1) by 32/2008 s 10	10.9.2009
s 33J(2)	inserted by 32/2008 s 10	10.9.2009
s 33K		
s 33K(1)	amended by 32/2008 s 11(1)	10.9.2009
s 33K(2)	amended by 32/2008 s 11(2)	10.9.2009
s 33K(3)	inserted by 32/2008 s 11(3)	10.9.2009
s 33LA	inserted by 50/2007 s 4	19.10.2008
s 33LB	inserted by 32/2008 s 12	10.9.2009
Pt 5 Div 5	inserted by 80/2005 s 14	3.12.2007
s 33O		
<b>s 33O(2)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 33OA	inserted by 32/2008 s 13	10.9.2009
Pt 5 Div 6		
heading	inserted by 80/2005 s 14	3.12.2007
s 34	substituted by 64/1986 s 7 amended by 59/1999 s 13 (Sch) substituted by 87/2000 s 4	29.3.1990 19.8.1999 1.10.2001
s 35	amended by 59/1999 s 13 (Sch) substituted by 87/2000 s 4	19.8.1999 1.10.2001
s 36	amended by 59/1999 s 13 (Sch) substituted by 87/2000 s 4	19.8.1999 1.10.2001
<b>s 36(1)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
ss 37—39	amended by 59/1999 s 13 (Sch) substituted by 87/2000 s 4	19.8.1999 1.10.2001
s 40	substituted by 87/2000 s 4	1.10.2001
s 40A	inserted by 87/2000 s 4	1.10.2001

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<i>s 40B</i>	<i>inserted by 87/2000 s 4</i>	<i>1.10.2001</i>
	<i>deleted by 48/2004 s 4</i>	<i>30.9.2004</i>
Pt 6	heading substituted by 59/1999 s 8	19.8.1999
<i>Div 1 heading</i>	<i>deleted by 59/1999 s 9</i>	<i>19.8.1999</i>
<i>ss 41 and 42</i>	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<i>deleted by 80/2005 s 15</i>	<i>3.12.2007</i>
<i>s 43 before deletion by 19/2005</i>	<i>substituted by 17/1986 s 13 (Sch)</i>	<i>1.3.1987</i>
<i>s 43(1) and (2)</i>	<i>deleted by 69/1991 s 16(c)</i>	<i>6.7.1992</i>
<i>s 43(3)</i>	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
<i>s 43</i>	<i>deleted by 19/2005 Sch 1 cl 2</i>	<i>2.4.2006</i>
<i>s 44</i>		
<i>s 44(1)</i>	<i>s 44 amended by 29/1990 s 5</i>	<i>26.9.1991</i>
	<i>s 44 amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<i>s 44 amended by 87/2000 s 5</i>	<i>1.10.2001</i>
	<i>s 44 amended by 19/2005 Sch 1 cl 3</i>	<i>2.4.2006</i>
	<i>s 44 amended by 80/2005 s 16(1)—(3)</i>	<i>3.12.2007</i>
	<i>s 44(db) deleted by 80/2005 s 16(3)</i>	<i>3.12.2007</i>
	<i>s 44 amended and redesignated as s 44(1) by 32/2008 s 14(1), (2)</i>	<i>10.9.2009</i>
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
<i>s 44(2) and (3)</i>	<i>inserted by 32/2008 s 14(2)</i>	<i>10.9.2009</i>
<i>s 45</i>	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
<i>s 45A</i>	<i>inserted by 64/1986 s 8</i>	<i>30.4.1987</i>
<i>s 45A(1)</i>	<i>amended by 49/1991 Sch 2</i>	<i>6.7.1992</i>
	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
<i>s 45A(2)</i>	<i>amended by 34/1996 s 4 (Sch cl 12)</i>	<i>3.2.1997</i>
	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
<i>s 45A(3)</i>	<i>substituted by 34/1996 s 4 (Sch cl 12)</i>	<i>3.2.1997</i>
<i>s 45A(4)—(6)</i>	<i>deleted by 34/1996 s 4 (Sch cl 12)</i>	<i>3.2.1997</i>
<i>s 45A(8)</i>	<i>amended by 29/1990 s 6</i>	<i>26.9.1991</i>
<i>artificially enhanced cultivation</i>	<i>inserted by 47/2002 s 3(a)</i>	<i>1.2.2003</i>
	<i>deleted by 32/2008 s 15</i>	<i>10.9.2009</i>
<i>child</i>	<i>deleted by 80/2005 s 17</i>	<i>3.12.2007</i>
<i>simple cannabis offence</i>	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<i>amended by 47/2002 s 3(b)</i>	<i>1.2.2003</i>
	<i>substituted by 80/2005 s 17</i>	<i>3.12.2007</i>
<i>Pt 6 Div 2</i>	<i>amended by 17/1986 s 13 (Sch)</i>	<i>1.3.1987</i>
	<i>deleted by 59/1999 s 10</i>	<i>19.8.1999</i>

