

**POLICE**

PE301

**MISUSE OF DRUGS ACT 1981****MISUSE OF DRUGS AMENDMENT REGULATIONS 1996**

Made by His Excellency the Governor in Executive Council.

**Citation**

1. These regulations may be cited as the *Misuse of Drugs Amendment Regulations 1996*.

### Commencement

2. These regulations come into operation on the day fixed under section 2 of the *Misuse of Drugs Amendment Act 1995*.

### Principal regulations

3. In these regulations the *Misuse of Drugs Regulations 1982\** are referred to as the principal regulations.

[\* *Published in the Gazette on 13 August 1982.*  
*For subsequent amendments, see 1995 Index to Legislation of Western Australia, Table 4, p. 197.*]

### Regulation 3 amended

4. Regulation 3 of the principal regulations is amended in the definition of "Form" by deleting "the Schedule to these regulations" and substituting the following —

" Schedule 1 "

### Regulation 3A inserted

5. The principal regulations are amended by inserting after regulation 3 the following regulation —

" **Prescribed universities**

3A. For the purposes of paragraph (a) (ii) of the definition of "botanist" in section 3 (1) of the Act, the universities specified in Schedule 2 are prescribed universities.

"

### Regulation 7 amended

6. Regulation 7 of the principal regulations is amended by deleting "or prohibited plant", wherever it occurs, and substituting in each case the following —

" , prohibited plant or dangerous substance "

### Regulations 7A and 7B inserted

7. The principal regulations are amended by inserting after regulation 7 the following regulations —

"

**Directions by Commissioner of Police for destruction of seized prohibited drugs, etc.**

7A. For the purposes of section 27 (3) of the Act, a direction shall be in the form of Form M.D. 8A.

### Analysis or examination at request of defendant

7B. (1) 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 Drug Squad is a prescribed person;
- (b) the prescribed period is 28 days; and
- (c) an application shall be accompanied by a fee of \$50.

(2) For the purposes of section 27A (3) of the Act, an application shall be in the form of Form M.D. 8B.

(3) When an application is made under section 27A of the Act, the Commissioner or prescribed person receiving the application shall 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 —

- (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,

together with an unused drug movement bag.

(4) The investigating officer in respect of the samples conveyed to the approved analyst or approved botanist under subregulation (3), or a police officer authorized by that investigating officer, shall forthwith 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; 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.

(5) The approved analyst or approved botanist to whom a drug movement bag has been conveyed under subregulation (3) shall, 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 shall forthwith proceed to analyse or examine them.

(6) When the chosen analyst or chosen botanist has completed his or her analysis or examination, he or she shall return any residue of the samples to the approved analyst or approved botanist, who shall —

- (a) place that residue, together with the opened drug movement bag, in the unused drug movement bag;
- (b) seal the unused drug movement bag; and
- (c) give the sealed drug movement bag to, or to a police officer authorized by, the investigating officer.

(7) The police officer to whom a sealed drug movement bag is given under subregulation (6) shall —

- (a) convey it to a police officer at the Drug Received Room at Police Headquarters in Perth; and
- (b) obtain a receipt for it.

(8) In this regulation —

**“chosen analyst or botanist”** means analyst or botanist chosen by the relevant applicant under section 27A of the Act;

**“drug movement bag”** means special bag used by police officers for the conveyance, free of contamination, of dangerous substances, prohibited drugs and prohibited plants;

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

“prescribed person” means prescribed person referred to in subregulation (1) (a);

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

”.

#### **Regulation 9 amended**

8. Regulation 9 (1) of the principal regulations is amended by deleting “or prohibited plant” and substituting the following —

“ , prohibited plant or dangerous substance ”.

#### **Regulation 11 repealed and regulations 11 and 11A substituted**

9. Regulation 11 of the principal regulations is repealed and the following regulations are substituted —

“

#### **Certificates of approved analysts or approved botanists**

11. For the purposes of section 38 of the Act, a certificate given by —

- (a) an approved analyst shall be in the form of Form M.D. 13; or
- (b) an approved botanist shall be in the form of Form M.D. 14.

#### **Applications by defendants for copies of certificates**

11A. For the purposes of section 38A of the Act, an application for a copy of a certificate shall be in the form of Form M.D. 15.

”.

#### **Schedule amended**

10. (1) The Schedule to the principal regulations is amended by deleting “SCHEDULE” and substituting the following —

“ SCHEDULE 1 ”.

(2) The Schedule to the principal regulations is amended by inserting after Form M.D. 8 the following forms —

“

Form M.D. 8A

WESTERN AUSTRALIA.

*MISUSE OF DRUGS ACT 1981.**MISUSE OF DRUGS REGULATIONS 1982.*DESTRUCTION OF PROHIBITED DRUGS, PROHIBITED  
PLANTS OR DANGEROUS SUBSTANCES.

Laboratory reference No. ....

Police reference No. ....

I, [insert name of Commissioner of Police or name and rank of delegate], being the Commissioner of Police\*/a delegate of the Commissioner of Police\* and being satisfied that —

- (a) it is not reasonably practicable to detain [insert particulars of prohibited drug, prohibited plant or dangerous substance] until it is dealt with under section 27 (1) of the Act; and
- (b) sufficient samples of that prohibited drug\*/prohibited plant\*/dangerous substance\* have been taken,

direct that that prohibited drug\*/prohibited plant\*/dangerous substance\* (apart from those samples) be destroyed in accordance with regulation 7 before it is dealt with under section 27 (1) of the Act.

Directed on.....

at .....

