



ANNO TRICESIMO QUINTO

ELIZABETHAE II REGINAE

A.D. 1986

No. 64 of 1986

An Act to amend the Controlled Substances Act, 1984.

[Assented to 6 November 1986]

The Parliament of South Australia enacts as follows:

1. (1) This Act may be cited as the "Controlled Substances Act Amendment Act, 1986". Short title.

(2) The Controlled Substances Act, 1984, is in this Act referred to as "the principal Act".

2. (1) This Act shall come into operation on a day to be fixed by proclamation. Commencement.

(2) The Governor may, in a proclamation fixing a day for this Act to come into operation, suspend the operation of specified provisions of this Act until a subsequent day fixed in the proclamation, or a day to be fixed by subsequent proclamation.

3. Section 4 of the principal Act is amended—

(a) by striking out "Nurses Registration Act, 1920" from the definition of "nurse" and substituting "Nurses Act, 1984";

and

(b) by inserting after its present contents (now to be designated as subsection (1)) the following subsection:

(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) An analogue of a drug of dependence or a prohibited substance (not being an analogue that is itself declared by

Amendment of
s. 4—
Interpretation.

regulation to be a drug of dependence or a prohibited substance) is by virtue of this subsection a prohibited substance.

4. Section 31 of the principal Act is amended by inserting in paragraph (a) of subsection (2) "or consumption" after "with the smoking".

Amendment of s. 31—
Prohibition of possession or consumption of drug of dependence and prohibited substance.

5. Section 32 of the principal Act is amended—

- (a) by striking out from subparagraph (i) of paragraph (a) of subsection (5) "two hundred and fifty thousand dollars" and substituting "\$500 000";
- (b) by striking out from subparagraph (ii) of paragraph (a) of subsection (5) "four thousand dollars" and substituting "\$50 000";
- (c) by striking out from subparagraph (i) of paragraph (b) of subsection (5) "two hundred and fifty thousand dollars and imprisonment for a term not exceeding twenty-five years" and substituting "\$500 000 and imprisonment for life or such lesser term as the court thinks fit";

Amendment of s. 32—
Prohibition of manufacture, production, sale or supply of drug of dependence or prohibited substance.

and

- (d) by striking out from subparagraph (ii) of paragraph (b) of subsection (5) "one hundred thousand dollars" and substituting "\$200 000".

6. Section 33 of the principal Act is amended—

- (a) by inserting in paragraph (a) of subsection (1) "or by a dentist" after "other medical practitioner";
- (b) by inserting after subsection (1) the following subsection:

Amendment of s. 33—
Restriction of supply of drug of dependence in certain circumstances.

(1a) A dentist shall not prescribe a drug of dependence for, or supply a drug of dependence to—

- (a) a person for use by that person continuously for a period exceeding 2 months, or for a period which, together with any other period for which that drug has, to the dentist's knowledge, been prescribed or supplied by any other dentist or by a medical practitioner, would result in that drug being used by that person continuously for a period exceeding 2 months;

or

- (b) a person whom the dentist knows or has reasonable cause to believe to be dependent on drugs,

unless the dentist prescribes or supplies that drug in accordance with the regulations or an authority granted by the Health Commission under this section.

Penalty: \$4 000 or imprisonment for 4 years.;

- (c) by inserting in paragraph (a) of subsection (3) "or dentist" after "medical practitioner";
- (d) by inserting in subsection (4) "or dentist" after "medical practitioner";

and

(e) by inserting in paragraph (a) of subsection (5) "or dentist" after "medical practitioner".

Repeal of s. 34
and substitution
of new section.

7. Section 34 of the principal Act is repealed and the following section is substituted:

Establishment of
assessment
panels.

34. (1) There shall be such drug assessment and aid panels as are necessary for the purposes of this Act.

(2) For the purpose of constituting assessment panels, the Minister shall establish:

(a) a panel of legal practitioners;

and

(b) a panel of persons who, in the opinion of the Minister, have extensive knowledge of—

(i) the physical, psychological and social problems connected with the misuse of drugs of dependence or prohibited substances;

or

(ii) the treatment of persons experiencing such problems.

(3) The conditions of membership of a panel established under subsection (2) shall be as determined by the Minister and the Minister may make appointments from time to time for the purpose of maintaining or increasing the membership of any such panel.

(4) Each assessment panel shall consist of the following members selected by the Health Commission:

(a) a member of the panel established under subsection (2) (a);

and

(b) two members of the panel established under subsection (2) (b).

Insertion of new
s. 45a.