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Pt 7	heading substituted by 59/1999 s 11	19.8.1999
s 50		
s 50(1)	amended by 32/2008 s 16 <b>amended by 3/2011 Sch 1</b>	10.9.2009 <b>1.7.2011</b>
s 50(2)	amended by 59/1999 s 13 (Sch) <b>amended by 3/2011 s 24</b>	19.8.1999 <b>1.7.2011</b>
s 50(3)	amended by 59/1999 s 13 (Sch) <b>amended by 3/2011 Sch 1</b>	19.8.1999 <b>1.7.2011</b>
s 51		
s 51(1)	amended by 43/1986 s 5(c) amended by 59/1999 s 13 (Sch) amended by 32/2008 s 17	16.10.1986 19.8.1999 10.9.2009
s 51(2)	amended by 43/1986 s 5(d) amended by 59/1999 s 13 (Sch)	16.10.1986 19.8.1999
s 52		
s 52(1)	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52(2)	amended by 17/1986 s 13 (Sch) amended by 59/1999 s 13 (Sch) amended by 80/2005 s 18(1)—(3) <b>amended by 3/2011 Sch 1</b>	1.3.1987 19.8.1999 12.1.2006 <b>1.7.2011</b>
s 52(3)	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52(4)	amended by 59/1999 s 13 (Sch) amended by 80/2005 s 18(4) <b>amended by 3/2011 s 25(1)—(3), Sch 1</b>	19.8.1999 12.1.2006 <b>1.7.2011</b>
s 52(5)	amended by 59/1999 s 13 (Sch) <b>amended by 3/2011 s 25(4), Sch 1</b>	19.8.1999 <b>1.7.2011</b>
s 52(6)	amended by 59/1999 s 13 (Sch) amended by 33/2008 s 5(1), (2) <b>amended by 3/2011 Sch 1</b>	19.8.1999 23.10.2008 <b>1.7.2011</b>
s 52(7) and (8)	<i>amended by 59/1999 s 13 (Sch)</i> <i>deleted by 33/2008 s 5(3)</i>	<i>19.8.1999</i> <i>23.10.2008</i>
s 52(9)	amended by 59/1999 s 13 (Sch) amended by 33/2008 s 5(4), (5) <b>amended by 3/2011 Sch 1</b>	19.8.1999 23.10.2008 <b>1.7.2011</b>
s 52(10)	amended by 59/1999 s 13 (Sch) amended by 33/2008 s 5(6) <b>amended by 3/2011 Sch 1</b>	19.8.1999 23.10.2008 <b>1.7.2011</b>
s 52(11)	amended by 59/1999 s 13 (Sch) substituted by 80/2005 s 18(5) substituted by 33/2008 s 5(7) <b>amended by 3/2011 Sch 1</b>	19.8.1999 12.1.2006 23.10.2008 <b>1.7.2011</b>
s 52(12)	<i>amended by 98/1995 s 21</i> <i>amended by 59/1999 s 13 (Sch)</i>	<i>4.1.1996</i> <i>19.8.1999</i>

