



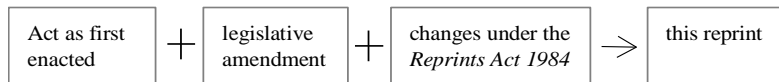
Western Australia

Misuse of Drugs Act 1981

Reprinted as at 11 January 2002

Guide for using this reprint

What the reprint includes



Endnotes, Compilation table, and Table of provisions that have not come into operation

1. Details about the original Act and legislation that has amended its text are shown in the Compilation table in endnote 1, at the back of the reprint. The table also shows any previous reprint.
2. Validation, transitional, savings, or other provisions identified in the Compilation table may be important. The table may refer to another endnote setting out the text of these provisions in full.
3. A table of provisions that have not come into operation, to be found in endnote 1a if it is needed, lists any provisions of the Act being reprinted that have not come into operation and any amendments that have not come into operation. The full text is set out in another endnote that is referred to in the table.

Notes amongst text (italicised and within square brackets)

1. If the reprint includes a section that was inserted, or has been amended, since the Act being reprinted was passed, editorial notes at the foot of the section give some history of how the section came to be as it is. If the section replaced an earlier section, no history of the earlier section is given (the full history of the Act is in the Compilation table).
Notes of this kind may also be at the foot of Schedules or headings.
2. The other kind of editorial note shows something has been —
 - removed (because it was repealed or deleted from the law); or
 - omitted under the *Reprints Act 1984* s. 7(4) (because, although still technically part of the text, it no longer has any effect).

The text of anything removed or omitted can be found in an earlier reprint (if there is one) or one of the written laws identified in the Compilation table.

Western Australia

Misuse of Drugs Act 1981

CONTENTS

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	5
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	6
6.	Offences concerned with prohibited drugs generally	7
7.	Offences concerned with prohibited plants generally	8
8.	Fraudulent behaviour in relation to prohibited drugs	9
Part III — Procedure		
9.	Courts of trial	11
10.	Alternative verdicts	12
11.	Presumption of intent to sell or supply	12

**Part V — Location, seizure, detention
and disposal of things used in
commission of offences**

21.	Interpretation in Part V	14
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	14
23.	Powers of police officers when things suspected of being used in commission of offences	15
24.	Granting of search warrants in connection with prevention or detection of offences	16
25.	Powers ancillary to power of search	17
26.	Powers of police officers and others when things suspected of being used in commission of offences found, received or acquired	17
26A.	Powers of approved analyst or approved botanist	19
27.	Disposal of prohibited drugs and prohibited plants	19
27A.	Analysis at request of defendant	21
27B.	Confidentiality	22
28.	Disposal of things other than prohibited drugs and prohibited plants	22
29.	Hindering police officers and approved persons in exercise of powers conferred by or under this Part	24
30.	Approved persons	24

Part VI — General

31.	Undercover officers	25
32.	No limitation	26
32A.	Drug trafficking	26
33.	Attempts, conspiracies, incitements and accessories after the fact	28
34.	Penalties	28
35.	Criminal liability of company officers	30
37.	Proof of exceptions	30
38.	Certificate of approved analyst or approved botanist	30
38A.	Defendant may obtain a copy of certificate	31
38B.	Defendant may object to use of certificate	31

38C.	Order for costs of approved analyst or approved botanist	32
38D.	Evidence of contents of standard	32
39.	Delegation by Commissioner	33
40.	Civil liability of persons acting under this Act	33
41.	Regulations	33
42.	Amendment of certain schedules	35
	Schedule I — Drugs to which Act applies, notwithstanding anything in <i>Poisons Act 1964</i>	37
	Schedule II — Plants to which Act applies, notwithstanding anything in <i>Poisons Act 1964</i>	38
	Schedule III — Amounts of prohibited drugs determining court of trial	39
	Schedule IV — Numbers of prohibited plants determining court of trial	44
	Schedule V — Amounts of prohibited drugs giving rise to presumption of intention to sell or supply same	45
	Schedule VI — Numbers of prohibited plants giving rise to presumption of intention to sell or supply same or prohibited drugs obtainable from same	51
	Schedule VII — Amounts of prohibited drugs for purposes of drug trafficking	52

Schedule VIII — Numbers of prohibited plants for purposes of drug trafficking	53
Notes	
Compilation table	54
Defined Terms	



Western Australia

Reprinted under the
Reprints Act 1984 as
at 11 January 2002

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

1. Short title

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

2. Commencement

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

3. Interpretation

(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;

“**authorised 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;

“**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;

s. 3A

“**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;

“**to supply**” includes to deliver, dispense, distribute, forward, furnish, make available, provide, return or send, and it does not matter that something is supplied on behalf of another or on whose behalf it is supplied;

“**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 1% 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; No. 3 of 1998 s. 3.]

