

27. Disposal of prohibited drugs and prohibited plants

- (1) If, in the case of a prohibited drug, prohibited plant or dangerous substance which is seized or acquired and detained under section 26 —
 - (a) a police officer is satisfied that no person will be tried with the commission of an offence in relation thereto, and it has not been destroyed under subsection (4), the police officer shall —
 - (i) cause that prohibited drug, prohibited plant or dangerous substance to be destroyed in accordance with the regulations; or
 - (ii) if a person who is authorised by or under this Act, by or under the *Poisons Act 1964* or, in the case of a prohibited drug, on and in accordance with an authorised prescription to have possession thereof is entitled to have possession of that prohibited drug, prohibited plant or dangerous substance, release that prohibited drug, prohibited plant or dangerous substance to that person;or
 - (b) a person is tried with the commission of an offence in relation thereto and it has not been destroyed under subsection (4), the court which so tries the person shall, whether or not the person is convicted of that offence and after having given any other person (in this paragraph called “**the claimant**”) claiming to be authorised by or under this Act, by or under the *Poisons Act 1964* or, in the case of a prohibited drug, on and in accordance with an authorised prescription to have possession thereof and to be entitled to have possession of that prohibited drug, prohibited plant or dangerous substance, an opportunity to show cause why that prohibited drug, prohibited plant or dangerous substance should be released to him, order that that prohibited drug, prohibited plant or dangerous substance —
 - (i) be released to the claimant;
 - (ii) be destroyed; or
 - (iii) be forfeited to the Crown.
- (2) If, in relation to any prohibited drug, prohibited plant or dangerous substance seized under section 26, the Commissioner is satisfied that —
 - (a) it is not reasonably practicable (for whatever reason) to detain the thing until it is dealt with under subsection (1); and
 - (b) sufficient samples of the thing have been taken,the Commissioner may direct that the thing (apart from the samples) be destroyed before it is dealt with under that subsection.
- (3) A direction shall be in writing in the prescribed form.
- (4) If the Commissioner directs under subsection (2) that any thing be destroyed, a police officer shall as soon as practicable cause the thing to be destroyed in accordance with the regulations.
- (5) The Commissioner may in writing amend or revoke a direction before effect is given to it.

(6) In subsection (2)(b) —

“sufficient samples” means —

- (a) in the case of a thing that has already been analysed or examined by an approved analyst or an approved botanist, sufficient samples to enable any further analysis or examination that might be required under section 27A; or
- (b) in any other case, sufficient samples to enable —
 - (i) analysis or examination by an approved analyst or an approved botanist; and
 - (ii) any further analysis or examination that might be required under section 27A.

[Section 27 amended by No. 44 of 1995 s. 8.]