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	<i>deleted by 33/2008 s 5(7)</i>	23.10.2008
s 52A—see s 52E		
s 52A	inserted by 33/2008 s 6	23.10.2008
<b>s 52A(1), (6) and (7)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52B	inserted by 33/2008 s 6	23.10.2008
<b>s 52B(4)—(7) and (9)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52C	inserted by 33/2008 s 6	23.10.2008
s 52D	inserted by 33/2008 s 6	23.10.2008
<b>s 52D(1)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52E	s 52A inserted by 27/1994 s 3	13.10.1994
	s 52A substituted by 59/1999 s 12	19.8.1999
	s 52A redesignated as s 52E by 33/2008 s 7	23.10.2008
s 52E(2)	amended by 80/2005 s 19(1)	3.12.2007
s 52E(6a)	inserted by 80/2005 s 19(2)	12.1.2006
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 52E(7)	amended by 80/2005 s 19(3)	3.12.2007
s 52E(10)	amended by 80/2005 s 19(4)	3.12.2007
s 52E(12)	substituted by 19/2005 Sch 1 cl 4	2.4.2006
s 52E(13)		
<b>prescribed period</b>	<b>the prescribed period amended to read prescribed period by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 53		
s 53(1)	amended by 43/1986 s 5(e)	16.10.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 53(1a)	inserted by 17/2010 s 6(1)	28.11.2010
s 53(2)	amended by 43/1986 s 5(f)	16.10.1986
	amended by 27/1994 s 4	13.10.1994
	amended by 80/2005 s 20	3.12.2007
	<b>amended by 3/2011 s 26</b>	<b>1.7.2011</b>
<b>s 53(3)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 53(4)	amended by 43/1986 s 5(g)	16.10.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(r)	6.7.2000
	amended by 17/2010 s 6(2)	28.11.2010
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
<i>s 54 before deletion by 84/2009</i>		
s 54(1)	<i>amended by 43/1986 s 5(h), (i)</i>	<i>16.10.1986</i>
	<i>(d) deleted by 43/1986 s 5(i)</i>	<i>16.10.1986</i>
	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
s 54(2)	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
s 54	<i>deleted by 84/2009 s 69</i>	<i>1.2.2010</i>

Pt 8

s 55

s 55(1)	amended by 34/2000 Sch 1 cl 4(s)	6.7.2000
s 55(2)	amended by 34/2000 Sch 1 cl 4(t)	6.7.2000
s 55(2a)	inserted by 64/1986 s 9(a)	20.11.1986
	amended by 98/1995 s 22	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 55(2b)	inserted by 3/2011 s 27(1)	9.6.2011
s 55(3)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(u)	6.7.2000
	amended by 3/2011 s 27(2), Sch 1	9.6.2011
<b>s 55(3)</b>	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 55(4)	substituted by 64/1986 s 9(b)	20.11.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(v), (w)	6.7.2000
	amended by 80/2005 s 21(1)	12.1.2006
s 55(5)—(7)	inserted by 64/1986 s 9(b)	20.11.1986
	substituted by 80/2005 s 21(2)	12.1.2006
s 55(8)	inserted by 80/2005 s 21(2)	12.1.2006

s 56

s 56(1)	amended by 64/1986 s 10	20.11.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(x)	6.7.2000
	substituted by 80/2005 s 22	3.12.2007
	amended by 32/2008 s 18	10.9.2009
	<b>amended by 3/2011 s 28</b>	<b>1.7.2011</b>
s 56(2)	amended by 59/1999 s 13 (Sch)	19.8.1999

s 57

s 57(1)	substituted by 64/1986 s 11(a)	20.11.1986
	amended by 34/2000 Sch 1 cl 4(y)	6.7.2000
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 57(2)	substituted by 64/1986 s 11(a)	20.11.1986
	amended by 34/2000 Sch 1 cl 4(z)	6.7.2000
s 57(3)	amended by 64/1986 s 11(b)	20.11.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(za)	6.7.2000
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 57(4)	amended by 98/1995 s 23	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 57(5)	amended by 64/1986 s 11(c)	20.11.1986
	substituted by 80/2005 s 23	12.1.2006
s 57(6)	amended by 59/1999 s 13 (Sch)	19.8.1999