3A. Approved analysts and botanists

- (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.]

4. Drugs and plants to which Act applies

- (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

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

- (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
 - (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 authorised 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.

6. Offences concerned with prohibited drugs generally

(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 authorised 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 authorised 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
 - (ii) on and in accordance with an authorised 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

s. 7

of or manufactured or prepared the prohibited drug only for the purpose of —

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

7. Offences concerned with prohibited plants generally

- (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 authorised 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 authorised 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 authorised —
 - (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 authorised, 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.

8. Fraudulent behaviour in relation to prohibited drugs

- (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.

s. 8

- (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

9. Courts of trial

[(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

s. 10

(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.]

10. Alternative verdicts

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).

11. Presumption of intent to sell or supply

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 repealed by No. 69 of 2000 s. 5(1).]

Part V — Location, seizure, detention and disposal of things used in commission of offences

21. Interpretation in Part V

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.

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

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.

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

- (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.
- (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.

s. 24

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

- (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 authorising 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.]

25. Powers ancillary to power of search

- (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
 - (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).

s. 26

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

- (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 authorised 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 authorised 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) —
- “authorised 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.]

26A. Powers of approved analyst or approved botanist

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.]

27. Disposal of prohibited drugs and prohibited plants

- (1) If, in the case of a prohibited drug, prohibited plant or dangerous substance which is seized or acquired and detained under section 26 —

- (a) a police officer is satisfied that no person will be tried with the commission of an offence in relation thereto, and it has not been destroyed under subsection (4), the police officer shall —
 - (i) cause that prohibited drug, prohibited plant or dangerous substance to be destroyed in accordance with the regulations; or
 - (ii) if a person who is authorised by or under this Act, by or under the *Poisons Act 1964* or, in the case of a prohibited drug, on and in accordance with an authorised prescription to have possession thereof is entitled to have possession of that prohibited drug, prohibited plant or dangerous substance, release that prohibited drug, prohibited plant or dangerous substance to that person;

or

s. 27

- (b) a person is tried with the commission of an offence in relation thereto and it has not been destroyed under subsection (4), the court which so tries the person shall, whether or not the person is convicted of that offence and after having given any other person (in this paragraph called “**the claimant**”) claiming to be authorised by or under this Act, by or under the *Poisons Act 1964* or, in the case of a prohibited drug, on and in accordance with an authorised prescription to have possession thereof and to be entitled to have possession of that prohibited drug, prohibited plant or dangerous substance, an opportunity to show cause why that prohibited drug, prohibited plant or dangerous substance should be released to him, order that that prohibited drug, prohibited plant or dangerous substance —
- (i) be released to the claimant;
 - (ii) be destroyed; or
 - (iii) be forfeited to the Crown.
- (2) If, in relation to any prohibited drug, prohibited plant or dangerous substance seized under section 26, the Commissioner is satisfied that —
- (a) it is not reasonably practicable (for whatever reason) to detain the thing until it is dealt with under subsection (1); and
 - (b) sufficient samples of the thing have been taken,
- the Commissioner may direct that the thing (apart from the samples) be destroyed before it is dealt with under that subsection.
- (3) A direction shall be in writing in the prescribed form.
- (4) If the Commissioner directs under subsection (2) that any thing be destroyed, a police officer shall as soon as practicable cause the thing to be destroyed in accordance with the regulations.

- (5) The Commissioner may in writing amend or revoke a direction before effect is given to it.
- (6) In subsection (2)(b) —
- “sufficient samples”** means —
- (a) in the case of a thing that has already been analysed or examined by an approved analyst or an approved botanist, sufficient samples to enable any further analysis or examination that might be required under section 27A; or
 - (b) in any other case, sufficient samples to enable —
 - (i) analysis or examination by an approved analyst or an approved botanist; and
 - (ii) any further analysis or examination that might be required under section 27A.

