



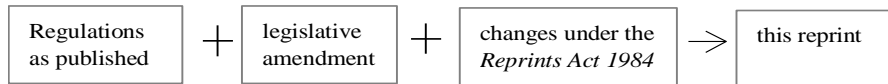
Western Australia

Misuse of Drugs Regulations 1982

Reprinted as at 19 October 2001

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 regulations 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. 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 regulations 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 regulation that was inserted, or has been amended, since the regulations being reprinted were made, editorial notes at the foot of the regulation give some history of how the regulation came to be as it is. If the regulation replaced an earlier regulation, no history of the earlier regulation is given (the full history of the regulations 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 - removed (because it was repealed or deleted from the law); or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 Regulations 1982

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Western Australia

Reprinted under the
Reprints Act 1984 as
at 19 October 2001

Misuse of Drugs Act 1981

Misuse of Drugs Regulations 1982

1. Citation

These regulations may be cited as the *Misuse of Drugs Regulations 1982*¹.

2. Commencement

These regulations shall come into operation on the day on which the *Misuse of Drugs Act 1981* (in these regulations called the Act) comes into operation¹.

3. Interpretation

In these regulations —

“**Form**” means appropriate Form set out in Schedule 1.

[Regulation 3 amended in Gazette 2 Jul 1996 p. 3197.]

3A. Prescribed universities

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

[Regulation 3A inserted in Gazette 2 Jul 1996 p. 3197.]

[4, 5. *Repealed in Gazette 19 Dec 2000 p. 7291.*]

6. Information on oath and search warrants under section 24(1)

For the purposes of section 24(1) of the Act —

- (a) information on oath shall be given —
 - (i) orally; or
 - (ii) in writing in the form of Form M.D. 7;and
- (b) a search warrant shall be granted in the form of Form M.D. 8.

7. Destruction of prohibited plants and prohibited drugs

- (1) For the purposes of section 27, as read with section 41, of the Act, a prohibited drug, prohibited plant or dangerous substance which is required to be destroyed shall be destroyed —
 - (a) by fire or water or by such other means as will ensure the complete destruction of that prohibited drug, prohibited plant or dangerous substance; and
 - (b) in the presence of 3 witnesses —
 - (i) one of whom shall be a police officer who is a commissioned officer appointed under section 6 of the *Police Act 1892*;
 - (ii) one of whom shall be a justice of the peace or a clerk of petty sessions, other than a clerk of petty sessions who is a police officer; and
 - (iii) one of whom is either a police officer referred to in subparagraph (i) or a justice of the peace or a clerk of petty sessions referred to in subparagraph (ii).
- (2) Each witness referred to in subregulation (1)(b) shall certify in writing that he has witnessed the complete destruction of the

prohibited drug, prohibited plant or dangerous substance concerned and shall sign that certificate.

[Regulation 7 amended in Gazette 9 Aug 1991 p. 4231; 2 Jul 1996 p. 3197; 29 Jan 1999 p. 273.]

7A. Directions by Commissioner of Police for destruction of seized prohibited drugs, etc.

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

[Regulation 7A inserted in Gazette 2 Jul 1996 p. 3197.]

7B. Analysis or examination at request of defendant

- (1) For the purposes of section 27A(2) of the Act —
 - (a) a person who is the police officer for the time being in charge of the Drug Squad is a prescribed person;
 - (b) the prescribed period is 28 days; and
 - (c) an application shall be accompanied by a fee of \$50.
- (2) For the purposes of section 27A(3) of the Act, an application shall be in the form of Form M.D. 8B.
- (3) When an application is made under section 27A of the Act, the Commissioner or prescribed person receiving the application shall as soon as practicable cause sufficient samples of the thing to which the application relates to be conveyed in a numbered and sealed drug movement bag —
 - (a) in the case of a prohibited drug or dangerous substance, to an approved analyst at the Chemistry Centre (W.A.); or
 - (b) in the case of a prohibited plant, to an approved botanist at the Western Australian Herbarium,together with an unused drug movement bag.
- (4) The investigating officer in respect of the samples conveyed to the approved analyst or approved botanist under

r. 7B

subregulation (3), or a police officer authorised by that investigating officer, shall forthwith on that conveyance arrange with —

- (a) the chosen analyst and the approved analyst for the chosen analyst to attend at the Chemistry Centre (W.A.) for the purpose of analysing; or
- (b) the chosen botanist and the approved botanist for the chosen botanist to attend at the Western Australian Herbarium for the purpose of examining,

those samples.

