
POLICE

PO301*

Misuse of Drugs Act 1981

**Misuse of Drugs Amendment Regulations
(No. 2) 2010**

Made by the Lieutenant-Governor and deputy of the Governor in Executive Council.

1. Citation

These regulations are the *Misuse of Drugs Amendment Regulations (No. 2) 2010*.

2. Commencement

These regulations come into operation as follows —

- (a) regulations 1 and 2 — on the day on which these regulations are published in the *Gazette*;
- (b) the rest of the regulations — on the day after that day.

3. Regulations amended

These regulations amend the *Misuse of Drugs Regulations 1982*.

4. Regulation 4A inserted

After regulation 4 insert:

4A. Authorised persons

- (1) In this regulation —
departmental officer means a person employed or engaged in the department of the Public Service principally assisting in the administration of the *Police Act 1892*.
- (2) A departmental officer, while performing a function of his or her position on police premises, is a person authorised —
 - (a) for the purposes of sections 5(1), 6(2), 7(2) and 14(3) of the Act to have possession of any of the following —
 - (i) a pipe or other utensil;

- (ii) a prohibited drug;
 - (iii) a prohibited plant;
 - (iv) an item that is a category 1 item or a category 2 item;
 - (v) a substance that contains, or substances that together contain, a quantity of a category 1 or category 2 item that exceeds the quantity prescribed in relation to the item;
- and
- (b) for the purposes of the Act, to have possession of a dangerous substance.

5. Regulation 7B replaced

Delete regulation 7B and insert:

7B. Analysis or examination at request of accused

- (1) In this regulation —

chosen analyst means the analyst chosen by the relevant applicant under section 27A of the Act;

chosen botanist means the botanist chosen by the relevant applicant under section 27A of the Act;

drug movement bag means a special bag used by police officers for the conveyance, free of contamination, of dangerous substances, prohibited drugs or prohibited plants;

investigating officer means the police officer in charge of any investigation concerning a thing, sufficient samples of which are dealt with under this regulation;

prescribed person means the prescribed person referred to in subregulation (2)(a);

sufficient samples has the meaning given by section 27(6) of the Act.

- (2) For the purposes of section 27A(2) of the Act —
- (a) a person who is the police officer for the time being in charge of the Organised Crime Squad is a prescribed person; and
 - (b) the prescribed period is 28 days; and
 - (c) an application must be accompanied by a fee of \$50.
- (3) For the purposes of section 27A(3) of the Act, an application must be in the form of Form M.D. 8B.
- (4) When an application is made under section 27A of the Act, the Commissioner or prescribed person receiving

the application must, as soon as practicable, cause sufficient samples of the thing to which the application relates to be conveyed in a numbered and sealed drug movement bag, together with an unused drug movement bag —

- (a) in the case of a prohibited drug or dangerous substance, to an approved analyst at the Chemistry Centre (W.A.); or
 - (b) in the case of a prohibited plant, to an approved botanist at the Western Australian Herbarium.
- (5) The investigating officer in respect of the samples conveyed to the approved analyst or approved botanist under subregulation (4), or a police officer authorised by that investigating officer, must immediately on that conveyance arrange with —
 - (a) the chosen analyst and the approved analyst, for the chosen analyst to attend at the Chemistry Centre (W.A.) for the purpose of analysing those samples; or
 - (b) the chosen botanist and the approved botanist, for the chosen botanist to attend at the Western Australian Herbarium for the purpose of examining those samples.
- (6) The approved analyst or approved botanist to whom the drug movement bag has been conveyed under subregulation (4) must, in the presence of the chosen analyst or chosen botanist —
 - (a) open the drug movement bag; and
 - (b) give the samples to the chosen analyst or chosen botanist, who must immediately proceed to analyse or examine them.
- (7) When the chosen analyst or chosen botanist has completed his or her analysis or examination, he or she must return any residue of the samples to the approved analyst or approved botanist, who must —
 - (a) place that residue, together with the opened drug movement bag, in the unused drug movement bag; and
 - (b) seal that unused drug movement bag; and
 - (c) give the sealed drug movement bag to the investigating officer or to a police officer authorised by the investigating officer.
- (8) The police officer to whom a sealed drug movement bag is given under subregulation (7) must —
 - (a) convey it to —
 - (i) a police officer; or

- (ii) a departmental officer (as defined in regulation 4A) who is an authorised person under that regulation;
- and
- (b) obtain a receipt for it.

6. Regulation 11A replaced

Delete regulation 11A and insert:

11A. Applications by accused for copies of certificates

For the purposes of section 38A of the Act, an application for a copy of a certificate must be in the form of Form M.D 15.

7. Schedule 1 amended

In Schedule 1:

- (a) in Form M.D. 8B in the heading delete “DEFENDANT” and insert:

ACCUSED

- (b) in Form M.D. 15 delete “defendant” (each occurrence) and insert:

accused

By Command of the Lieutenant-Governor and deputy of the Governor,

PETER CONRAN, Clerk of the Executive Council.
