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at 11 November 1996

WESTERN AUSTRALIA

MISUSE OF DRUGS ACT 1981

ARRANGEMENT

PART I — PRELIMINARY

1.	Short title	2
2.	Commencement	2
3.	Interpretation	2
3A.	Approved analysts and botanists	5
4.	Drugs and plants to which Act applies	6

PART II — OFFENCES RELATING TO PROHIBITED DRUGS AND PROHIBITED PLANTS

5.	Offences concerned with prohibited drugs and prohibited plants in relation to premises and utensils	7
6.	Offences concerned with prohibited drugs generally	8
7.	Offences concerned with prohibited plants generally	10
8.	Fraudulent behaviour in relation to prohibited drugs	11

*Misuse of Drugs
Act 1981*

PART III — PROCEDURE

9.	Courts of trial	12
10.	Alternative verdicts	13
11.	Presumption of intent to sell or supply	14

**PART IV — LOCATION, SEIZURE, DETENTION AND DISPOSAL
OF PROPERTY CONNECTED WITH COMMISSION OF
OFFENCES**

12.	Interpretation in Part IV	15
13.	Powers of police officers when property suspected of being connected property	16
14.	Granting of search warrants in respect of property suspected of being connected property	17
15.	Powers ancillary to power of search	18
16.	Powers of police officers when property suspected of being connected property found or received	19
17.	Granting of holding orders and embargo notices	19
18.	Provisions relating to embargo notices	20
19.	Proceedings before District Court in respect of connected property	21
20.	Hindering police officers in exercise of powers conferred by or under this Part	23

**PART V — LOCATION, SEIZURE, DETENTION AND
DISPOSAL OF THINGS USED IN COMMISSION OF OFFENCES**

21.	Interpretation in Part V	24
22.	Powers of police officers and approved persons in relation to manufacturers, sellers and suppliers of prohibited drugs and cultivators, sellers and suppliers of prohibited plants	24
23.	Powers of police officers when things suspected of being used in commission of offences	25
24.	Granting of search warrants in connection with prevention or detection of offences	26
25.	Powers ancillary to power of search	27
26.	Powers of police officers and others when things suspected of being used in commission of offences found, received or acquired	28

*Misuse of Drugs
Act 1981*

26A.	Powers of approved analyst or approved botanist	29
27.	Disposal of prohibited drugs and prohibited plants	30
27A.	Analysis at request of defendant	32
27B.	Confidentiality	33
28.	Disposal of things other than prohibited drugs and prohibited plants	34
29.	Hindering police officers and approved persons in exercise of powers conferred by or under this Part	35
30.	Approved persons	35

PART VI — GENERAL

31.	Undercover officers	36
32.	No limitation	37
32A.	Drug trafficking	37
33.	Attempts, conspiracies, incitements and accessories after the fact	39
34.	Penalties	40
35.	Criminal liability of company officers	41
37.	Proof of exceptions	42
38.	Certificate of approved analyst or approved botanist	42
38A.	Defendant may obtain a copy of certificate	43
38B.	Defendant may object to use of certificate	43
38C.	Order for costs of approved analyst or approved botanist	44
38D.	Evidence of contents of standard	44
39.	Delegation by Commissioner	45
40.	Civil liability of persons acting under this Act	46
41.	Regulations	46
42.	Amendment of certain schedules	47

SCHEDULE I
DRUGS TO WHICH ACT APPLIES, NOTWITHSTANDING
ANYTHING IN *POISONS ACT 1964* 49

SCHEDULE II
PLANTS TO WHICH ACT APPLIES, NOTWITHSTANDING
ANYTHING IN *POISONS ACT 1964* 50

*Misuse of Drugs
Act 1981*

SCHEDULE III AMOUNT OF PROHIBITED DRUGS DETERMINING COUNT OF TRIAL	51
SCHEDULE IV NUMBERS OF PROHIBITED PLANTS DETERMINING COURT OF TRIAL	55
SCHEDULE V AMOUNTS OF PROHIBITED DRUGS GIVING RISE TO PRESUMPTION OF INTENTION TO SELL OR SUPPLY SAME	56
SCHEDULE VI NUMBERS OF PROHIBITED PLANTS GIVING RISE TO PRESUMPTION OF INTENTION TO SELL OR SUPPLY SAME OR PROHIBITED DRUGS OBTAINABLE FROM SAME	60
SCHEDULE VII AMOUNTS OF PROHIBITED DRUGS FOR PURPOSES OF DRUG TRAFFICKING	61
SCHEDULE VIII NUMBERS OF PROHIBITED PLANTS FOR PURPOSES OF DRUG TRAFFICKING	62
NOTES	63

Reprinted under the
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WESTERN AUSTRALIA

MISUSE OF DRUGS ACT 1981

AN ACT to prevent the misuse of certain drugs and plants
and to provide for matters incidental thereto or
connected therewith.

PART I — PRELIMINARY

Short title

1. This Act may be cited as the *Misuse of Drugs Act 1981*¹.

Commencement

2. This Act shall come into operation on a day to be fixed by proclamation¹.

Interpretation

3. (1) In this Act, unless the contrary intention appears —

“analyst” means analyst registered under section 203 of the *Health Act 1911*;

“approved analyst” means an analyst declared under section 3A to be an approved analyst;

“approved botanist” means a botanist declared under section 3A to be an approved botanist;

“authorized prescription” means document or prescription —

- (a) referred to in section 23 (2) (d) of;

and

- (b) complying with,

the *Poisons Act 1964*;

“botanist” means a person who —

- (a) holds a science degree in, or to a major extent in, botany awarded by —
 - (i) a university in Australia; or
 - (ii) a prescribed university;
- and
- (b) has had not less than 2 years practical experience in plant taxonomy;

“cannabis” means plant of the genus *Cannabis* (by whatever name designated) or part of that plant;

“cannabis resin” means separated resin, whether crude or purified, obtained from cannabis;

“Commissioner” means the Commissioner of Police appointed under the *Police Act 1892*;

“dangerous substance” means a substance (other than a prohibited drug or prohibited plant) that is noxious or volatile;

“dentist” means person registered as a dentist under the *Dental Act 1939*;

“drug of addiction” means drug of addiction as defined by section 5 of the *Poisons Act 1964*;

“heroin” means the drug commonly known as heroin and includes any substance containing diacetylmorphine or its salts and any preparation, admixture or extract containing diacetylmorphine or any such salt;

“indictable offence” means indictable offence under this Act;

*Misuse of Drugs
Act 1981*

“medical practitioner” means person registered under the *Medical Act 1894*;

“offence” means simple offence or indictable offence;

“opium” means spontaneously coagulated juice obtained from the capsules of the opium poppy *Papaver somniferum*;

“police officer” means person appointed —

(a) under Part I of the *Police Act 1892* to be a member of the Police Force of Western Australia; or

(b) under section 35A of the *Police Act 1892* to be a special constable;

“prohibited drug” means drug to which this Act applies by virtue of section 4;

“prohibited plant” means plant to which this Act applies by virtue of section 4, or part of that plant;

“sample”, in relation to any thing, means a sample of the thing taken by an approved analyst or an approved botanist under section 26A (a);

“simple offence” means simple offence under this Act;

“specified drug” means specified drug as defined by section 5 of the *Poisons Act 1964*;

“summary court” means Court of Petty Sessions constituted by a magistrate sitting alone;

“the *Poisons Act 1964*” includes any regulations made and in force under that Act;

“the regulations” means the regulations made and in force under this Act;

“to cultivate”, in relation to a prohibited plant, includes to grow, sow or scatter the seed produced by, or to plant, nurture, tend or harvest, the prohibited plant;

“to possess” includes to control or have dominion over, and to have the order or disposition of, and inflections and derivatives of the verb “to possess” have correlative meanings;

“veterinary surgeon” means registered veterinary surgeon as defined by section 2 of the *Veterinary Surgeons Act 1960*.

(2) In the case of liquid preparations, percentages shall, unless other provision in that behalf is made by the regulations, be calculated on the basis that a preparation containing one percent of a substance means a preparation in which one gram of the substance, if a solid, or one millilitre of the substance, if a liquid, is contained in every 100 millilitres of the preparation, and so in proportion for any greater or lesser percentage.

[Section 3 amended by No. 50 of 1990 s.7; No. 20 of 1991 s.57; No. 32 of 1994 s.3 (2); No. 44 of 1995 s.4.]

Approved analysts and botanists

3A. (1) The Commissioner may by notice published in the *Gazette* declare —

- (a) an analyst to be an approved analyst for the purposes of this Act; or
- (b) a botanist to be an approved botanist for the purposes of this Act.

(2) The Commissioner may by further notice published in the *Gazette* amend or revoke a notice under this section.

[Section 3A inserted by No. 44 of 1995 s.5.]

Drugs and plants to which Act applies

4. (1) The drugs to which this Act applies are —

- (a) drugs of addiction;
- (b) specified drugs; and
- (c) whether or not they are also drugs of addiction or specified drugs, the drugs specified in Schedule I.