**Controlled Substances Act 1984—1.7.2011 to 27.8.2011**

## Legislative history

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	amended by 34/2000 Sch 1 cl (zb)	6.7.2000
	substituted by 80/2005 s 23	12.1.2006
s 57(7)	substituted by 80/2005 s 23	12.1.2006
s 57(8)	inserted by 80/2005 s 23	12.1.2006
s 57A	inserted by 80/2005 s 24	12.1.2006
<b>s 57A(2)</b>	<b>amended by 3/2011 s 29(1), (2)</b>	<b>1.7.2011</b>
s 58		
s 58(1)	amended by 34/2000 Sch 1 cl 4(zc), (zd)	6.7.2000
	amended by 80/2005 s 25(1)—(3)	12.1.2006
	<b>amended by 3/2011 s 30(1)—(3)</b>	<b>1.7.2011</b>
	<b>(d), (e) deleted by 3/2011 s 30(3)</b>	<b>1.7.2011</b>
s 58(1a)	inserted by 80/2005 s 25(4)	12.1.2006
s 58(3)	amended by 59/1999 s 13 (Sch)	19.8.1999
s 59	<i>amended by 98/1995 s 24</i>	<i>4.1.1996</i>
	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<i>deleted by 80/2005 s 26</i>	<i>12.1.2006</i>
s 60		
s 60(1)	amended by 34/2000 Sch 1 cl 4(ze)	6.7.2000
	substituted by 80/2005 s 27	12.1.2006
s 60(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(ze), (zf)	6.7.2000
	<b>amended by 3/2011 s 31(1), (2), Sch 1</b>	<b>1.7.2011</b>
s 60(4)	amended by 98/1995 s 25	4.1.1996
	amended by 59/1999 s 13 (Sch)	19.8.1999
ss 60A and 60B	inserted by 80/2005 s 28	12.1.2006
s 61		
s 61(1)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 34/2000 Sch 1 cl 4(zg)	6.7.2000
	amended by 32/2008 s 19	10.9.2009
s 61(2)	amended by 43/1986 s 5(j)	16.10.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 17/2010 s 7(1), (2)	28.11.2010
s 61(2a)	inserted by 80/2005 s 29(1)	3.12.2007
	amended by 17/2010 s 7(3), (4)	28.11.2010
s 61(3)	amended by 43/1986 s 5(k)	16.10.1986
	amended by 59/1999 s 13 (Sch)	19.8.1999
s 61(4)	inserted by 80/2005 s 29(2)	3.12.2007
s 61A	<i>inserted by 64/1986 s 12</i>	<i>20.11.1986</i>
	<i>deleted by 87/2000 s 6</i>	<i>1.10.2001</i>
s 62	<i>amended by 59/1999 s 13 (Sch)</i>	<i>19.8.1999</i>
	<b>deleted by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 62A	inserted by 34/2000 Sch 1 cl 4(zh)	6.7.2000
s 63		

s 63(2)	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 50/2007 s 5	26.9.2008
s 63(3)	amended by 64/1986 s 13(a)	20.11.1986
	amended by 29/1990 s 7	26.9.1991
	amended by 59/1999 s 13 (Sch)	19.8.1999
	amended by 80/2005 s 30(1)	3.12.2007
	<b>amended by 3/2011 Sch 1</b>	<b>1.7.2011</b>
s 63(4)	amended by 64/1986 s 13(b)	20.11.1986
	amended by 98/1995 s 26(a)	4.1.1996
	amended by 80/2005 s 30(2)—(5)	3.12.2007
	<b>amended by 3/2011 s 32(1)—(6)</b>	<b>1.7.2011</b>
s 63(5)	substituted by 98/1995 s 26(b)	4.1.1996
	amended by 32/2008 s 20	10.9.2009
s 63(5a)	inserted by 98/1995 s 26(b)	4.1.1996
s 63(6)	amended by 80/2005 s 30(6)	3.12.2007
	amended by 33/2008 s 8	23.10.2008
s 63(7)	<b>inserted by 3/2011 s 32(7)</b>	<b>1.7.2011</b>