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

27A. Analysis at request of defendant

- (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.

Misuse of Drugs Act 1981

Part V Location, seizure, detention and disposal of things used in commission of offences

s. 27B

(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.]

27B. Confidentiality

(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.]

28. Disposal of things other than prohibited drugs and prohibited plants

- (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), the justice of the peace may grant to the police officer or approved person a holding order authorising 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 approved 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,

Misuse of Drugs Act 1981

Part V Location, seizure, detention and disposal of things used in commission of offences

s. 29

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; No. 24 of 2000 s. 27.]

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

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.]

30. Approved persons

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

31. Undercover officers

- (1) The Commissioner may authorise in writing a person to act as an undercover officer and may in writing revoke that authority.
- (2) An authorised 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 authorised 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 authorised 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 authorised 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 authorised person does not deliver the prohibited drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition, that authorised person commits a simple offence under subsection (4).

s. 32

- (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 authorised 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 authorised persons as the Minister requires.
- (8) In this section —
 - “**authorised person**” means person authorised 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.]

32. No limitation

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

32A. Drug trafficking

- (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 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 the Director of Public Prosecutions or a police prosecutor 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 —
- “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; amended by No. 69 of 2000 s. 5(2) and (3).]

s. 33

33. Attempts, conspiracies, incitements and accessories after the fact

- (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.
- (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.

34. Penalties

- (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.]

35. Criminal liability of company officers

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.*]

37. Proof of exceptions

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.

38. Certificate of approved analyst or approved botanist

- (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.]

38A. Defendant may obtain a copy of certificate

- (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.]

38B. Defendant may object to use of certificate

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

s. 38C

- (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.]

38C. Order for costs of approved analyst or approved botanist

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.]

38D. Evidence of contents of standard

- (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.]

39. Delegation by Commissioner

- (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.]

40. Civil liability of persons acting under this Act

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.

41. Regulations

- (1) The Governor may make regulations prescribing all matters that are required or permitted by this Act to be prescribed, or are

s. 41

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.]

42. Amendment of certain schedules

- (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.

s. 42

- (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% of morphine, the percentage of morphine being for the purpose of this item calculated as in respect of anhydrous morphine; or (b) 0.1% of cocaine or ecgonine.
4.	Any derivative of cocaine.
5.	Cannabis or cannabis resin or any other cannabis derivative.

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

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

Misuse of Drugs Act 1981

Schedule III

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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
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% 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% 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

Schedule III

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
53.	ETHYLMETHYLTHIAMBUTENE	30.0
54.	ETHYLMORPHINE (and substances containing more than 2.5% 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
82A.	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	4.0
82B.	3, 4-METHYLENEDIOXY-N, ALPHA-DIMETHYLPHENYLETHYLAMINE (MDMA)	4.0
83.	METHYLPHENIDATE	6.0

Misuse of Drugs Act 1981

Schedule III

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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

Schedule III

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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
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 Nov 1990 p. 5937; 29 Nov 1991 p. 6041.]*

Schedule IV

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.	Cannabis	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.	BENZYL MORPHINE	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

Misuse of Drugs Act 1981

Schedule V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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
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% 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% of the dose of diphenoxylate)	2.0
51.	DIPIPANONE	10.0
52.	DROTEBANOL	0.1
53.	ECGONINE, ITS ESTERS AND DERIVATIVES which are convertible to ECGONINE AND COCAINE	10.0

Schedule V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
53A.	EPHEDRINE	2.0
54.	ETHYLMETHYLTHIAMBUTENE	10.0
55.	ETHYLMORPHINE (and substances containing more than 2.5% 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.	HYDROXPETHIDINE	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
84.	METHYLDIHYDROMORPHINE	2.0
84A.	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	2.0

Misuse of Drugs Act 1981

Schedule V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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.	MYROPHINE	20.0
97.	NEALBARBITONE	10.0
98.	NICOCODINE (except when included in Schedule 2 or 4 in <i>Appendix A to the Poisons Act 1964</i>)	2.0
99.	NICODICODINE (except when included in Schedule 2 or 4 in <i>Appendix A to the 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 <i>Appendix A to the 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

Schedule V

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
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
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

Misuse of Drugs Act 1981

Schedule V

[Schedule V amended by No. 48 of 1995 s. 43; amended in Gazette 30 Nov 1990 p. 5937; 29 Nov 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.	Cannabis	25

Schedule VII

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 Nov 1991 p. 6041; 22 Mar 1994 p. 1245.]