(2) Subject to subsection (3), the plants to which this Act applies are —

- (a) prohibited plants as defined by section 5 of the *Poisons Act 1964*; and
- (b) whether or not they are also prohibited plants as defined by section 5 of the *Poisons Act 1964*, the plants specified in Schedule II.

(3) This Act does not apply to the non-viable seeds of the opium poppy *Papaver somniferum*.

**PART II — OFFENCES RELATING TO PROHIBITED
DRUGS AND PROHIBITED PLANTS**

**Offences concerned with prohibited drugs and prohibited
plants in relation to premises and utensils**

5. (1) A person who —
- (a) being the occupier of any premises, knowingly permits those premises to be used for the purpose of —
 - (i) the manufacture or preparation of a prohibited drug or prohibited plant for use; or
 - (ii) the manufacture, preparation, sale, supply or use of a prohibited drug or prohibited plant;
 - (b) being the owner or lessee of any premises, knowingly permits those premises to be used for the purpose of using a prohibited drug or prohibited plant;
 - (c) is knowingly concerned in the management of any premises used for any of the purposes referred to in paragraphs (a) and (b);
 - (d) has in his possession —
 - (i) any pipes or other utensils for use in connection with the smoking of a prohibited drug or prohibited plant; or
 - (ii) any utensils used in connection with the manufacture or preparation of a prohibited drug or prohibited plant for smoking,

in or on which pipes or utensils there are detectable traces of a prohibited drug or prohibited plant; or

*Misuse of Drugs
Act 1981*

s. 6

- (e) is found in any place which is then being used for the purpose of smoking a prohibited drug or prohibited plant,

except when he is authorized by or under this Act or by or under the *Poisons Act 1964* to do so, commits a simple offence.

- (2) In subsection (1) —

“owner”, in relation to any premises, includes the person entitled to receive the rent of those premises and the person to whom the rent of those premises is paid.

Offences concerned with prohibited drugs generally

- 6. (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 authorized 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 authorized by or under this Act or by or under the *Poisons Act 1964* 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 or veterinary surgeon in the lawful practice of his profession; or

*Misuse of Drugs
Act 1981*

s. 6

- (ii) on and in accordance with an authorized 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 authorized —

- (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 authorized 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 authorized to have possession of the prohibited drug on and in accordance with an authorized prescription) in accordance with the authority in writing of the person so authorized, 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.]

Offences concerned with prohibited plants generally

7. (1) Subject to subsection (3), a person who —

- (a) with intent to sell or supply a prohibited plant or any prohibited drug obtainable therefrom to another, has in his possession or cultivates the prohibited plant; or
- (b) sells or supplies, or offers to sell or supply, a prohibited plant to another,

commits an indictable offence, except when he is authorized 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), a person who has in his possession or cultivates a prohibited plant commits a simple offence, except when he is authorized by or under this Act or by or under the *Poisons Act 1964* to do so and does so in accordance with that authority.

(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 a prohibited plant if he proves that he had possession of the prohibited plant only for the purpose of —

- (a) delivering it or any prohibited drug obtainable therefrom to a person authorized —
 - (i) to have possession of the prohibited plant or that prohibited drug, as the case requires, by or under this Act or by or under the *Poisons Act 1964*; or
 - (ii) by or under this Act or by or under the *Poisons Act 1964* to sell or supply the prohibited plant or to manufacture, prepare, sell or supply that prohibited drug, as the case requires,

and had possession of the prohibited plant in accordance with the authority in writing of the person so authorized, and that, after taking possession of the prohibited plant, he took all such steps as were reasonably open to him to deliver the prohibited plant or that prohibited drug into the possession of that person; or

- (b) analysing, examining or otherwise dealing with the prohibited plant or that prohibited drug for the purposes of this Act in his capacity as an analyst, botanist or other expert.

Fraudulent behaviour in relation to prohibited drugs

8. (1) A person who forges or fraudulently alters, or utters knowing it to be forged or fraudulently altered, a prescription or order for a prohibited drug commits a simple offence.

(2) A person who by any false representation, whether oral or in writing or otherwise, causes or induces —

- (a) a person licensed under the *Poisons Act 1964* to manufacture, sell or supply any prohibited drug; or
- (b) a medical practitioner or dentist,

to administer or supply to him by injection or otherwise a prohibited drug commits a simple offence.

PART III — PROCEDURE

Courts of trial

9. [(1) *repealed*]

(2) A person charged with having committed an indictable offence under —

- (a) section 6 (1), not being a conspiracy to commit that indictable offence, in respect of a quantity of a prohibited drug referred to in Schedule III which is less than the quantity specified in that Schedule in relation to the prohibited drug; or
- (b) section 7 (1), not being a conspiracy to commit that indictable offence, in respect of a number of prohibited plants of a particular species or genus referred to in Schedule IV which is less than the number specified in that Schedule in relation to that species or genus,

shall be tried summarily by a summary court, unless the summary court —

- (c) at any time considers for any reason that the person so charged should be dealt with on indictment in respect of that indictable offence, in which case the summary court shall commit that person for trial or sentence, as the case requires; or
- (d) after convicting the person so charged but before passing sentence on him considers for any reason that the sentence which the summary court is empowered to impose on that person is inadequate, in which case the summary court shall commit that person for sentence and shall certify in writing to that effect.

(3) A person who is committed —

(a) for trial under subsection (2) (c) is liable, if convicted;
or

(b) for sentence under subsection (2) (c) or (2) (d) is liable,
to be sentenced by the court to which he is so committed,
whether or not —

(c) the quantity of the prohibited drug in respect of which
he is convicted is less than the quantity specified in
Schedule III in relation to that prohibited drug; or

(d) the number of prohibited plants of a particular species
or genus in respect of which he is convicted is less
than the number specified in Schedule IV in relation
to that species or genus.

[Section 9 amended by No. 73 of 1994 s.4.]

Alternative verdicts

10. A court trying a person charged with having committed an
indictable offence under —

(a) section 6 (1) may, if the evidence does not establish
that that person is guilty of that indictable offence but
does establish that he is guilty of a simple offence
under section 6 (2); or

(b) section 7 (1) may, if the evidence does not establish
that that person is guilty of that indictable offence but
does establish that he is guilty of a simple offence
under section 7 (2),

convict him of having committed that simple offence and,
whether that court is a summary court, the District Court or the
Supreme Court, impose on him the penalty referred to in
section 34 (1) (e).

*Misuse of Drugs
Act 1981*

s. 11

Presumption of intent to sell or supply

11. For the purposes of —

- (a) section 6 (1) (a), a person shall, unless the contrary is proved, be deemed to have in his possession a prohibited drug with intent to sell or supply it to another if he has in his possession a quantity of the prohibited drug which is not less than the quantity specified in Schedule V in relation to the prohibited drug; or
- (b) section 7 (1) (a), a person shall, unless the contrary is proved, be deemed to have in his possession, or to cultivate, prohibited plants of a particular species or genus with intent to sell or supply those prohibited plants or any prohibited drug obtainable therefrom to another if he has in his possession, or cultivates, a number of those prohibited plants which is not less than the number specified in Schedule VI in relation to that species or genus.

**PART IV — LOCATION, SEIZURE, DETENTION AND
DISPOSAL OF PROPERTY CONNECTED WITH
COMMISSION OF OFFENCES**

Interpretation in Part IV

12. (1) In this Part, unless the contrary intention appears —

“connected property” means property possessed or obtained —

- (a) directly or indirectly by way of, as a result of or for the purposes of; or
- (b) as or for the consideration for,
the commission of an offence;

“embargo notice” means embargo notice granted under section 17;

“holding order” means holding order granted under section 17;

“possessor”, in relation to any property, means person having it in his possession, whether on his own behalf or on behalf of or for the benefit of another person;

“property” means property of any kind whatsoever, whether real or personal, corporeal or incorporeal;

“search warrant” means search warrant granted under section 14;

“vehicle” includes aircraft, hovercraft, vessel and any other means of transportation.

(2) For the purposes of this Part, an application under section 19 is finally disposed of when an appeal or further appeal, as the case requires, cannot be made unless an extension of time is granted.

*Misuse of Drugs
Act 1981*

s. 13

Powers of police officers when property suspected of being connected property

13. (1) Subject to this section, if there are reasonable grounds to suspect that a person is the possessor of any property which is connected property, a police officer may, using such force as is reasonably necessary and with such assistance as he considers necessary, stop and detain the person so suspected and any other person on whose behalf or for whose benefit there are reasonable grounds to suspect that that property is possessed by the person so suspected and search him or them, as the case requires, together with any baggage, package, vehicle or other thing of any kind whatsoever found in his or their possession, and for that purpose may stop and detain any vehicle.

(2) A person shall not be searched under subsection (1) except by —

- (a) a person of the same sex as the firstmentioned person;
or
- (b) a medical practitioner.