- (5) The approved analyst or approved botanist to whom a drug movement bag has been conveyed under subregulation (3) shall, in the presence of the chosen analyst or chosen botanist —
 - (a) open the drug movement bag; and
 - (b) give the samples to the chosen analyst or chosen botanist, who shall forthwith proceed to analyse or examine them.
- (6) When the chosen analyst or chosen botanist has completed his or her analysis or examination, he or she shall return any residue of the samples to the approved analyst or approved botanist, who shall —
 - (a) place that residue, together with the opened drug movement bag, in the unused drug movement bag;
 - (b) seal the unused drug movement bag; and
 - (c) give the sealed drug movement bag to, or to a police officer authorised by, the investigating officer.
- (7) The police officer to whom a sealed drug movement bag is given under subregulation (6) shall —
 - (a) convey it to a police officer at the Drug Received Room at Police Headquarters in Perth; and
 - (b) obtain a receipt for it.

(8) In this regulation —

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

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

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

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

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

[Regulation 7B inserted in Gazette 2 Jul 1996 p. 3197-9.]

8. Part V holding orders and applications therefor

For the purposes of section 28 of the Act —

- (a) the application of a police officer or approved person for a holding order shall be in the form of Form M.D. 9;
- (b) a holding order shall be in the form of Form M.D. 10.

9. Destruction of things other than prohibited drugs or prohibited plants

(1) For the purposes of section 28, as read with section 41, of the Act, a thing (other than a prohibited drug, prohibited plant or dangerous substance) which is required to be destroyed shall be destroyed in the presence of 2 witnesses —

- (a) one of whom shall be a police officer; and
- (b) one of whom shall be a justice of the peace or a clerk of petty sessions, other than a clerk of petty sessions who is a police officer.

r. 10

- (2) Each witness referred to in subregulation (1) shall certify in writing that he has witnessed the destruction of the thing concerned and shall sign that certificate.

[Regulation 9 amended in Gazette 2 Jul 1996 p. 3199.]

10. Authorities and certificates under section 31

- (1) An authority referred to in section 31(1) shall be in the form of Form M.D. 11.
- (2) A certificate referred to in section 31(6) shall be in the form of Form M.D. 12.

11. Certificates of approved analysts or approved botanists

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

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

[Regulation 11 inserted in Gazette 2 Jul 1996 p. 3199.]

11A. Applications by defendants for copies of certificates

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

[Regulation 11A inserted in Gazette 2 Jul 1996 p. 3199.]

12. Fees

For the purposes of section 41(1)(a) of the Act, there shall be paid —

- (a) to a female person, not being a police officer or medical practitioner, who searches another female person under section 13 or 23, or under a search warrant granted under section 14 or 24, of the Act a fee of \$1.50 per search; and

- (b) to a medical practitioner who attends for the purpose of searching a person under section 13 or 23, or under a search warrant granted under section 14 or 24, of the Act a fee of —
 - (i) \$35.50 per attendance on a public holiday, or between 5.00 p.m. on a Friday and 9.00 a.m. on the following Monday, or during the period between 5.00 p.m. on any day and 9.00 a.m. on the following day; and
 - (ii) \$28.00 per attendance at any time other than a time referred to in subparagraph (i).

Schedule 1

Schedule 1

[Heading amended in Gazette 2 Jul 1996 p. 3199.]

