

WESTERN AUSTRALIA

**POISONS AMENDMENT
ACT 1994**

No. 12 of 1994

AN ACT to amend the *Poisons Act 1964* and the *Misuse of Drugs Act 1981* and for related purposes.

[Assented to 15 April 1994.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Poisons Amendment Act 1994*.

Commencement

2. This Act comes into operation on a day to be fixed by proclamation.

Principal Act

3. In this Act the *Poisons Act 1964** is referred to as the principal Act.

[* *Reprinted as at 18 November 1986.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, pp. 163-4 and Gazettes of 28 May 1993 and 25 June 1993.]

Section 5 amended

4. Section 5 of the principal Act is amended —

(a) by inserting in the appropriate alphabetical positions the following definitions —

“

“bloodborne infectious disease” means Human Immunodeficiency Virus (HIV) infection, Hepatitis B, Hepatitis C or any other infectious disease that is carried in the blood;

”;

“

“Commissioner of Health” means the Commissioner of Health referred to in the *Health Legislation Administration Act 1984*;

”;

“

“needle and syringe programme” means a programme to do one or more of the following —

- (a) to supply persons with sterile hypodermic syringes or sterile hypodermic needles;
- (b) to facilitate the safe disposal of used hypodermic syringes or used hypodermic needles; or
- (c) to advise, counsel or disseminate information to persons,

principally for the purpose of preventing the spread of bloodborne infectious diseases;

”;

and

- (b) by deleting the definition of “Executive Director”.

Section 8 amended

5. Section 8 of the principal Act is amended —

- (a) in subsection (2) (a) by deleting “Executive Director” and “Permanent Head” and substituting in each place the following —

“ Commissioner of Health ”; and

- (b) in subsection (4) by deleting “Executive Director” and substituting the following —

“ Commissioner of Health ”.

Section 36 amended

6. Section 36 of the principal Act is amended by deleting “A” and substituting the following —

“ Subject to section 36A, a ”.

Section 36A inserted

7. After section 36 of the principal Act the following section is inserted —

“

Defence for persons participating in the conduct of needle and syringe programmes

36A. It is a defence in proceedings for an offence against section 36 of this Act or section 6 (2) of the *Misuse of Drugs Act 1981* for the person charged to prove that the offence occurred by reason only of the person —

- (a) supplying any other person with a sterile hypodermic syringe or a sterile hypodermic needle;
- (b) doing any act or thing to facilitate the safe disposal of a used hypodermic syringe or a used hypodermic needle; or
- (c) advising, counselling or disseminating information to any other person,

in the course of the conduct of a needle and syringe programme approved by the Commissioner of Health.

”.

Section 61A inserted

8. After section 61 of the principal Act the following section is inserted —

“

Evidence of approval

61A. In any legal proceedings under this Act or the *Misuse of Drugs Act 1981*, production of a certificate purporting to be signed by the Commissioner of Health and stating that on any date or during any period a specified needle and syringe programme was approved by the Commissioner of Health is, without proof of the signature of the Commissioner of Health, evidence of the facts stated in the certificate.

”.

Section 64 amended

9. Section 64 (2) of the principal Act is amended by inserting after paragraph (sa) the following paragraph —

“ (sb) needle and syringe programmes; ”.

References to “Permanent Head” amended

10. The principal Act is amended by deleting “Permanent Head” wherever it occurs in the provisions referred to in the Table to this section and substituting in each case the following —

“ Commissioner of Health ”.

TABLE

Section 7 (1)	Section 28	Section 48
Section 19	Section 29 (1)	Section 50 (3)
Section 23 (2)	Section 37	Section 59
Section 24	Section 38	Section 61
Section 25	Section 39	Section 63
Section 26	Section 40	Section 64 (2) (ha), (ja), (k) and (r).
Section 27	Section 41A	

Section 6 of *Misuse of Drugs Act 1981* amended

11. Section 6 (2) of the *Misuse of Drugs Act 1981** is amended by inserting after "subsection (3)" the following —

“ and to section 36A of the *Poisons Act 1964* ”.

[* *Act No. 66 of 1981.*

For subsequent amendments see 1992 Index to Legislation of Western Australia, Table 1, p. 140.]