(3) A police officer who wishes to search a person under subsection (1) may, if it is not then and there practicable to comply with subsection (2) in relation to the person —

- (a) detain the person until; or
- (b) detain the person and convey him to a place where,

it is practicable for subsection (2) to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

Granting of search warrants in respect of property suspected of being connected property

14. (1) A justice of the peace who is satisfied by information on oath that there are reasonable grounds to suspect that any connected property may be in or on any vehicle, or in or on any premises or other place, may grant to a police officer a search warrant authorizing a police officer at any time or times within 30 days from the date of that search warrant to enter any vehicle, or any premises or other place, named in that search warrant and, subject to this section, to search that vehicle or those premises or that other place and any person and any baggage, package or other thing of any kind whatsoever found therein or thereon, using such force as is reasonably necessary and with such assistance as the police officer considers necessary.

(2) A person shall not be searched under a search warrant except by —

- (a) a person of the same sex as the firstmentioned person;
or
- (b) a medical practitioner.

(3) A police officer who wishes to search a person under a search warrant may, if it is not then and there practicable to comply with subsection (2) in relation to the person —

- (a) detain the person until; or
- (b) detain the person and convey him to a place where,

it is practicable for that subsection to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

s. 15

Powers ancillary to power of search

15. (1) A police officer exercising the powers conferred by section 13 or by a search warrant may for the purposes of this Part —

- (a) seize and detain, or make extracts from or copies of, books, papers and documents found during the course of the exercise of those powers;
- (b) require a person to give, or cause to be given, to him such information as it is in the power of the person to give or cause to be given, as the case requires.

(2) Subject to subsection (3), a person who —

- (a) without lawful excuse, does not comply with a requirement made to him under subsection (1); or
- (b) in purporting to comply with a requirement made to him under subsection (1), gives or causes to be given to the police officer concerned information that to his knowledge is false or misleading in a material particular,

commits a simple offence.

(3) Notwithstanding anything in subsection (2), a person shall not refuse or fail to comply with a requirement made to him under subsection (1) by reason only that compliance with that requirement would tend to incriminate him or render him liable to any penalty, but the information given or caused to be given by him in compliance with that requirement is not admissible in evidence in any proceedings against him for an offence other than a simple offence under subsection (2) (b).

Powers of police officers when property suspected of being connected property found or received

16. If there are reasonable grounds to suspect that any property found or received during the exercise of the powers conferred by section 13 or by a search warrant or under any other circumstances is connected property, a police officer may —

- (a) seize that property and detain it for a period not exceeding 72 hours from that seizure and shall, if he wishes to detain it for a longer period, apply within 72 hours from that seizure to a justice of the peace for a holding order; or
- (b) in the case of property which cannot, or cannot readily, be seized and detained, apply for an embargo notice,

in respect of that property.

Granting of holding orders and embargo notices

17. A justice of the peace may, on the application of a police officer and if he is satisfied that there are reasonable grounds to suspect that the property to which that application relates is connected property, grant to the police officer —

- (a) a holding order authorizing the continued detention of property seized and detained under section 16 for a period of 21 days from the date of that holding order or, if an application in respect of that property is made to the District Court under section 19 within that period, until that application is finally disposed of; or
- (b) in the case of property which cannot, or cannot readily, be seized and detained, an embargo notice in the prescribed form.

Provisions relating to embargo notices

18. (1) A police officer to whom an embargo notice has been granted —

- (a) shall, if it is practicable to do so, forthwith serve or cause to be served a copy of the embargo notice on the possessor of the property to which the embargo notice relates and on any other person on whose behalf or for whose benefit that property is possessed by the possessor; and
- (b) may serve or cause to be served a copy of the embargo notice on a person other than a person referred to in paragraph (a).

(2) Subject to this section, a possessor of the property to which an embargo notice relates who sells, leases, moves, transfers or otherwise deals with all or any of that property within a period of 21 days from the date of the embargo notice or, if an application in respect of that property is made to the District Court under section 19 within that period, before that application is finally disposed of commits an indictable offence.

(3) The possessor of property to which an embargo notice relates may apply to the District Court for leave to sell, lease, move, transfer or otherwise deal with all or any of that property.

(4) The District Court may, on receiving an application under subsection (3), give the applicant leave in writing to sell, lease, move, transfer or otherwise deal with all or any of the property to which the embargo notice concerned relates on such conditions, if any, as the District Court thinks fit to attach to that leave.

(5) A person —

- (a) to whom leave has been given under subsection (4) and who sells, leases, moves, transfers or otherwise deals with all or any of the property to which that

leave relates in accordance with any conditions attached to that leave; or

- (b) who, being the possessor of the property to which an embargo notice relates, moves all or any of that property for the purpose of protecting and preserving the same within the period referred to in subsection (2) or before the application referred to in that subsection is finally disposed of, as the case requires, with the prior consent of the police officer to whom the embargo notice was granted in accordance with any conditions attached to that consent,

does not commit an indictable offence under subsection (2).

(6) Notwithstanding anything in any other Act, a sale, lease, movement, transfer or other dealing with property which constitutes an indictable offence under subsection (2) is null and void.

Proceedings before District Court in respect of connected property

19. (1) A police officer to whom —

- (a) a holding order has been granted, and a person aggrieved by the holding order, may within a period of 21 days from the date of the holding order; or
- (b) an embargo notice has been granted, and a person aggrieved by the embargo notice, may within a period of 21 days from the date of the embargo notice,

apply on notice of motion to the District Court for an order in respect of the property to which the holding order or embargo notice concerned relates.

(2) On receiving an application made under subsection (1), the District Court may —

- (a) before, during or after the consideration of that application adjourn the proceedings on that application for such period or periods as it thinks fit;
- (b) before making any order on that application, require notice to be given to, and hear, a person claiming to have a financial or other interest in the property to which that application relates or any part thereof; and
- (c) after considering that application —
 - (i) if it is satisfied that the property to which that application relates or any part thereof is connected property, order that that property or part be forfeited to the Crown, or sold and the proceeds distributed in the manner specified in that order; or
 - (ii) if it is not satisfied that the property to which that application relates or part thereof is connected property, order that that property or part thereof be released to the person named in that order or cancel the embargo notice concerned, as the case requires,

or in either case make such other order in respect of the property to which that application relates or part thereof as the justice of the case requires, and may make such ancillary orders, including orders as to costs, as it considers necessary or desirable.

Hindering police officers in exercise of powers conferred by or under this Part

20. A person who wilfully —

- (a) delays or obstructs; or

*Misuse of Drugs
Act 1981*

s. 20

(b) does not produce any property to, or conceals or attempts to conceal any property from,

a police officer acting in the exercise of the powers conferred on him by or under this Part or a person assisting a police officer so acting commits a simple offence.

**PART V — LOCATION, SEIZURE, DETENTION AND
DISPOSAL OF THINGS USED IN COMMISSION
OF OFFENCES**

Interpretation in Part V

21. In this Part, unless the contrary intention appears —

“approved person” means person who is approved, or belongs to a class of persons which is approved, by the Minister under section 30 for the purposes of this Part, which approval has not been revoked under that section;

“holding order” means holding order granted under section 28 (1);

“search warrant” means search warrant granted under section 24;

“vehicle” includes aircraft, hovercraft, vessel and any other means of transportation.

Powers of police officers and approved persons in relation to manufacturers, sellers and suppliers of prohibited drugs and cultivators, sellers and suppliers of prohibited plants

22. A police officer or approved person may, for the purposes of this Act —

- (a) enter the premises of a person carrying on the business of —
 - (i) a manufacturer, seller or supplier of prohibited drugs; or

- (ii) a cultivator, seller, or supplier of prohibited plants;
- (b) demand the production of, and inspect, any books, papers or documents relating to transactions or dealings in a prohibited drug or prohibited plant; and
- (c) inspect any stocks of a prohibited drug or prohibited plant.

Powers of police officers when things suspected of being used in commission of offences

23. (1) Subject to this section, if there are reasonable grounds to suspect that any thing whatsoever —

- (a) with respect to which an offence has been, or is suspected to have been, or may be committed;
- (b) which has been, or is suspected to have been, or may be used for the purpose of committing an offence; or
- (c) which may provide evidence in respect of an offence,

is in the possession of a person, a police officer may, using such force as is reasonably necessary and with such assistance as he considers necessary, stop and detain the person and search him together with any baggage, package, vehicle or other thing of any kind whatsoever found in his possession, and for that purpose may stop and detain any vehicle.

(2) A person shall not be searched under subsection (1) except by —

- (a) a person of the same sex as the firstmentioned person; or
- (b) a medical practitioner.

*Misuse of Drugs
Act 1981*

s. 24

(3) A police officer who wishes to search a person under subsection (1) may, if it is not then and there practicable to comply with subsection (2) in relation to the person —

- (a) detain the person until; or
- (b) detain the person and convey him to a place where,

it is practicable for subsection (2) to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

Granting of search warrants in connection with prevention or detection of offences

24. (1) A justice of the peace who is satisfied by information on oath that there are reasonable grounds to suspect that any thing referred to in section 23 (1) (a), (b) or (c) may be in or on any vehicle, or in or on any premises or other place, may grant to a police officer a search warrant authorizing a police officer at any time or times within 30 days from the date of that search warrant to enter any vehicle, or any premises or other place, named in that search warrant and, subject to this section, to search that vehicle or those premises or that other place and any person and any baggage, package or other thing of any kind whatsoever found therein or thereon, using such force as is reasonably necessary and with such assistance as the police officer considers necessary.