(Regulation 3)

FORMS

[Forms M.D.1 to M.D. 6 deleted]

Form M.D. 7

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
INFORMATION ON OATH FOR SEARCH WARRANT

I, [insert name of informant], of
being [insert occupation], do swear by Almighty God*/solemnly, sincerely and
truly declare* that I suspect that the following thing [insert particulars of thing]
is a thing referred to in section 23(1)(a), (b) or (c) of the *Misuse of Drugs*
Act 1981 and that it may be in or on the following vehicle* [insert particulars of
vehicle]/in or on the following premises or other place* [insert particulars of
premises or other place] on the following grounds —

[insert grounds for suspicion]

Sworn*/affirmed* before me [insert name of justice of the peace], being a
justice of the peace, on [insert date of swearing or affirmation] at [insert place
of swearing or affirmation].

.....
Signature of justice of the peace.

* Please delete inapplicable alternative.

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
SEARCH WARRANT

I, [insert name of justice of the peace granting search warrant], of
, being a justice of the peace and being satisfied by information on
oath furnished by [insert name of informant] that there are reasonable grounds
to suspect that the following thing referred to in section 23(1)(a), (b) or (c) of
the *Misuse of Drugs Act 1981* [insert particulars of thing] may be in or on the
following vehicle* [insert particulars of vehicle]/in or on the following premises
or other place* [insert particulars of premises or other place], hereby grant to
the following police officer [insert name and designation of police officer] this
search warrant authorising a police officer at any time or times within 30 days
from the date of this search warrant to enter that vehicle, or those premises or
that other place, and, subject to section 24 of that Act, 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 acting
under this search warrant considers necessary.

Granted on
at

.....
Signature of justice of the peace
granting search warrant.

* Please delete inapplicable alternative.

Schedule 1

Form M.D. 8A

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
DESTRUCTION OF PROHIBITED DRUGS, PROHIBITED PLANTS OR
DANGEROUS SUBSTANCES

Laboratory reference No.

Police reference No.

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

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

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

Directed on

at

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

* Please delete inapplicable alternative.

Form M.D. 8B

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981

MISUSE OF DRUGS REGULATIONS 1982

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

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

Analysis*/examination* applied for on at

.....
Signature of applicant

* Please delete inapplicable alternative.

Schedule 1

Form M.D. 9

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
APPLICATION OF POLICE OFFICER OR APPROVED PERSON
FOR HOLDING ORDER

I, [insert name of applicant police officer or approved person], being a police officer*/approved person* and suspecting that the following thing (not being a prohibited drug, prohibited plant or dangerous substance) [insert particulars of thing] seized or acquired and detained under section 26 of the *Misuse of Drugs Act 1981* is a thing referred to in section 23(1)(a), (b) or (c) of that Act on the following grounds [insert grounds for suspicion], hereby apply for a holding order authorising the continued detention of that thing for the period specified in section 28(1) of that Act.

Holding order applied for
on at
.....

.....
Signature and designation, if any, of applicant
police officer*/approved person*.

* Please delete inapplicable alternative.

Form M.D. 10

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
HOLDING ORDER

I, [insert name of justice of the peace granting holding order] of _____, being a justice of the peace and being satisfied on the application of the following police officer*/approved person* [insert name and designation, if any, of applicant police officer or approved person] that there are reasonable grounds to suspect that the following thing (not being a prohibited drug, prohibited plant or dangerous substance) [insert particulars of thing] seized or acquired and detained under section 26 of the *Misuse of Drugs Act 1981* is a thing referred to in section 23(1)(a), (b) or (c) of that Act, hereby grant to that police officer*/approved person* a holding order authorising the continued detention of that thing for the period specified in section 28(1) of that Act.

Granted on
at

.....
Signature of justice of the peace
granting holding order.

* Please delete inapplicable alternative.

Schedule 1

Form M.D. 11

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
AUTHORITY TO ACT AS UNDERCOVER OFFICER

I, [insert name of Commissioner of Police or name and rank of delegate], being the Commissioner of Police*/a delegate of the Commissioner of Police*, hereby authorise [insert name and particulars of person authorised] to act as an undercover officer within the meaning of section 31 of the *Misuse of Drugs Act 1981*.