## Transitional etc provisions associated with Act or amendments

### *Statutes Repeal and Amendment (Courts) Act 1991*

#### 22—Transitional provisions—general

- (1) This section applies to amendments made by this Act or the *Justices Amendment Act 1991*.
- (2) The following transitional provisions apply in relation to those amendments:
  - (a) if the effect of the amendment is to reduce the penalty for an offence, the amendment applies whether the offence was committed before or after the amendment takes effect;
  - (b) if the effect of the amendment is to increase the penalty for an offence, the amendment applies only to offences committed after it takes effect;
  - (c) if the effect of the amendment is to increase or remove a time limit for commencing proceedings for an offence, the previous limit applies in respect of an offence committed before the amendment takes effect;
  - (d) an amendment affecting the classification of an offence as summary or indictable does not apply in relation to an offence committed before the amendment takes effect.

### *Statutes Amendment and Repeal (Common Expiation Scheme) Act 1996*

#### 5—Transitional provision

An Act repealed or amended by this Act will continue to apply (as in force immediately prior to the repeal or amendment coming into operation) to an expiation notice issued under the repealed or amended Act.

### ***Controlled Substances (Drug Offence Diversion) Amendment Act 2000***

#### **7—Transitional provision**

- (1) Subject to subsection (2), Division 2 of Part 5 of the principal Act, as amended by this Act, applies in relation to a simple possession offence whether allegedly committed before or after the commencement of this Act.
- (2) Division 2 of Part 5 of the principal Act, as in force immediately before the commencement of this Act, continues to apply in relation to a simple possession offence committed before that commencement if the person alleged to have committed the offence has, at some time before that commencement, been given a notice requiring him or her to appear before an assessment panel in respect of that offence (and, for the purposes of this subsection, section 16 of the *Acts Interpretation Act 1915* applies).
- (3) The panels of legal practitioners and health professionals established by the Minister under section 34(2) and (3) of the principal Act, as in force immediately before the commencement of this Act—
  - (a) continue in existence and will be maintained by the Minister in the manner contemplated by that section; and
  - (b) together form a body that the Minister will accredit as a drug assessment service under and in accordance with the Act as in force after that commencement.

### ***Controlled Substances (Cannabis) Amendment Act 2002***

#### **4—Transitional provision**

Section 45A of the principal Act, as in force immediately before the commencement of this Act, continues to apply in relation to offences alleged to have been committed before that commencement.

### ***Controlled Substances (Serious Drug Offences) Amendment Act 2005, Sch 1***

#### **6—Transitional provision**

An amendment to the principal Act effected by a provision of this Act only applies in relation to an offence if the offence is committed on or after the commencement of the provision.

### **Historical versions**

Reprint No 1—1.7.1991

Reprint No 2—26.9.1991

Reprint No 3—21.11.1991

Reprint No 4—6.7.1992

Reprint No 5—10.9.1992

Reprint No 6—13.10.1994

Reprint No 7—4.1.1996

Reprint No 8—3.2.1997

Reprint No 9—19.8.1999



Reprint No 10—6.7.2000  
Reprint No 11—1.10.2001  
Reprint No 12—1.2.2003  
30.9.2004  
12.1.2006  
2.4.2006  
3.12.2007  
8.6.2008  
1.7.2008  
26.9.2008  
19.10.2008  
23.10.2008  
10.9.2009  
1.2.2010  
1.7.2010  
28.11.2010  
9.6.2011