(2) A person shall not be searched under a search warrant except by —

- (a) a person of the same sex as the firstmentioned person;
or

(b) a medical practitioner.

(3) A police officer who wishes to search a person under a search warrant may, if it is not then and there practicable to comply with subsection (2) in relation to the person —

(a) detain the person until; or

(b) detain the person and convey him to a place where,

it is practicable for that subsection to be complied with in relation to the person.

(4) A person shall not be detained, or detained and conveyed, under subsection (3) for longer than is reasonably necessary under the circumstances for the purpose of complying with subsection (2) in relation to the person.

[Section 24 amended by No. 50 of 1990 s.7.]

Powers ancillary to power of search

25. (1) A police officer or approved person exercising the powers conferred by section 22 or 23 or by a search warrant may for the purposes of this Part —

(a) seize and detain, or make extracts from or copies of, books, papers and documents found during the course of that exercise;

(b) require a person to give, or cause to be given, to the police officer or approved person such information as it is in the power of the person to give or cause to be given, as the case requires.

(2) Subject to subsection (3), a person who —

(a) without reasonable excuse, does not comply with a requirement made to him under subsection (1); or

*Misuse of Drugs
Act 1981*

s. 26

- (b) in purporting to comply with a requirement made to him under subsection (1), gives or causes to be given to the police officer or approved person concerned information that to his knowledge is false or misleading in a material particular,

commits a simple offence.

(3) Notwithstanding anything in subsection (2), a person shall not refuse or fail to comply with a requirement made to him under subsection (1) by reason only that compliance with that requirement would tend to incriminate him or render him liable to any penalty, but the information given or caused to be given by him in compliance with that requirement is not admissible in evidence in any proceedings against him for an offence other than a simple offence under subsection (2) (b).

Powers of police officers and others when things suspected of being used in commission of offences found, received or acquired

26. (1) If there are reasonable grounds to suspect that any thing found or received during the exercise of the powers conferred by section 22 or 23 or by a search warrant or under any other circumstances is a thing referred to in section 23 (1) (a), (b) or (c) a police officer or approved person, as the case requires, may seize that thing and —

- (a) in the case of a thing which is a prohibited drug, prohibited plant or dangerous substance, may detain it until it is dealt with under section 27; or
- (b) in the case of a thing which is not a prohibited drug, prohibited plant or dangerous substance, may detain it for a period not exceeding 72 hours from that seizure and shall, if he wishes to detain it for a longer period, apply within 72 hours from that seizure to a justice of the peace for a holding order in respect of that thing.

- (2) A police officer who —
- (a) whilst he is an authorized person and is acting as an undercover officer, acquires a prohibited drug or prohibited plant for the purpose of detecting the commission of an offence; or
 - (b) acquires a prohibited drug or prohibited plant as a result of its delivery to him by an authorized person who is not a police officer,

shall detain the prohibited drug or prohibited plant until it is dealt with under section 27.

- (3) In subsection (2) —

“authorized person” and **“undercover officer”** have the respective meanings given by section 31.

[Section 26 amended by No. 50 of 1990 s.7; No. 44 of 1995 s.6.]

Powers of approved analyst or approved botanist

26A. An approved analyst or approved botanist may for the purposes of this Act —

- (a) take a sample or samples of any thing seized under this Act;
- (b) analyse or examine any thing seized under this Act or any sample or samples of the thing.

[Section 26A inserted by No. 44 of 1995 s.7.]

Disposal of prohibited drugs and prohibited plants

27. (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 authorized 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 authorized 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 authorized 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 authorized 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

*Misuse of Drugs
Act 1981*

s. 27A

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 1995² s.8.]

Analysis at request of defendant

27A. (1) If a direction is given under section 27 (2) for the destruction of any thing, any person charged with an offence in relation to the thing may apply to have a sample of the thing analysed or examined by an analyst or botanist chosen by the person.

(2) An application shall be made to the Commissioner or a prescribed person within the prescribed period.

(3) The application shall be in writing in the prescribed form and shall specify the analyst or botanist who is to carry out the examination or analysis.

(4) The analyst or botanist specified shall not be an approved analyst or an approved botanist.

(5) The specified analyst or botanist may, within 21 days after the application is made, analyse or examine a sample of the thing.

(6) This section applies whether or not the thing the subject of the direction has been destroyed.

(7) In this section —

“specified” means specified in the application.

[Section 27A inserted by No. 44 of 1995 s.9.]

Confidentiality

27B. (1) In this section —

“confidential information” means information about —

- (a) the place, date or time at which, an analysis or examination referred to in section 27A is to be carried out;
- (b) the place at which a sample is or was stored; or
- (c) the security or storage arrangements relating to the keeping of a sample.

(2) Except as provided in subsection (3), a person shall not divulge any confidential information obtained for the purposes of, or as a result of, the person carrying out an analysis or examination referred to in section 27A.

Penalty: \$20 000 and imprisonment for 7 years.

(3) Subsection (2) does not apply to the divulging of information —

- (a) in the course of the performance of any function under this Act;
- (b) for the purposes of the investigation of any suspected offence; or
- (c) in the course of the conduct of proceedings against any person for an offence.

[Section 27B inserted by No. 44 of 1995 s.9.]

Disposal of things other than prohibited drugs and prohibited plants

28. (1) If, in the case of a thing (other than a prohibited drug, prohibited plant or dangerous substance) which is seized or acquired and detained under section 26 a justice of the peace is satisfied, on the application of a police officer or approved person, that there are reasonable grounds to suspect that that thing is a thing referred to in section 23 (1) (a), (b) or (c) grant to the police officer or approved person a holding order authorizing the continued detention of that thing until, the investigation of the case concerned having been completed, that thing is dealt with under subsection (3).

(2) A police officer or approve person to whom a holding order has been granted shall, if it is practicable to do so, forthwith serve or cause to be served a copy of the holding order, together with a notice setting out the substance of subsection (3), on any person claiming to have a financial or other interest in the thing to which the holding order relates (in this section called **"the claimant"**).

(3) If, in the case of a thing to which a holding order relates —

- (a) no person is tried with the commission of an offence in relation thereto, a police officer shall apply to a justice of the peace for an order in respect of that thing and the justice of the peace; or
- (b) a person is tried with the commission of an offence in relation thereto, the court which so tries the person,

may, after having given the claimant an opportunity to show cause why that thing should be released to him, order that that thing —

- (c) be released to the claimant;
- (d) be destroyed; or

(e) be forfeited to the Crown,

or make such other order as the justice of the case requires.

[*Section 28 amended by No. 50 of 1990 s.7; No. 44 of 1995 s.10.*]

Hindering police officers and approved persons in exercise of powers conferred by or under this Part

29. A person who wilfully —

- (a) delays or obstructs a police officer or approved person acting in the exercise of the powers conferred on him by or under this Part or a person assisting a police officer or approved person so acting; or
- (b) does not produce to, or conceals or attempts to conceal from, a police officer or approved person acting in the exercise of the powers conferred on him by or under this Part or a person assisting a police officer or approved person so acting any books, papers, documents or stocks referred to in section 22 or any thing referred to in section 23 (1) (a), (b) or (c),

commits a simple offence.

[*Section 29 amended by No. 50 of 1990 s.7.*]

Approved persons

30. The Minister may for the purposes of this Part approve a person, or class of persons, by notice published in the *Gazette* and may by notice published in the *Gazette* revoke that approval.

PART VI — GENERAL

Undercover officers

31. (1) The Commissioner may authorize in writing a person to act as an undercover officer and may in writing revoke that authority.

(2) An authorized person may, whilst acting as an undercover officer and subject to section 26 (2) or to subsection (4), as the case requires, acquire and have in his possession a prohibited drug or prohibited plant for the purpose of detecting the commission of an offence.

(3) An authorized person who exercises the power conferred on him by subsection (2) is not an accomplice in respect of, and does not commit, any offence detected by that exercise and his evidence in any proceedings against another person for that offence is not the evidence of an accomplice.

(4) An authorized person who —

(a) is not a police officer; and

(b) after having been warned under subsection (5), acquires a prohibited drug or prohibited plant whilst acting as an undercover officer for the purpose of detecting the commission of an offence and does not deliver the prohibited drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition,

commits a simple offence.

(5) The Commissioner shall warn in writing an authorized person who is not a police officer that if, having acquired a prohibited drug or prohibited plant whilst acting as an undercover officer for the purpose of detecting the commission of an offence, that authorized person does not deliver the prohibited

drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition, that authorized person commits a simple offence under subsection (4).