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.]



Notes

¹ This reprint is a compilation as at 11 January 2002 of the *Misuse of Drugs Act 1981* and includes the amendments made by the other written laws referred to in the following table. The table also contains information about any previous reprints.

Compilation table

Short title	Number and year	Assent	Commencement
<i>Misuse of Drugs Act 1981</i>	66 of 1981	23 Oct 1981	1 Sep 1982 (see s. 2 and <i>Gazette</i> 20 Aug 1982 p. 3250)
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1990</i> (see <i>Gazette</i> 30 Nov 1990 p. 5967)			30 Nov 1990
<i>Misuse of Drugs Amendment Act 1990</i>	50 of 1990	4 Dec 1990	4 Dec 1990 (see s. 2)
<i>Conservation and Land Management Amendment Act 1991</i> s. 57	20 of 1991	25 Jun 1991	23 Aug 1991 (see s. 2 and <i>Gazette</i> 23 Aug 1991 p. 4353)
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1991</i> (see <i>Gazette</i> 29 Nov 1991 p. 6040-1)			29 Nov 1991
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1994</i> (see <i>Gazette</i> 22 Mar 1994 p. 1245)			22 Mar 1994
<i>Poisons Amendment Act 1994</i> s. 11	12 of 1994	15 Apr 1994	27 May 1994 (see s. 2 and <i>Gazette</i> 7 May 1994 p. 2205)
<i>Acts Amendment (Public Sector Management) Act 1994</i> s. 3(2)	32 of 1994	29 Jun 1994	1 Oct 1994 (see s. 2 and <i>Gazette</i> 30 Sep 1994 p. 4948)
<i>Statutes (Repeals and Minor Amendments) Act 1994</i> s. 4	73 of 1994	9 Dec 1994	9 Dec 1994 (see s. 2)
<i>Acts Amendment (Fines, Penalties and Infringement Notices) Act 1994</i> Pt. 15	92 of 1994	23 Dec 1994	1 Jan 1995 (see s. 2)

Short title	Number and year	Assent	Commencement
<i>Misuse of Drugs Amendment Act 1995</i> ²	44 of 1995	18 Oct 1995	16 Aug 1996 (see s. 2 and <i>Gazette</i> 16 Aug 1996 p. 4007)
<i>Poisons Amendment Act 1995</i> s. 43	48 of 1995	6 Nov 1995	20 Mar 1996 (see s. 2 and <i>Gazette</i> 19 Mar 1996 p. 1203)
Reprint of the <i>Misuse of Drugs Act 1981</i> as at 11 Nov 1996 (includes amendments listed above)			
<i>Misuse of Drugs Amendment Act 1998</i>	3 of 1998	26 Mar 1998	26 Mar 1998 (see s. 2)
<i>Statutes (Repeals and Minor Amendments) Act 2000</i> s. 27	24 of 2000	4 Jul 2000	4 Jul 2000 (see s. 2)
<i>Criminal Property Confiscation (Consequential Provisions) Act 2000</i> s. 5 ³	69 of 2000	6 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)

² The *Misuse of Drugs Amendment Act 1995* s. 16 reads as follows:

“

16. Transitional

- (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 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.

”

³ The *Criminal Property Confiscation (Consequential Provisions) Act 2000* s. 3 and 6-11 read as follows:

“

3. Interpretation

In this Act, unless the contrary intention appears —

“**appeal period**”, in relation to a forfeiture order, has the same meaning as in the repealed Act;

“**embargo notice**” has the same meaning as in the repealed Part;

“**forfeiture order**” has the same meaning as in the repealed Act;

“**holding order**” has the same meaning as in the repealed Part;

“**interstate forfeiture order**” has the same meaning as in the repealed Act;

“**interstate restraining order**” has the same meaning as in the repealed Act;

“**repealed Act**” means the *Crimes (Confiscation of Profits) Act 1988* as in force before its repeal by section 4;

“**repealed Part**” means Part IV of the *Misuse of Drugs Act 1981* as in force before its repeal by section 5.

