

## 6. Offences concerned with prohibited drugs generally

- (1) Subject to subsection (3), a person who —
- (a) with intent to sell or supply it to another, has in his possession;
  - (b) manufactures or prepares; or
  - (c) sells or supplies, or offers to sell or supply, to another,
- a prohibited drug commits an indictable offence, except when he is authorised by or under this Act or by or under the *Poisons Act 1964* to do so and does so in accordance with that authority.
- (2) Subject to subsection (3) and to section 36A of the *Poisons Act 1964*, a person who has in his possession or uses a prohibited drug commits a simple offence, except when, in the case of a person who has the prohibited drug in his possession —
- (a) he is authorised by or under this Act or by or under the *Poisons Act 1964* or the *Industrial Hemp Act 2004* to do so and does so in accordance with that authority; or
  - (b) the prohibited drug was sold or supplied, or requested to be sold or supplied, to him —
    - (i) by a medical practitioner, nurse practitioner or veterinary surgeon in the lawful practice of his profession; or
    - (ii) on and in accordance with an authorised prescription.
- (3) A person does not commit an indictable offence under subsection (1) or a simple offence under subsection (2) by reason only of his having in his possession or manufacturing or preparing a prohibited drug if he proves that he had possession of or manufactured or prepared the prohibited drug only for the purpose of —
- (a) delivering it to a person authorised —
    - (i) to have possession of the prohibited drug by or under this Act, by or under the *Poisons Act 1964* or on and in accordance with an authorised prescription; or
    - (ii) by or under this Act or by or under the *Poisons Act 1964* to manufacture, prepare, sell or supply the prohibited drug,and had possession thereof (except in the case of intended delivery to a person authorised to have possession of the prohibited drug on and in accordance with an authorised prescription) in accordance with the authority in writing of the person so authorised, and that, after taking possession of the prohibited drug, he took all such steps as were reasonably open to him to deliver the prohibited drug into the possession of that person; or
  - (b) analysing, examining or otherwise dealing with it for the purposes of this Act in his capacity as an analyst, botanist or other expert.

[Section 6 amended by No. 12 of 1994 s. 11; No. 9 of 2003 s. 29; No. 1 of 2004 s. 52.]