(6) A certificate signed by the Commissioner and stating that the person named in that certificate was, at the time or during the period specified in that certificate, an authorized person acting as an undercover officer shall, for the purposes of this section, be sufficient evidence of that fact unless the contrary is proved.

(7) The Commissioner shall, whenever requested to do so by the Minister, furnish the Minister with a report in writing containing such particulars of the activities of authorized persons as the Minister requires.

(8) In this section —

“authorized person” means person authorized under subsection (1) to act as an undercover officer, which authority has not been revoked under that subsection;

“undercover officer” means person whose identity or purpose is for the time being concealed for the purpose of detecting the commission of an offence.

[Section 31 amended by No. 44 of 1995 s.11.]

No limitation

32. A prosecution for an offence may be brought at any time.

Drug trafficking

32A. (1) If a person is convicted of —

(a) a serious drug offence and has, during the period of 10 years ending on the day, or the first of the days, as

*Misuse of Drugs
Act 1981*

s. 32A

the case requires, on which the serious drug offence was committed, been convicted of 2 or more —

- (i) serious drug offences;
- (ii) external serious drug offences; or
- (iii) offences, one or more of which are serious drug offences and one or more of which are external serious drug offences;

or

(b) a serious drug offence in respect of —

- (i) a prohibited drug in a quantity which is not less than the quantity specified in Schedule VII in relation to the prohibited drug; or
- (ii) prohibited plants in a number which is not less than the number specified in Schedule VIII in relation to the particular species or genus to which those prohibited plants belong,

the court convicting the person of the serious drug offence first referred to in paragraph (a), or the serious drug offence referred to in paragraph (b), as the case requires, shall on the application of an appropriate officer declare the person to be a drug trafficker.

(2) An application for a declaration under subsection (1) may be made at the time of the conviction giving rise to that application or at any time within 6 months from the day of that conviction, and more than one such application may be made in respect of that conviction.

(3) In this section —

“appropriate officer” has the meaning given by the *Crimes (Confiscation of Profits) Act 1988*;

“external serious drug offence” means —

- (a) offence against a law of another State, or of a Territory, which offence is prescribed to correspond to an indictable offence under section 6 (1), 7 (1) or 33 (2) (a); or
- (b) offence against section 233B of the *Customs Act 1901* of the Commonwealth;

“serious drug offence” means indictable offence under section 6 (1), 7 (1) or 33 (2) (a).

[Section 32A inserted by No. 50 of 1990 s.4.]

Attempts, conspiracies, incitements and accessories after the fact

33. (1) A person who attempts or incites another to commit, or becomes an accessory after the fact to, an offence (in this subsection called **“the principal offence”**) commits —

- (a) if the principal offence is an indictable offence, the indictable offence; or
- (b) if the principal offence is a simple offence, the simple offence,

but is liable on conviction —

- (c) to a fine not exceeding half of the fine; and, additionally or alternatively,
- (d) to imprisonment for a term not exceeding half of the term,

to which a person who commits the principal offence is liable.

Misuse of Drugs
Act 1981

s. 34

(2) A person who conspires with another to commit an offence (in this subsection called “**the principal offence**”) commits —

- (a) if the principal offence is an indictable offence under section 6 (1) or 7 (1) the indictable offence, but is liable on conviction to the penalty referred to in section 34 (1) (b); or
- (b) if the principal offence is a simple offence or an indictable offence, other than an indictable offence referred to in paragraph (a), the simple offence or that indictable offence, as the case requires, and is liable on conviction to the same penalty to which a person who commits the principal offence is liable.

Penalties

34. (1) Subject to subsection (2), a person who is convicted of —

- (a) an indictable offence under section 6 (1) or 7 (1) is liable to a fine not exceeding \$100 000 or to imprisonment for a term not exceeding 25 years or both;
- (b) conspiring with another to commit an indictable offence under section 6 (1) or 7 (1) is liable to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 20 years or both;
- (c) an indictable offence under section 18 (2) is liable to a fine not exceeding \$20 000 or to imprisonment for a term not exceeding 5 years or both;
- (d) a simple offence under section 5 (1) (other than a simple offence under section 5 (1) (e)), 8, 15 (2), 20, 25 (2) or 29 is liable to a fine not exceeding \$3 000 or to imprisonment for a term not exceeding 3 years or both; or

- (e) a simple offence under section 5 (1) (e), 6 (2), 7 (2) or 31 (4) is liable to a fine not exceeding \$2 000 or to imprisonment for a term not exceeding 2 years or both.

(2) A person who is convicted of an indictable offence referred to in subsection (1) (a) —

- (a) being an indictable offence —
 - (i) relating only to cannabis; and
 - (ii) not relating to cannabis resin or any other cannabis derivative or to any prohibited drug or a prohibited plant other than cannabis,

is liable, if sentenced by the District Court or the Supreme Court, to a fine not exceeding \$20 000 or to imprisonment for a term not exceeding 10 years or both; or

- (b) is liable, if sentenced by a summary court, to a fine not exceeding \$5 000 or to imprisonment for a term not exceeding 4 years or both.

[Section 34 amended by No. 44 of 1995 s.12.]

Criminal liability of company officers

35. When a person convicted of an offence is a corporation, every director of the corporation and every officer concerned in the management thereof is guilty of the like offence unless he proves that the act or omission constituting the offence took place without his knowledge or consent.

[36. *Repealed by No. 92 of 1994 s.26.]*

Proof of exceptions

37. In any proceedings against a person for an offence, it is not necessary to negative by evidence any authority, licence or other matter of condition, exception, excuse, exemption, proviso or qualification and the burden of proving any such matter lies on the person seeking to avail himself thereof.

Certificate of approved analyst or approved botanist

38. (1) An approved analyst or an approved botanist may give a certificate in the prescribed form relating to any analysis or examination carried out by the approved analyst or approved botanist.

(2) In any proceedings against a person for an offence, production of a certificate purporting to be signed by an approved analyst or an approved botanist stating in relation to any thing —

- (a) that the thing was obtained or received by the analyst or botanist for analysis or examination;
- (b) how the thing was obtained, or when and from whom the thing was received;
- (c) a description, and the quantity or mass, of the thing obtained or received;
- (d) that the thing was analysed or examined by the analyst or botanist;
- (e) the method of analysis or examination;
- (f) the results of the analysis or examination; and
- (g) any other matters relating to the analysis or examination,

is sufficient evidence of the facts stated in the certificate.

(3) For the purposes of subsection (2), proof is not required —

- (a) of the signature of the person purporting to have signed the certificate; or
- (b) that the person is an approved analyst or an approved botanist.

[Section 38 amended by No. 44 of 1995 s.13.]

Defendant may obtain a copy of certificate

38A. (1) If —

- (a) a certificate has been given under section 38 (1) in relation to an analysis or examination; and
- (b) a defendant applies to the Commissioner for a copy of the certificate,

the Commissioner shall as soon as practicable cause a copy of the certificate to be provided to the defendant.

(2) An application shall be in writing in the prescribed form and shall specify the address at which a copy of the certificate can be provided to the defendant.

[Section 38A inserted by No. 44 of 1995 s.13.]

Defendant may object to use of certificate

38B. (1) Section 38 (2) does not apply if, not less than 21 days before the proceedings, the defendant delivers notice in writing to the Commissioner requiring the approved analyst or approved botanist to attend as a witness in those proceedings.

*Misuse of Drugs
Act 1981*

s. 38C

(2) A defendant shall be afforded a reasonable opportunity to deliver a notice referred to in subsection (1).

(3) A defendant shall not in any proceedings adduce evidence in rebuttal of any facts stated in a certificate unless the defendant has delivered notice in accordance with subsection (1) requiring the approved analyst or approved botanist to attend as a witness in the proceedings.

[Section 38B inserted by No. 44 of 1995 s.13.]

Order for costs of approved analyst or approved botanist

38C. A court before which proceedings against a person for an offence are held may, in addition to making any other order as to costs, make such order as it thinks just as to —

- (a) the conduct money of an approved analyst or an approved botanist required to attend as a witness in the proceedings; and
- (b) the expenses and remuneration to be paid for any analysis or examination carried out by an approved analyst or an approved botanist.

[Section 38C inserted by No. 44 of 1995 s.13.]

Evidence of contents of standard

38D. (1) In this section —

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

(2) In any proceedings under this Act, production of a copy of any standard referred to in the *Poisons Act 1964* purporting to be

certified by the Commissioner of Health to be a true copy of the standard as at any date or during any period is, without proof of the signature of the Commissioner of Health, sufficient evidence of the contents of the standard as at that date or during that period.

[Section 38D inserted by No. 48 of 1995 s.43.]

Delegation by Commissioner

39. (1) The Commissioner may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him delegate to a police officer of or above the rank of inspector any of his powers under this Act, other than this power of delegation.

(2) For the purposes of this Act, the exercise of a power by a delegate under this section shall be deemed to be the exercise of the power by the Commissioner.

(3) A delegation under this section may be —

- (a) made subject to such conditions, qualifications and exceptions as are set out in the instrument of delegation;
- (b) revoked or varied by instrument in writing signed by the Commissioner.