8. The following section is inserted in Division I of Part VI of the principal Act after section 45:

Expiation of
simple cannabis
offences.

45a. (1) A prosecution for a simple cannabis offence shall not be commenced except by—

(a) a member of the police force;

or

(b) a person authorized in writing by the Attorney-General 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 stating that the offence may be expiated by payment to the Commissioner of Police of the prescribed expiation fee before the expiration of 60 days from the date of the notice.

(3) An expiation notice—

(a) must be in the prescribed form;

and

(b) may be given personally or by post addressed to the alleged offender's last known place of residence.

(4) Where the offence is expiated in accordance with the notice, the alleged offender shall not be prosecuted for that offence.

(5) The payment of an expiation fee shall not be regarded as an admission of guilt but any substance, equipment or object seized under this Act or any other Act in connection with the alleged offence that would have been liable to forfeiture in the event of a conviction shall, on payment of the expiation fee, be forfeited to the Crown.

(6) The expiation fee fixed in relation to an offence may vary according to the nature of the offence, the amount of cannabis or cannabis resin involved in the commission of the offence, or any other factor.

(7) Non-compliance with subsection (2) does not invalidate a prosecution.

(8) For the purposes of this section—

“child”, in relation to a simple cannabis offence, means a person who was, on the date of the alleged commission of the offence, under the age of 18 years:

“simple cannabis offence” means—

(a) an offence arising out of the possession of cannabis or cannabis resin, not being an offence involving the possession of quantities of cannabis or cannabis resin in excess of limits fixed by regulation for the purposes of this paragraph;

(b) an offence arising out of the smoking or consumption of cannabis or cannabis resin except an offence alleged to have been committed in—

(i) a public place;

or

(ii) a place of a kind prescribed by regulation;

(c) an offence arising out of the possession of equipment for use in connection with—

(i) the smoking or consumption of cannabis or cannabis resin;

or

(ii) the preparation of cannabis or cannabis resin for smoking or consumption,

not being an offence involving the possession for such equipment for commercial purposes;

(d) an offence arising out of the cultivation of cannabis plants, not being an offence involving cultivation of the plants for commercial purposes.

Amendment of
s. 55—
Licences,
authorities and
permits.

9. Section 55 of the principal Act is amended—

(a) by inserting after subsection (2) the following subsection:

(2a) Where 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.

Penalty: \$1 000.;

and

(b) by striking out subsection (4) and substituting the following subsection:

(4) The Health Commission may, by notice in writing given personally or by post to the holder of a licence, authority or permit granted under this Act, revoke the licence, authority or permit if—

(a) the holder obtained it improperly;

(b) the holder is found guilty of an offence against this Act;

(c) the holder has, in the opinion of the Commission, contravened or failed to comply with a condition of the licence, authority or permit.

(5) A person whose licence, authority or permit is revoked pursuant to subsection (4) (c) may appeal to the Supreme Court against the revocation.

(6) Where an appeal has been instituted under this section against a revocation, the revocation continues to have effect unless, upon application to the Supreme Court, the Court orders that the revocation be suspended until the appeal is determined or withdrawn.

(7) The Supreme Court may, on an appeal under this section, quash or affirm the revocation.

Amendment of
s. 56—
Research permits.

10. Section 56 of the principal Act is amended by inserting in subsection (1) “, instruction or training” after “research”.

Amendment of
s. 57—
Prohibition by
Health
Commission of
manufacture,
production,
packaging, sale,
supply,
prescription or
possession of
specified
substances or
devices by certain
persons.

11. Section 57 of the principal Act is amended—

(a) by striking out subsections (1) and (2) and substituting the following subsections:

(1) Where a person—

(a) has been convicted of an offence against this Act;

(b) has, in the opinion of the Health Commission, 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 Health Commission, prescribed, supplied or administered a prescription drug in an irresponsible manner,

the Health Commission 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 Health Commission may, by subsequent order, revoke an order under subsection (1).;

(b) by striking out from subsection (3) "subsection (2)" and substituting "subsection (1) or (2)";

and

(c) by striking out from subsection (5) "subsection (2)" and substituting "subsection (1)".

12. The following section is inserted after section 61 of the principal Act:

Insertion of new s. 61a.

61a. An assessment panel may prepare, or assist in the preparation of, a pre-sentence report.

Assessment panels may prepare, or assist in, the preparation of a pre-sentence report.

13. Section 63 of the principal Act is amended—

(a) by striking out from subsection (3) "section 31 (2) or";

and

(b) by inserting in paragraph (a) of subsection (4) ", restrict or prohibit" after "regulate".

Amendment of s. 63—Regulations.

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor