

WESTERN AUSTRALIA

MISUSE OF DRUGS AMENDMENT ACT

No. 50 of 1990

AN ACT to amend the *Misuse of Drugs Act 1981*.

[Assented to 4 December 1990.]

The Parliament of Western Australia enacts as follows:

Short title

1. This Act may be cited as the *Misuse of Drugs Amendment Act 1990*.

Commencement

2. This Act shall come into operation on the day on which it receives the Royal Assent.

Principal Act

3. In this Act the *Misuse of Drugs Act 1981** is referred to as the principal Act.

[*Act No. 66 of 1981.]

Section 32A inserted

4. The principal Act is amended by inserting after section 32 the following section—

Drug trafficking

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

(a) a serious drug offence and has, during the period of 10 years ending on the day, or the first of the days, as the case requires, on which the serious drug offence was committed, been convicted of 2 or more—

(i) serious drug offences;

(ii) external serious drug offences; or

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

or

(b) a serious drug offence in respect of—

(i) a prohibited drug in a quantity which is not less than the quantity specified in Schedule VII in relation to the prohibited drug; or

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

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

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

(3) In this section—

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

“external serious drug offence” means—

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

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

Section 42 amended

5. Section 42 of the principal Act is amended in subsection (1) by deleting “or VI” and substituting the following—

“ , VI, VII or VIII ”.

Schedules VII and VIII inserted

6. The principal Act is amended by inserting after Schedule VI the following Schedules—

“ **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</i> (in grams unless otherwise stated)
1	AMPHETAMINE	28.0
2	CANNABIS	3.0 kg
3	CANNABIS RESIN	100.0
4	COCAINE	28.0
5	DIACETYLMORPHINE	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	5.0

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 ”.

Minor amendments

7. (1) Section 3 of the principal Act is amended in subsection (1) by deleting—

- (a) “appointed under the Health Act 1911” in the definition of “analyst” and substituting the following—

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

- (b) the definitions of “paragraph”, “Part”, “Schedule”, “section”, “subparagraph”, “subsection” and “the District Court”; and
- (c) “stipendiary” in the definition of “summary court”.

(2) The provisions of the principal Act specified in the Table to this subsection are amended by deleting “paragraph (a), (b) or (c) of section 23” and substituting in each case the following—

“ section 23 (1) (a), (b) or (c) ”.

TABLE

Sections 24 (1), 26 (1), 28 (1) and 29 (b).