(4) The Commissioner may exercise a power notwithstanding that he has delegated its exercise under this section.

(5) If, under this Act, the exercise of a power by the Commissioner is dependent on his opinion, belief or state of mind in relation to a matter and the power has been delegated under this section, the power may be exercised by the delegate on the opinion, belief or state of mind of the delegate in relation to the matter.

[Section 39 amended by No. 44 of 1995 s.14.]

Civil liability of persons acting under this Act

40. A person on whom a power is conferred or duty imposed by or under this Act is not personally liable in civil proceedings, and the Crown is not liable, for any act done or default made by him in good faith for the purpose of carrying this Act into effect.

Regulations

41. (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are necessary or convenient to be prescribed, for giving effect to the purposes of this Act and, in particular —

- (a) prescribing and providing for the recovery of fees to be paid in respect of matters or things to be done under or for the purposes of this Act;
- (b) providing for the manner in which any thing, which is ordered or required under this Act —
 - (i) to be destroyed, is to be destroyed;
 - (ii) to be released to a person, is to be released; and
 - (iii) to be forfeited to the Crown, is to be dealt with;
- (ba) providing for the procedure to be followed in and in relation to the taking, packaging and labelling of samples;
- (c) providing for the procedure to be followed in and in relation to —
 - (i) any analysis or examination under this Act; and
 - (ii) the admissibility and receipt of evidence relating to any thing obtained or received for an analysis or examination referred to in subparagraph (i);

- (d) providing for the manner in which any thing is to be conveyed to and analysed or examined by an analyst, botanist or other expert.

(2) Regulations made under this Act are in addition to and not in derogation of any regulations made under the *Poisons Act 1964*, but if and to the extent that inconsistency exists between regulations made under this Act and regulations made under the *Poisons Act 1964* the latter regulations shall prevail.

(3) The regulations may create offences and may provide for a penalty not exceeding \$1 000.

[Section 41 amended by No. 44 of 1995 s.15.]

Amendment of certain schedules

42. (1) The Governor may from time to time by Order in Council published in the *Gazette* amend Schedule III, IV, V, VI, VII or VIII by —

- (a) adding thereto or deleting therefrom —
 - (i) any prohibited drug or any quantity specified in relation thereto; or
 - (ii) any prohibited plant of a particular species or genus or any number specified in relation thereto,as the case requires;
- (b) deleting and substituting all or any of the items therein; or
- (c) altering any item therein.

(2) Subject to this section, on the publication in the *Gazette* of an Order in Council made under subsection (1), the Schedule

to which that Order in Council relates is amended accordingly and, as so amended, has the same force and effect as if the amendment effected by that Order in Council had been effected by an Act amending this Act.

(3) The Minister shall cause a copy of every Order in Council made under subsection (1) to be laid on the Table of each House of Parliament within the first 14 sitting days of that House after the publication of that Order in Council in the *Gazette*.

(4) If a copy of an Order in Council made under subsection (1) is not laid on the Table of a House of Parliament in accordance with subsection (3), that Order in Council ceases to have effect when that copy is not so laid but without affecting the validity or curing the invalidity of anything done or omitted to be done in good faith before that Order in Council so ceases to have effect.

(5) If either House of Parliament passes a resolution, of which notice has been given within the first 14 sitting days of that House after a copy of the relevant Order in Council made under subsection (1) has been laid on the Table of that House under subsection (3), that that Order in Council be disallowed, that Order in Council thereupon ceases to have effect, but the disallowance of that Order in Council does not affect the validity or cure the invalidity of anything done or omitted to be done in good faith before the passing of that resolution.

[Section 42 amended by No. 50 of 1990 s.5.]

SCHEDULE I

[Section 4 (1) (c)]

**DRUGS TO WHICH ACT APPLIES, NOTWITHSTANDING
ANYTHING IN *POISONS ACT 1964***

<i>Item</i>	<i>Prohibited drugs</i>
1.	Cocaine, ecgonine, heroin, morphine and their respective salts.
2.	Opium.
3.	Any preparation, admixture, extract, or other substance containing not less than — (a) 0.2 per cent of morphine, the percentage of morphine being for the purpose of this item calculated as in respect of anhydrous morphine; or (b) 0.1 per cent of cocaine or ecgonine.
4.	Any derivative of cocaine.
5.	Cannabis or cannabis resin or any other cannabis derivative.

Sch. II

*Misuse of Drugs
Act 1981*

SCHEDULE II

[Section 4 (2) (b)]

**PLANTS TO WHICH ACT APPLIES, NOTWITHSTANDING
ANYTHING IN *POISONS ACT 1964***

<i>Item</i>	<i>Prohibited plant</i>
1.	<i>Papaver somniferum</i>
2.	<i>Papaver bracteatum</i>
3.	Cannabis

*Misuse of Drugs
Act 1981*

Sch. III

SCHEDULE III

[Section 9]

**AMOUNTS OF PROHIBITED DRUGS DETERMINING
COURT OF TRIAL**

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
1.	ACETORPHINE	6.0
2.	ACETYLDIHYDROCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	6.0
3.	ACETYLMETHADOL	6.0
4.	ALLOBARBITONE	30.0
5.	ALLYLBARBITURIC ACID	30.0
6.	ALLYLPRODINE	6.0
7.	ALPHACETYLMETHADOL	30.0
8.	ALPHAMEPRODINE	0.6
9.	ALPHAMETHADOL	0.6
10.	ALPHAPRODINE	75.0
11.	AMPHETAMINE	4.0
12.	AMYLOBARBITONE	30.0
13.	ANILERIDINE	75.0
14.	APROBARBITONE	30.0
15.	BARBITONE	30.0
16.	BENZETHIDINE	30.0
17.	BENZYL MORPHINE	15.0
18.	BETACETYLMETHADOL	15.0
19.	BETAMEPRODINE	15.0
20.	BETAMETHADOL	15.0
21.	BETAPRODINE	15.0
22.	BEZITRAMIDE	15.0
23.	BUFOTENINE	6.0
24.	BUTOBARBITONE	30.0
25.	CANNABIS	500.0
26.	CANNABIS RESIN	40.0
27.	CANNABIS (in cigarette form)	400 cigarettes each containing any portion of cannabis
28.	CLONITAZENE	15.0
29.	COCAINE	4.0
30.	CODEINE (except when included in Schedule 2, 3 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	30.0
31.	CODEINE-N-OXIDE	30.0
32.	CODOXIME	30.0
33.	CYCLOBARBITONE	30.0
34.	DESOMORPHINE	6.0
35.	DEXAMPHETAMINE	6.0
36.	DEXTROMORAMIDE	3.0
37.	DIAMPROMIDE	15.0
38.	DIETHYLTHIAMBUTENE	15.0

Sch. III

*Misuse of Drugs
Act 1981*

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
39.	DIFENOXIN (excluding preparations containing, per dosage unit, not more than 0.5 mg of difenoxin and a quantity of atropine sulphate equivalent to at least 5 per cent of the dose of difenoxin)	30.0
40.	DIHYDROCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	30.0
41.	DIHYDROMORPHINE	30.0
42.	DIMENOXADOL	30.0
43.	DIMEPHEPTANOL	30.0
44.	2,5-DIMETHOXY-4-BROMOAMPHETAMINE	0.25
45.	2,5-DIMETHOXY-4-METHYLAMPHETAMINE	0.25
46.	DIMETHYLTHIAMBUTENE	60.0
47.	DIMETHYLTRYPTAMINE	6.0
48.	DIOXAPHETYL BUTYRATE	6.0
49.	DIPHENOXYLATE (excluding preparations containing, per dosage unit, not more than 2.5 mg of diphenoxylate calculated as base, and a quantity of atropine sulphate equivalent to at least 1 per cent of the dose of diphenoxylate)	6.0
50.	DIPIPANONE	30.0
51.	DROTEBANOL	0.3
52.	ECGONINE, ITS ESTERS AND DERIVATIVES which are convertible to ECGONINE AND COCAINE	30.0
52A.	EPHEDRINE	4.0
53.	ETHYLMETHYLTHIAMBUTENE	30.0
54.	ETHYLMORPHINE (and substances containing more than 2.5 per cent of ethylmorphine)	6.0
55.	ETONITAZENE	15.0
56.	ETORPHINE	15.0
57.	ETOXERIDINE	15.0
58.	FENTANYL	0.015
59.	FURETHIDINE	3.0
60.	HALLUCINOGENIC SUBSTANCES (structurally derived from methoxyphenethylamine)	0.25
61.	HEPTABARBITONE	30.0
62.	HEXOBARBITONE	30.0
63.	HYDROCODONE	6.0
64.	HYDROMORPHINOL	6.0
65.	HYDROMORPHONE	6.0
66.	HYDROXYPETHIDINE	15.0
67.	ISOMETHADONE	0.6
68.	KETOBEMIDONE	0.6
69.	LEVOMETHORPHAN	3.0
70.	LEVOMORAMIDE	6.0
71.	LEVOPHENACYLMORPHAN	6.0
72.	LEVORPHANOL	3.0
73.	LYSERGIC ACID DIETHYLAMIDE (LSD)	0.004
74.	MESCALINE	22.5
75.	METAZOCINE	21.0
76.	METHADONE	0.6
77.	METHADONE-INTERMEDIATE	0.6
78.	METHAQUALONE	150.0
79.	METHARBITONE	30.0
80.	METHYLAMPHETAMINE	6.0
81.	METHYLDESORPHINE	6.0
82.	METHYLDIHYDROMORPHINE	6.0