.....  
Signature of  
Commissioner of  
Police\*/delegate of  
Commissioner of Police\*

\* Please delete inapplicable alternative.

Form M.D. 8B

WESTERN AUSTRALIA.

MISUSE OF DRUGS ACT 1981.

MISUSE OF DRUGS REGULATIONS 1982.

APPLICATION TO HAVE SAMPLE OF PROHIBITED DRUG,  
PROHIBITED PLANT OR DANGEROUS SUBSTANCE  
ANALYSED OR EXAMINED BY ANALYST OR BOTANIST  
CHOSEN BY DEFENDANT.

I [insert name and address of applicant], having been charged with [insert details of offence(s)] in relation to [insert details of prohibited drug, prohibited plant or dangerous substance], hereby apply to have a sample of [insert details of alleged prohibited drug, prohibited plant or dangerous substance] analysed or examined by [insert full name and address of analyst or botanist who is to carry out analysis or examination], who is an analyst\*/botanist\* other than an approved analyst\*/approved botanist\*.

Analysis\*/examination\* applied for on ..... at .....

.....  
Signature of applicant

\* Please delete inapplicable alternative.

(3) Form M.D. 9 set out in the Schedule to the principal regulations is amended by deleting "(not being a prohibited drug or plant)" and substituting the following —

" (not being a prohibited drug, prohibited plant or dangerous substance) "

(4) Form M.D. 10 set out in the Schedule to the principal regulations is amended by deleting "(not being a prohibited drug or prohibited plant)" and substituting the following —

" (not being a prohibited drug, prohibited plant or dangerous substance) "

(5) Form M.D. 13 set out in the Schedule to the principal regulations is amended by —

- (a) inserting after "CERTIFICATE OF" the following —  
 " APPROVED ";
- (b) deleting "analyst appointed under the Health Act 1911" and substituting the following —  
 "  
     approved analyst within the meaning of the *Misuse of  
 Drugs Act 1981* ";
- (c) deleting paragraph (a) and substituting the following —  
 "  
     (a) I obtained\*/received\* for analysis the following  
         quantity\*/mass\* of .....  
         marked .....  
         from\*/by\* .....  
         on .....; "
- (d) deleting "material" in paragraph (b) and substituting the following —  
 " thing ";
- (e) inserting after "of this certificate" the following —  
 " by [insert details of method of analysis] ";
- (f) inserting at the end of paragraph (b) the following —  
 " ; and ";
- (g) inserting after paragraph (b) the following paragraph —  
 "  
     (c) the following other matters relating to my  
         analysis should be noted.....; "
- (h) inserting after "Signature of" the following —  
 " approved "; and
- (i) inserting after "Address of" the following —  
 " approved ".

(6) Form M.D. 14 set out in the Schedule to the principal regulations is amended by —

- (a) inserting after "CERTIFICATE OF" the following —  
 " APPROVED ";
- (b) deleting "Agriculture" and substituting the following —  
 " Conservation and Land Management ";
- (c) deleting "a botanist within the meaning of the Misuse of Drugs Act 1981" and substituting the following —  
 "  
     an approved botanist within the meaning of the  
     *Misuse of Drugs Act 1981* ";

(d) deleting paragraph (a) and substituting the following —

“

(a) I obtained\*/received\* for examination the following quantity\*/mass\* of  
 .....  
 marked .....  
 from\*/by\* .....  
 on .....; ”;

(e) deleting “material” in paragraph (b) and substituting the following —

“ thing ”;

(f) inserting after “of this certificate” the following —

“ by [insert details of method of examination] ”;

(g) inserting at the end of paragraph (b) the following —

“ ; and ”;

(h) inserting after paragraph (b) the following paragraph —

“

(c) the following other matters relating to my examination should be noted.....; ”;

(i) inserting after “Signature of” the following —

“ approved ”; and

(j) inserting after “Address of” the following —

“ approved ”.

(7) The Schedule to the principal regulations is amended by inserting after Form M.D. 14 the following form —

“

Form M.D. 15

WESTERN AUSTRALIA.

MISUSE OF DRUGS ACT 1981.

MISUSE OF DRUGS REGULATIONS 1982.

APPLICATION FOR COPY OF CERTIFICATE OF APPROVED ANALYST OR APPROVED BOTANIST.

I [insert name of applicant defendant] apply for a copy of [insert details of relevant certificate given under section 38 of Act] to be provided to me at [insert address at which copy of certificate can be provided to applicant defendant].

Certificate applied for on ..... at .....

.....  
Signature of applicant defendant

”.

**Schedule 2 inserted**

11. The principal regulations are amended by inserting after the existing Schedule the following Schedule —

“

**SCHEDULE 2 (Regulation 3A)****PRESCRIBED UNIVERSITIES**

<i>Item</i>	<i>Prescribed university</i>
1	Duke University (Durham, North Carolina, United States of America)
2	University of Aberdeen (Aberdeen, Scotland)
3	University of Alberta (Edmonton, Alberta, Canada)
4	University of California (Berkeley, California, United States of America)
5	University of Cambridge (Cambridge, England)
6	University of Canterbury (Christchurch, New Zealand)
7	University of Cape Town (Rondebosch, Cape Province, South Africa)
8	University of Malaya (Kuala Lumpur, Malaysia)
9	University of Pennsylvania (Philadelphia, Pennsylvania, United States of America)
10	University of Reading (Reading, Berkshire, England)
11	University of Singapore (Singapore)

”

By His Excellency's Command,

J. PRITCHARD, Clerk of the Council.