6. Applications to court under repealed law — savings

If an application made to a court under the repealed Act or the repealed Part was not withdrawn, discontinued or otherwise finally determined before the commencement of this Act, the application may be dealt with on and after that commencement as if the repealed Act or the repealed Part had not been repealed.

7. Court orders under repealed law — savings

- (1) If an order made by a court under the repealed Act or the repealed Part was in force immediately before the commencement of this Act, the order has effect on and after that commencement, and may be executed, varied, discharged, set aside or appealed against, as if the repealed Act or repealed Part had not been repealed.
- (2) If an interstate forfeiture order or interstate restraining order was registered under the repealed Act, and its registration was not cancelled before the commencement of this Act, Part 10 of the *Criminal Property Confiscation Act 2000* applies, on and after that commencement, to the order and to any charge created under the repealed Act on the property to which the order relates, as if the order were an interstate confiscation order or interstate freezing order registered under section 118 of the *Criminal Property*

Confiscation Act 2000 and as if the charge had been created under section 123 of the *Criminal Property Confiscation Act 2000*.

8. Holding orders and embargo notices — savings

- (1) If a holding order or an embargo notice was in force under the repealed Part immediately before the commencement of this Act, the holding order or embargo notice has effect on and after that commencement, and the repealed Part continues to apply to the holding order or embargo notice, as if the repealed Part had not been repealed.
- (2) Without limiting subsection (1), if, immediately before the commencement of this Act, a person was entitled under section 19 of the *Misuse of Drugs Act 1981* to apply for an order in respect of the property to which a holding order or embargo notice relates, the person may apply for the order after that commencement, and the application may be dealt with, as if the repealed Part had not been repealed.
- (3) However, subsection (2) does not entitle the person to apply for the order more than 21 days after the date of the holding order or embargo notice.

9. Warrants issued under repealed law — savings

If, immediately before the commencement of this Act, a warrant issued under the repealed Act or the repealed Part was capable of execution to any extent, then the warrant may be executed on and after that commencement, to that extent, as if the repealed Act or the repealed Part had not been repealed.

10. Property subject to a forfeiture order

- (1) This section applies to property for which a forfeiture order was made under the repealed Act if —
 - (a) the appeal period for the forfeiture order had not ended before the commencement of this Act; or
 - (b) if the appeal period has ended (whether before or after the commencement of this Act), but the forfeiture order has not been discharged, and the property was not disposed of or otherwise dealt with under section 11(5) of the repealed Act before that commencement.
- (2) Sections 11(3), 11(4), 11(6), 12, 13 and 14 of the repealed Act continue to apply in relation to the forfeiture order and the property as if the repealed Act had not been repealed.

- (3) If the appeal period for the forfeiture order has not ended, sections 89, 90, 92 and 94 of the *Criminal Property Confiscation Act 2000* apply to the property as if it were subject to a freezing order under that Act.
- (4) If the appeal period for the forfeiture order has ended, and the order has not been discharged —
 - (a) sections 89, 90, 92 and 94 of the *Criminal Property Confiscation Act 2000* apply to the property as if it had been confiscated under that Act; and
 - (b) if the property has vested in the Crown, whether under clause 11(3)(b) or under the repealed Act, the property is to be disposed of as if it had been confiscated under the *Criminal Property Confiscation Act 2000*.
- (5) The following are to be paid into the Confiscation Proceeds Account established under section 130 of the *Criminal Property Confiscation Act 2000* —
 - (a) subject to section 11(4) of the repealed Act as continued by subsection (2), any money vested in the Crown under section 11 of the repealed Act that has not been disposed of or otherwise dealt with under the repealed Act;
 - (b) any proceeds obtained by the Crown after the commencement of this Act from the disposal of property under the repealed Act;
 - (c) any proceeds obtained from the disposal of property under subsection (4)(b).
- (6) Nothing in this section limits the generality of section 7(1) in its application to a forfeiture order.