*Misuse of Drugs
Act 1981*

Sch. III

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
82A.	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	4.0
82B.	3, 4-METHYLENEDIOXY-N, ALPHA-DIMETHYLPHENYLETHYLAMINE (MDMA)	4.0
83.	METHYLPHENIDATE	6.0
84.	METHYLPHENOBARBITONE	30.0
85.	1-METHYL-4-PHENYLPYPERIDINE-4-CARBOXYLIC ACID ESTERS	6.0
86.	METOPON	6.0
87.	MORAMIDE-INTERMEDIATE	3.0
88.	MORPHERIDINE	6.0
89.	MORPHINE	6.0
90.	MORPHINE DERIVATIVES (not specifically included elsewhere in this Schedule or in any Schedule in Appendix A to the <i>Poisons Act 1964</i>)	6.0
91.	MORPHINE METHOBROMIDE AND OTHER PENTAVALENT NITROGEN MORPHINE DERIVATIVES	6.0
92.	MORPHINE-N-OXIDE	6.0
93.	MORPHINE SUBSTITUTES (not specifically included elsewhere in this Schedule)	6.0
94.	MYROPHINE	60.0
95.	NEALBARBITONE	30.0
96.	NICOCODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	6.0
97.	NICODICODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	6.0
98.	NICOMORPHINE	6.0
99.	NORACYMETHADOL	6.0
100.	NORCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	6.0
101.	NORLEVORPHANOL	6.0
102.	NORMETHADONE	1.5
103.	NORMORPHINE	60.0
104.	NORPIPANONE	30.0
105.	OPIUM	40.0
106.	OXYCODONE	15.0
107.	OXYMORPHONE	6.0
108.	PENTAZOCINE	30.0
109.	PENTOBARBITONE	30.0
110.	PETHIDINE	15.0
111.	PETHIDINE-INTERMEDIATE A	15.0
112.	PETHIDINE-INTERMEDIATE B	15.0
113.	PETHIDINE-INTERMEDIATE C	15.0
114.	PHENADOXONE	30.0
115.	PHENAMPROMIDE	30.0
116.	PHENAZOCINE	3.0
117.	PHENCYCLIDINE	0.004
118.	PHENMETRAZINE	6.0
119.	PHENOBARBITONE	30.0
120.	PHENOMORPHAN	15.0
121.	PHENOPERIDINE	3.0
122.	PHENYLMETHYLBARBITURIC ACID	30.0
123.	PHOLCODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	15.0
124.	PIMINODINE	30.0

Sch. III

*Misuse of Drugs
Act 1981*

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
125.	PIRITRAMIDE	3.0
126.	PROHEPTAZINE	3.0
127.	PROPERIDINE	75.0
128.	PROPIRAM	12.0
129.	PSILOCIN	0.3
130.	PSILOCYBIN	0.3
131.	PSYCHOTOMIMETIC SUBSTANCES (structurally derived from methoxyphenethylamine)	0.25
132.	QUINALBARBITONE	30.0
133.	RACEMETHORPHAN	6.0
134.	RACEMORAMIDE	3.0
135.	RACEMORPHAN	6.0
136.	SECBUTOBARBITONE	30.0
137.	TALBUTAL	30.0
138.	TETRAHYDROCANNABINOLS	4.0
139.	THEBACON	6.0
140.	THEBAINE	6.0
141.	TRIMEPERIDINE	30.0
142.	VINBARBITONE	30.0

[Schedule III amended by No. 48 of 1995 s.43; amended in Gazette 30 November 1990 p.5937; 29 November 1991 p.6041.]

SCHEDULE IV

[Section 9]

NUMBERS OF PROHIBITED PLANTS DETERMINING
COURT OF TRIAL

<i>Item</i>	<i>Prohibited plant</i>	<i>Number</i>
1.	<i>Papaver somniferum</i>	100
2.	<i>Papaver bracteatum</i>	100
3.	<i>Cannabis</i>	100

SCHEDULE V

[Section 11 (a)]

AMOUNTS OF PROHIBITED DRUGS GIVING RISE TO
PRESUMPTION OF INTENTION TO SELL OR SUPPLY SAME

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
1.	ACETORPHINE	2.0
2.	ACETYLDIHYDROCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	2.0
3.	ACETYLMETHADOL	2.0
4.	ALLOBARBITONE	10.0
5.	ALLYLBARBITURIC ACID	10.0
6.	ALLYLPRODINE	2.0
7.	ALPHACETYLMETHADOL	10.0
8.	ALPHAMEPRODINE	0.2
9.	ALPHAMETHADOL	0.2
10.	ALPHAPRODINE	25.0
11.	AMPHETAMINE	2.0
12.	AMYLOBARBITONE	10.0
13.	ANILERIDINE	25.0
14.	APROBARBITONE	10.0
15.	BARBITONE	10.0
16.	BENZETHIDINE	10.0
17.	BENZYMORPHINE	5.0
18.	BETACETYLMETHADOL	5.0
19.	BETAMEPRODINE	5.0
20.	BETAMETHADOL	5.0
21.	BETAPRODINE	5.0
22.	BEZITRAMIDE	5.0
23.	BUFOTENINE	2.0
24.	BUTOBARBITONE	10.0
25.	CANNABIS	100.0
26.	CANNABIS RESIN	20.0
27.	CANNABIS (in cigarette form)	80 cigarettes each containing any portion of cannabis
28.	CLONITAZENE	5.0
29.	COCAINE	2.0
30.	CODEINE (except when included in Schedule 2, 3 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	10.0
31.	CODEINE-N-OXIDE	10.0
32.	CODOXINE	10.0
33.	CYCLOBARBITONE	10.0
34.	DESOMORPHINE	2.0
35.	DEXAMPHETAMINE	2.0
36.	DEXTROMORAMIDE	1.0
37.	DIACETYLMORPHINE	2.0
38.	DIAMPROMIDE	5.0
39.	DIETHYLTHIAMBUTENE	5.0

*Misuse of Drugs
Act 1981*

Sch. V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
40.	DIFENOXIN (excluding preparations containing, per dosage unit, not more than 0.5 mg of difenoxin and a quantity of atropine sulphate equivalent to at least 5 per cent of the dose of difenoxin)	10.0
41.	DIHYDROCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	10.0
42.	DIHYDROMORPHINE	10.0
43.	DIMENOXADOL	10.0
44.	DIMEPHEPTANOL	10.0
45.	2, 5-DIMETHOXY-4-BROMOAMPHETAMINE	0.05
46.	2, 5-DIMETHOXY-4-METHYLAMPHETAMINE	0.05
47.	DIMETHYLTHIAMBUTENE	20.0
48.	DIMETHYLTRYPTAMINE	2.0
49.	DIOXAPHETYL BUTYRATE	2.0
50.	DIPHENOXYLATE (excluding preparations containing per dosage unit, not more than 2.5 mg of diphenoxylate calculated as base, and a quantity of atropine sulphate equivalent to at least 1 per cent of the dose of diphenoxylate)	2.0
51.	DIPIPANONE	10.0
52.	DRÖTEBANOL	0.1
53.	ECGONINE, ITS ESTERS AND DERIVATIVES which are convertible to ECGONINE AND COCAINE	10.0
53A.	EPHEDRINE	2.0
54.	ETHYLMETHYLTHIAMBUTENE	10.0
55.	ETHYLMORPHINE (and substances containing more than 2.5 per cent of ethylmorphine)	2.0
56.	ETONITAZENE	5.0
57.	ETORPHINE	5.0
58.	ETOXERIDINE	5.0
59.	FENTANYL	0.005
60.	FURETHIDINE	1.0
61.	HALLUCINOGENIC SUBSTANCES (structurally derived from methoxyphenethylamine)	0.05
62.	HEPTABARBITONE	10.0
63.	HEROIN	2.0
64.	HEXOBARBITONE	10.0
65.	HYDROCODONE	2.0
66.	HYDROMORPHINOL	2.0
67.	HYDROMORPHONE	2.0
68.	HYDROXYPETHIDINE	5.0
69.	ISOMETHADONE	0.2
70.	KETOBEMIDONE	0.2
71.	LEVOMETHORPHAN	1.0
72.	LEVOMORAMIDE	2.0
73.	LEVOPHENACYLMORPHAN	2.0
74.	LEVORPHANOL	1.0
75.	LYSERGIC ACID DIETHYLAMIDE (LSD)	0.002
76.	MESCALINE	7.5
77.	METAZOCINE	7.0
78.	METHADONE	0.2
79.	METHADONE-INTERMEDIATE	0.2
80.	METHAQUALONE	50.0
81.	METHARBITONE	10.0
82.	METHYLAMPHETAMINE	2.0
83.	METHYLDESORPHINE	2.0

