

South Australia

Controlled Substances (Pure Amounts) Amendment Act 2022

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

Contents

Part 1—Preliminary

- 1 Short title

Part 2—Amendment of *Controlled Substances Act 1984*

- 2 Amendment of section 4—Interpretation
3 Amendment of section 33LB—Possession or supply of prescribed quantity of controlled precursor
4 Amendment of section 33OA—Basis for determining quantity of controlled substance

Schedule 1—Transitional provision

- 1 Amendments apply retrospectively
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Controlled Substances (Pure Amounts) Amendment Act 2022*.

Part 2—Amendment of *Controlled Substances Act 1984*

2—Amendment of section 4—Interpretation

- (1) Section 4(1), definition of *commercial quantity*, (b)—delete paragraph (b) and substitute:
- (b) in relation to a controlled drug or controlled precursor that is not contained in a mixture—
- (i) if the regulations prescribe an amount as a commercial quantity for the drug or precursor (as the case may be) in its pure form—a quantity of the drug or precursor that equals or exceeds the amount so prescribed; or

- (ii) if the regulations do not prescribe an amount as a commercial quantity for the drug or precursor (as the case may be) in its pure form—a quantity of the drug or precursor that equals or exceeds the amount prescribed as a commercial quantity for any mixture containing the drug or precursor; or
- (2) Section 4(1), definition of **large commercial quantity**, (b)—delete paragraph (b) and substitute:
 - (b) in relation to a controlled drug or controlled precursor that is not contained in a mixture—
 - (i) if the regulations prescribe an amount as a large commercial quantity for the drug or precursor (as the case may be) in its pure form—a quantity of the drug or precursor that equals or exceeds the amount so prescribed; or
 - (ii) if the regulations do not prescribe an amount as a large commercial quantity for the drug or precursor (as the case may be) in its pure form—a quantity of the drug or precursor that equals or exceeds the amount prescribed as a large commercial quantity for any mixture containing the drug or precursor; or
- (3) Section 4(1)—before the definition of **nurse** insert:

mixture—see section 33OA(3);
- (4) Section 4(1), definition of **trafficable quantity**, (b)—delete paragraph (b) and substitute:
 - (b) in relation to a controlled drug that is not contained in a mixture—
 - (i) if the regulations prescribe an amount as a trafficable quantity for the drug in its pure form—a quantity of the drug that equals or exceeds the amount so prescribed; or
 - (ii) if the regulations do not prescribe an amount as a trafficable quantity for the drug in its pure form—a quantity of the drug that equals or exceeds the amount prescribed as a trafficable quantity for any mixture containing the drug; or

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

Section 33LB(5), definition of **prescribed quantity**, (b)—delete paragraph (b) and substitute:

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

- (ii) if the regulations do not prescribe an amount for the purposes of this section for the precursor in its pure form—a quantity of the precursor that equals or exceeds the amount prescribed for the purposes of this section for any mixture containing the precursor.

4—Amendment of section 33OA—Basis for determining quantity of controlled substance

Section 33OA—after subsection (2) insert:

- (3) 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, a controlled drug or controlled precursor will be taken to be contained in a mixture unless it is proved, beyond a reasonable doubt, that the drug or precursor was not contained in a mixture or was in its pure form.

Schedule 1—Transitional provision

1—Amendments apply retrospectively

- (1) The amendments to the principal Act effected by this Act will be taken to apply, and to have applied, as if they formed part of the principal Act from 10 September 2009 (immediately after the commencement of the *Controlled Substances (Controlled Drugs, Precursors and Cannabis) Amendment Act 2008*).
- (2) For the avoidance of doubt, the amendments to the principal Act effected by this Act as applying under subclause (1) apply in relation to—
 - (a) any proceedings for a relevant offence finalised before the day on which this Act is assented to (including (without limitation) proceedings where a conviction or finding of guilt was recorded before that day); and
 - (b) any proceedings for a relevant offence commenced (but not finalised) before the day on which this Act is assented to; and
 - (c) any proceedings for a relevant offence commenced on or after the day on which this Act is assented to.
- (3) In this clause—

principal Act means the *Controlled Substances Act 1984*;

relevant offence means an offence against the principal Act (as applying under subclause (1)) involving (or allegedly involving) a trafficable quantity, commercial quantity or large commercial quantity of a controlled drug or controlled precursor, or a prescribed quantity of a controlled precursor under section 33LB (of the principal Act).