11. Real property subject to forfeiture order

- (1) If property to which section 10 applies is land registered under the *Transfer of Land Act 1893*, then, without limiting the application of section 10 to the property, this section also applies to the property.
- (2) If the property has not vested in the Crown under section 11 of the repealed Act, the Director of Public Prosecutions may lodge with the Registrar of Titles a memorial of the forfeiture order in a form approved by the Registrar.
- (3) When a memorial is lodged under subsection (2) —
 - (a) the Registrar of Titles is to register the memorial;
 - (b) on the registration of the memorial, the property vests in the State of Western Australia free from all interests,

- whether registered or not, including trusts, mortgages, charges, obligations and estates (except rights-of-way, easements and restrictive covenants);
- (c) any caveat in force in relation to the property is taken to have been withdrawn; and
 - (d) the title in the property passes to the State.
- (4) When a memorial is lodged under subsection (2) then, in addition to registering the memorial, the Registrar of Titles is to —
- (a) register the State of Western Australia as the proprietor of the property; and
 - (b) endorse the certificate of title of the property to the effect that, when the memorial was registered, the property ceased to be subject to or affected by any interests recorded on the certificate of title, including caveats, mortgages, charges, obligations and estates (except rights-of-way, easements and restrictive covenants) to which it was subject immediately before the registration of the memorial, or by which it was affected immediately before the registration of the memorial.
- (5) The Registrar of Titles may dispense with the production of any duplicate certificate of title or any duplicate instrument for the purposes of entering on the duplicate certificate or duplicate instrument any memorandum that would, but for this subsection, be required to be entered under the *Transfer of Land Act 1893* as a result of registering a memorial under subsection (3) or of doing anything else required or permitted by this section.
- (6) If, under subsection (5), the Registrar of Titles dispenses with the production of a duplicate certificate of title or duplicate instrument —
- (a) the Registrar must endorse the certificate of title to the effect that the memorandum concerned has not been entered on the duplicate certificate of title or the duplicate instrument; and
 - (b) any subsequent dealing in the property has effect as if the memorandum had been entered on the duplicate certificate of title or the duplicate instrument.
- (7) If, under subsection (5), the Registrar of Titles dispenses with the production of a duplicate certificate of title, then, on the application of the registered proprietor, the Registrar may cancel the certificate of title for which the duplicate was issued, and create and register a new certificate of title for the property.

- (8) The Registrar of Titles is not required to obtain the consent or direction of the Commissioner of Titles to perform a function conferred on the Registrar under this section.
- (9) To the extent that a provision of this section relating to any property is inconsistent with the *Transfer of Land Act 1983*, the provision prevails, but this section does not otherwise affect the operation of that Act in relation to the property.

”

Defined Terms

[This is a list of terms defined and the provisions where they are defined.

The list is not part of the law.]

Defined Term	Provision(s)
analyst.....	3(1)
approved analyst	3(1)
approved botanist	3(1)
approved person.....	21
authorised person	26(3), 31(8)
authorised prescription.....	3(1)
botanist.....	3(1)
cannabis	3(1)
cannabis resin.....	3(1)
Commissioner	3(1)
Commissioner of Health	38D(1)
confidential information.....	27B(1)
dangerous substance.....	3(1)
dentist.....	3(1)
drug of addiction	3(1)
external serious drug offence	32A(3)
heroin	3(1)
holding order.....	21
indictable offence	3(1)
medical practitioner	3(1)
offence	3(1)
opium	3(1)
owner	5(2)
police officer	3(1)
prohibited drug.....	3(1)
prohibited plant	3(1)
sample	3(1)
search warrant	21
serious drug offence.....	32A(3)
simple offence	3(1)
specified	27A(7)
specified drug.....	3(1)
sufficient samples	27(6)
summary court	3(1)
the claimant.....	27(1)(b)
the <i>Poisons Act 1964</i>	3(1)
the principal offence	33(1), 33(2)
the regulations.....	3(1)
the claimant.....	28(2)

Misuse of Drugs Act 1981

Defined Terms

to cultivate	3(1)
to possess	3(1)
to supply.....	3(1)
undercover officer	26(3), 31(8)
vehicle.....	21
veterinary surgeon.....	3(1)