Authorised on
at

WARNING TO AUTHORISED PERSON WHO IS NOT A POLICE OFFICER. If, having acquired a prohibited drug or prohibited plant whilst acting as undercover officer for the purpose of detecting the commission of an offence within the meaning of the *Misuse of Drugs Act 1981*, you do not deliver the prohibited drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition, you commit a simple offence under section 31(4) of that Act.

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

* Please delete inapplicable alternative.

Form M.D. 12

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
CERTIFICATE OF ACTION AS UNDERCOVER OFFICER

I, [insert name of Commissioner of Police or name of and rank of delegate],
being the Commissioner of Police*/a delegate of the Commissioner of Police*,
hereby certify that [insert name and particulars of person authorised] was, at the
following time*/during the following period* [insert particulars of time or
period], an authorised person acting as an undercover officer within the
meaning of section 31 of the *Misuse of Drugs Act 1981*.

Certified on
at

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

* Please delete inapplicable alternative.

Schedule 1

Form M.D. 13

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
CERTIFICATE OF APPROVED ANALYST

Laboratory reference No.

Police reference No.

I,, being an approved analyst
within the meaning of the *Misuse of Drugs Act 1981*, hereby certify that —

- (a) I obtained*/received* for analysis the following
quantity*/mass* of
.....
marked
from*/by*
on;
- (b) I analysed the thing referred to in paragraph (a) of this
certificate by [insert details of method of analysis] with the
following result
.....;
- and
- (c) the following other matters relating to my analysis should be
noted

Certified on at

.....
Signature of approved analyst

.....
Address of approved analyst

* Please delete inapplicable alternative.

Form M.D. 14

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
CERTIFICATE OF APPROVED BOTANIST

Department of Conservation and Land Management reference No.

Police reference No.

I,, being an approved botanist
within the meaning of the *Misuse of Drugs Act 1981*, hereby certify that —

- (a) I obtained*/received* for examination the following
quantity*/mass* of
.....
marked
from*/by*
on;
- (b) I examined the thing referred to in paragraph (a) of this
certificate by [insert details of method of examination] with the
following result
.....;
- and
- (c) the following other matters relating to my examination should
be noted

Certified on at

.....
Signature of approved analyst

.....
Address of approved botanist

* Please delete inapplicable alternative.

Schedule 1

Form M.D. 15

WESTERN AUSTRALIA
MISUSE OF DRUGS ACT 1981
MISUSE OF DRUGS REGULATIONS 1982
APPLICATION FOR COPY OF CERTIFICATE OF APPROVED ANALYST
OR APPROVED BOTANIST

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

Certificate applied for on at

.....
Signature of applicant defendant

[Schedule 1 amended in Gazette 2 Jul 1996 p. 3199-202; 19 Dec 2000 p. 7291-2.]

Schedule 2

(Regulation 3A)

Prescribed universities

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

[Schedule 2 inserted in Gazette 2 Jul 1996 p. 3203.]



Notes

- ¹ This reprint is a compilation as at 19 October 2001 of the *Misuse of Drugs Regulations 1982* and includes the amendments made by the other written laws referred to in the following table.

Compilation table

Citation	Gazettal	Commencement
<i>Misuse of Drugs Regulations 1982</i>	13 Aug 1982 p. 3113-19	1 Sep 1982 (see r. 2 and <i>Gazette</i> 20 Aug 1982 p. 3250)
<i>Misuse of Drugs Amendment Regulations 1991</i>	9 Aug 1991 p. 4231	9 Aug 1991
<i>Misuse of Drugs Amendment Regulations 1996</i>	2 Jul 1996 p. 3196-203	16 Aug 1996 (see r. 2 and <i>Gazette</i> 16 Aug 1996 p. 4007)
<i>Misuse of Drugs Amendment Regulations (No. 2) 1998</i>	29 Jan 1999 p. 273	29 Jan 1999
<i>Misuse of Drugs Amendment Regulations 2000</i>	19 Dec 2000 p. 7291-2	1 Jan 2001 (see r. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)

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)
chosen analyst or botanist	7B(8)
drug movement bag	7B(8)
Form.....	3
investigating officer	7B(8)
prescribed person	7B(8)
sufficient samples	7B(8)