*Misuse of Drugs
Act 1981*

Sch. V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
84.	METHYLDIHYDROMORPHINE	2.0
84A.	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	2.0
84B.	3, 4-METHYLENEDIOXY-N, ALPHA-DIMETHYLPHENYLETHYLAMINE (MDMA)	2.0
85.	METHYLPHENIDATE	2.0
86.	METHYLPHENOBARBITONE	10.0
87.	1-METHYL-4-PHENYLPYPERIDINE-4-CARBOXYLIC ACID ESTERS	2.0
88.	METOPON	2.0
89.	MORAMIDE-INTERMEDIATE	1.0
90.	MORPHERIDINE	2.0
91.	MORPHINE	2.0
92.	MORPHINE DERIVATIVES (not specifically included elsewhere in this Schedule or in any Schedule in Appendix A to the <i>Poisons Act 1964</i>)	2.0
93.	MORPHINE METHOBROMIDE AND OTHER PENTAVALENT NITROGEN MORPHINE DERIVATIVES	2.0
94.	MORPHINE-N-OXIDE	2.0
95.	MORPHINE SUBSTITUTES (not specifically included elsewhere in this Schedule)	2.0
96.	MYRPHINE	20.0
97.	NEALBARBITONE	10.0
98.	NICOCODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	2.0
99.	NICODICODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	2.0
100.	NICOMORPHINE	2.0
101.	NORACYMETHADOL	2.0
102.	NORCODEINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	2.0
103.	NORLEVORPHANOL	2.0
104.	NORMETHADONE	0.5
105.	NORMORPHINE	20.0
106.	NORPIPANONE	10.0
107.	OPIUM	20.0
108.	OXYCODONE	5.0
109.	OXYMORPHONE	2.0
110.	PENTAZOCINE	10.0
111.	PENTOBARBITONE	10.0
112.	PETHIDINE	5.0
113.	PETHIDINE-INTERMEDIATE A	5.0
114.	PETHIDINE-INTERMEDIATE B	5.0
115.	PETHIDINE-INTERMEDIATE C	5.0
116.	PHENADOXONE	10.0
117.	PHENAMPROMIDE	10.0
118.	PHENAZOCINE	1.0
119.	PHENCYCLIDINE	0.002
120.	PHENMETRAZINE	2.0
121.	PHENOBARBITONE	10.0
122.	PHENOMORPHAN	5.0
123.	PHENOPERIDINE	1.0
124.	PHENYLMETHYLBARBITURIC ACID	10.0
125.	PHOLCODINE (except when included in Schedule 2 or 4 in Appendix A to the <i>Poisons Act 1964</i>)	5.0

*Misuse of Drugs
Act 1981*

Sch. V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
126.	PIMINODINE	10.0
127.	PIRITRAMIDE	1.0
128.	PROHEPTAZINE	1.0
129.	PROPERIDINE	25.0
130.	PROPIRAM	4.0
131.	PSILOCIN	0.1
132.	PSILOCYBIN	0.1
133.	PSYCHOTOMIMETIC SUBSTANCES (structurally derived from methoxyphenethylamine)	0.05
134.	QUINALBARBITONE	10.0
135.	RACEMETHORPHAN	2.0
136.	RACEMORAMIDE	1.0
137.	RACEMORPHAN	2.0
138.	SECBUTOBARBITONE	10.0
139.	TALBUTAL	10.0
140.	TETRAHYDROCANNABINOLS	2.0
141.	THEBACON	2.0
142.	THEBAINE	10.0
143.	TRIMEPERIDINE	10.0
144.	VINBARBITONE	10.0

*[Schedule V amended by No. 48 of 1995 s.43; amended in
Gazette 30 November 1990 p.5937; 29 November 1991
p.6041.]*

SCHEDULE VI

[Section 11 (b)]

**NUMBERS OF PROHIBITED PLANTS GIVING RISE
TO PRESUMPTION OF INTENTION TO SELL OR SUPPLY
SAME OR PROHIBITED DRUGS OBTAINABLE FROM SAME**

<i>Item</i>	<i>Prohibited plant</i>	<i>Number</i>
1.	<i>Papaver somniferum</i>	25
2.	<i>Papaver bracteatum</i>	25
3.	<i>Cannabis</i>	25

SCHEDULE VII

[Section 32A (1) (b) (i)]

AMOUNTS OF PROHIBITED DRUGS FOR PURPOSES OF
DRUG TRAFFICKING

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
1	AMPHETAMINE	28.0
2	CANNABIS	3.0 kg
3	CANNABIS RESIN	100.0
4	COCAINE	28.0
5	DIACETYLMORPHINE	28.0
5A	EPHEDRINE	28.0
6	LYSERGIC ACID DIETHYLAMIDE (LSD)	0.01
7	METHADONE	5.0
8	METHYLAMPHETAMINE	28.0
9	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	28.0
10	3, 4-METHYLENEDIOXY-N, ALPHA- DIMETHYLPHENYLETHYLAMINE (MDMA)	28.0
11	MORPHINE	28.0
12	OPIUM	100.0

[Schedule VII inserted by No. 50 of 1990 s.6; amended in
Gazette 29 November 1991 p.6041; 22 March 1994 p.1245.]

Sch. VIII

*Misuse of Drugs
Act 1981*

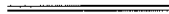
SCHEDULE VIII

[Section 32A (1) (b) (ii)]

**NUMBERS OF PROHIBITED PLANTS FOR PURPOSES
OF DRUG TRAFFICKING**

<i>Item</i>	<i>Prohibited Plants</i>	<i>Number</i>
1	Cannabis	250.0

[Schedule VIII inserted by No. 50 of 1990 s.6.]



*Misuse of Drugs
Act 1981*

NOTES

^{1.} This reprint is a compilation as at 11 November 1996 of the *Misuse of Drugs Act 1981* and includes the amendments effected by the other Acts referred to in Part I of the following Table and by the Orders in Council referred to in Part II of the following Table.

Table of Acts and Orders in Council

PART I — ACTS

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Misuse of Drugs Act 1981</i>	66 of 1981	23 October 1981	1 September 1982 (see <i>Gazette</i> 20 August 1982 p.3250)	
<i>Misuse of Drugs Amendment Act 1990</i>	50 of 1990	4 December 1990	4 December 1990	
<i>Conservation and Land Management Amendment Act 1991, section 57</i>	20 of 1991	25 June 1991	23 August 1991 (see <i>Gazette</i> 23 August 1991 p.4353)	
<i>Poisons Amendment Act 1994, section 11</i>	12 of 1994	15 April 1994	27 May 1994 (see <i>Gazette</i> 27 May 1994 p.2205)	
<i>Acts Amendment (Public Sector Management) Act 1994, section 3 (2)</i>	32 of 1994	29 June 1994	1 October 1994 (see <i>Gazette</i> 30 September 1994 p.4948)	
<i>Statutes (Repeals and Minor Amendments) Act 1994, section 4</i>	73 of 1994	9 December 1994	9 December 1994	
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994, Part 15</i>	92 of 1994	23 December 1994	1 January 1995 (see section 2)	

*Misuse of Drugs
Act 1981*

Act	Number and Year	Assent	Commencement	Miscellaneous
<i>Misuse of Drugs Amendment Act 1995</i>	44 of 1995	18 October 1995	16 August 1996 (see section 2 and <i>Gazette</i> 16 August 1996 p.4007)	Section 16: transitional ²
<i>Poisons Amendment Act 1995</i> , section 43	48 of 1995	6 November 1995	20 March 1996 (see <i>Gazette</i> 19 March 1996 p.1203)	

PART II — ORDERS IN COUNCIL

Orders	Gazettal	Commencement	Miscellaneous
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1990</i>	30 November 1990 p.5937	30 November 1990	
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1991</i>	29 November 1991 pp.6040-1	29 November 1991	
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1994</i>	22 March 1994 p.1245	22 March 1994	

² Section 16 of the *Misuse of Drugs Amendment Act 1995* (Act No. 44 of 1995) reads as follows —

“ **Transitional**

16. (1) The principal Act as amended by this Act applies to and in relation to things seized before the commencement of this Act and in particular a direction may be given under section 27 of the principal Act as amended by this Act in respect of any such thing.

(2) Anything done by an analyst or botanist under the principal Act before the commencement of this Act in relation to any thing seized before the commencement of this Act shall, for the purposes of the principal Act as amended by this Act, be taken to be a thing done by an approved analyst or an approved botanist.

(3) A certificate given by an analyst or botanist under the principal Act before the commencement of this Act

*Misuse of Drugs
Act 1981*

continues to have effect after the commencement of this Act
as if the certificate had been given in accordance with the
principal Act as amended by this Act. ”.

