

ACTS AMENDMENT (MISUSE OF DRUGS).

No. 57 of 1981.

AN ACT to amend the Child Welfare Act 1947-1979, the District Court of Western Australia Act 1969-1978, the Poisons Act 1964-1978 and the Police Act 1892-1980.

[Assented to 13 October 1981.]

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and the Legislative Assembly of Western Australia, in this present Parliament assembled, and by the authority of the same, as follows:—

PART I—PRELIMINARY.

1. This Act may be cited as the *Acts Amendment (Misuse of Drugs) Act 1981*. Short title.

Commence-
ment.

2. This Act shall come into operation on the date on which the Misuse of Drugs Act 1981 comes into operation.

PART II—CHILD WELFARE ACT 1947-1979.

Citation.
Reprinted
as approved
11 November
1977 and
amended by
Act No. 77
of 1979.

3. (1) In this Part the Child Welfare Act 1947-1979 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Child Welfare Act 1947-1981.

Section 4
amended.

4. Section 4 (1) of the principal Act is amended—

(a) in paragraph (f) of the definition of “child in need of care and protection” by inserting, after “any drug”, the following—

“ or prohibited plant ” ;

(b) by deleting the definition of “drug” and substituting the following definition—

“ “drug” means prohibited drug as defined by section 3 of the Misuse of Drugs Act 1981; ” ; and

(c) by inserting, after the definition of “police officer”, the following definition—

“ “prohibited plant” means prohibited plant as defined by section 3 of the Misuse of Drugs Act 1981; ” .

Section 34C
amended.

5. Section 34C of the principal Act is amended by deleting “Police Act, 1892” and substituting the following—

“ Misuse of Drugs Act 1981 ” .

Section 126
amended.

6. Section 126 (2) (a) of the principal Act is amended by inserting, after “Police Act, 1892”, the following—

“ the Misuse of Drugs Act 1981 ” .

7. The Fourth Schedule to the principal Act is amended by deleting Part II and substituting the following Part—

Fourth
Schedule
amended

“ PART II—OFFENCES IN WHICH THE POSSESSION OF DRUGS OR PROHIBITED PLANTS FOR THE PURPOSE OF SALE IS AN ELEMENT.

<i>Item</i>	<i>Section of Misuse of Drugs Act 1981</i>	<i>Offence</i>
1.	6 (1) (a)	Having in possession drug with intent to sell or supply it to another.
2.	6 (1) (c)	Selling or supplying, or offering to sell or supply, drug to another.
3.	7 (1) (a)	Having in possession or cultivating prohibited plant with intent to sell or supply it, or drug obtainable therefrom, to another.
4.	7 (1) (b)	Selling or supplying, or offering to sell or supply, prohibited plant to another.
5.	33 (1)	Attempting, or inciting another, to commit, or becoming an accessory after the fact to, an offence referred to in item 1, 2, 3 or 4 of this Schedule.
6.	33 (2)	Conspiring with another to commit an offence referred to in item 1, 2, 3 or 4 of this Schedule. ” .

PART III—DISTRICT COURT OF WESTERN AUSTRALIA ACT 1969-1978.

8. (1) In this Part the District Court of Western Australia Act 1969-1978 is referred to as the principal Act.

Citation.
Reprinted as
approved 5
September
1980.

(2) The principal Act as amended by this Act may be cited as the District Court of Western Australia Act 1969-1981.

9. Section 11 of the principal Act is amended in subsection (2) by deleting “the Schedule to this Act” and substituting the following—

Section 11
amended.

“ Schedule I to this Act ” .

Section 42
amended.

10. Section 42 of the principal Act is amended by repealing subsection (2) and substituting the following subsection—

“ (2) The Court has no jurisdiction to try an accused person charged with an indictable offence—

(a) for which the penalty is death; or

(b) in respect of which offence the maximum term of imprisonment that can be imposed exceeds fourteen years, unless that offence is an indictable offence specified in Schedule II to this Act and is alleged to have been committed in such circumstances, if any, or subject to such conditions or exceptions, if any, as are set out in that Schedule in relation to that indictable offence. ” .

Schedule
amended.

11. The Schedule to the principal Act is amended in the heading thereof by deleting “SCHEDULE” and substituting the following—

“ SCHEDULE I. (Section 11) ” .

Schedule II
inserted.

12. After Schedule I to the principal Act, the following Schedule is inserted—

“ SCHEDULE II. (Section 42)

ADDITIONAL INDICTABLE OFFENCES TRIABLE
BY DISTRICT COURT.

<i>Item</i>	<i>Indictable offence</i>
1.	Offence under s. 6 (1) of Misuse of Drugs Act 1981.
2.	Offence under s. 7 (1) of Misuse of Drugs Act 1981.
3.	Conspiring with another to commit an offence under s. 6 (1) or 7 (1) of Misuse of Drugs Act 1981. ” .

PART IV—POISONS ACT 1964-1978.

13. (1) In this Part the Poisons Act 1964-1978 is referred to as the principal Act.

Citation.
Reprinted as
approved 14
December
1971 and
amended
by Act No.
43 of 1978.

(2) The principal Act as amended by this Act may be cited as the Poisons Act 1964-1981.

14. Section 6 of the principal Act is amended—

Section 6
amended.

(a) in subsection (1) by deleting “Parts VIA and VIB of the Police Act, 1892,” and substituting the following—

“ the Misuse of Drugs Act 1981, ” ;
and

(b) in subsection (2) by deleting “Part VIA or Part VIB of the Police Act, 1892,” and substituting the following—

“ the Misuse of Drugs Act 1981 ” .

15. Section 22A of the principal Act is amended in subsection (2) by deleting “Part VIA of the Police Act, 1892.” and substituting the following—

Section 22A
amended.

“ the Misuse of Drugs Act 1981. ” .

16. Section 41 of the principal Act is amended in subsection (1) by deleting “Notwithstanding any provision of Part VIB of the Police Act, 1892, it” and substituting the following—

Section 41
amended.

“ Notwithstanding anything in the Misuse of Drugs Act 1981, it ” .

17. Section 41A of the principal Act is amended by repealing subsection (3).

Section 41A
amended.

18. Section 42 of the principal Act is repealed.

Section 42
repealed.

19. Section 43 of the principal Act is repealed.

Section 43
repealed.

Section 55 amended.

20. Section 55 of the principal Act is amended in subsection (5) by deleting "Parts VIA and VIB of the Police Act, 1892." and substituting the following—

" the Misuse of Drugs Act 1981. " .

Section 64 amended.

21. Section 64 of the principal Act is amended in subsection (3) by deleting "section 94C of the Police Act, 1892," wherever it occurs, and in each case substituting the following—

" the Misuse of Drugs Act 1981, " .

PART V—POLICE ACT 1892-1980.

Citation. Reprinted as approved 11 July 1978 and amended by Acts Nos. 17, 29 and 53 of 1979 and 71 of 1980.

22. (1) In this Part the Police Act 1892-1980 is referred to as the principal Act.

(2) The principal Act as amended by this Act may be cited as the Police Act 1892-1981.

Section 3 amended.

23. Section 3 of the principal Act is amended by deleting "PART VIA.—OPIUM AND DANGEROUS DRUGS, ss. 94A-94E." .

Part VIA repealed.

24. (1) Part VIA of the principal Act is repealed.

(2) Notwithstanding anything in subsection (1) of this section or in section 11 of The Criminal Code, the provisions of Part VIA of the principal Act and of any regulations made under or for the purposes of that Part shall continue to have effect in relation to an offence referred to in that Part which was committed before this Act came into operation as if this Act had not come into operation.
