



Western Australia

Misuse of Drugs Act 1981

**Incorporating the amendments proposed
by the *Misuse of Drugs Amendment
(Methylamphetamine Offences) Bill 2017 Pt. 2*
(Bill No. 6-1)**

Note:

Pt. II, IIIA IIIB, III, IV, 4A, V and VII and Sch. I-VI, VIII and IX
have been omitted as they are not amended by BillNo. 6-1.

Misuse of Drugs Act 1981

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Western Australia

Misuse of Drugs Act 1981

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

Part I — Preliminary

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. Terms used

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

adult means a person who has reached 18 years of age;

analyst means analyst registered under section 203 of the *Health (Miscellaneous Provisions) Act 1911*;

approved analyst means —

- (a) a person declared under section 3A to be an approved analyst; or
- (b) a person belonging to a class prescribed for the purposes of this definition;

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

authorised prescription means a prescription issued by a prescriber as those terms are defined in the *Medicines and Poisons Act 2014* section 7(1);

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;

category 1 item has the meaning given in section 12;

category 2 item has the meaning given in section 12;

child means a person who is under 18 years of age;

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;

drug of addiction means —

- (a) a Schedule 8 poison as defined in the *Medicines and Poisons Act 2014* section 3; or
- (b) a Schedule 9 poison as defined in the *Medicines and Poisons Act 2014* section 3;

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;

industrial hemp has the meaning given to that term in section 3(1) of the *Industrial Hemp Act 2004*;

industrial hemp seed has the meaning given to that term in section 3(1) of the *Industrial Hemp Act 2004*;

medical practitioner means a person registered under the *Health Practitioner Regulation National Law (Western Australia)* in the medical profession;

[methylamphetamine](#) means [the prohibited drug referred to in Schedule VII item 8](#);

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

processed industrial hemp means any product made from industrial hemp or industrial hemp seed that —

- (a) does not contain more than 0.35% of tetrahydrocannabinol; and
- (b) does not contain viable whole cannabis seed; and
- (c) is not manufactured in a form to be inhaled;

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. 3

specified drug means a substance that is prescribed to be a specified drug by regulations made under section 3B;

summary court means court of summary jurisdiction constituted by a magistrate sitting alone;

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;

undercover officer means a participant or a corresponding participant as those terms are defined in the *Criminal Investigation (Covert Powers) Act 2012* section 5;

undercover operation means an authorised operation or corresponding authorised operation as those terms are defined in the *Criminal Investigation (Covert Powers) Act 2012* section 5.

vehicle includes aircraft, hovercraft, vessel and any other means of transportation;

- (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 ml of the substance, if a liquid, is contained in every 100 ml 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; No. 9 of 2003 s. 28; No. 1 of 2004 s. 50; No. 4 of 2004 s. 58; No. 59 of 2004 s. 141; No. 62 of 2004 s. 4; No. 50 of 2006 Sch. 3 cl. 15; No. 22 of 2008 Sch. 3 cl. 37; No. 42 of 2009 s. 21; No. 35 of 2010 s. 118; No. 45 of 2010 s. 5; No. 56 of 2011 s. 4; No. 55 of 2012 s. 118; No. 13 of 2014 s. 166; No. 19 of 2016 s. 101; No. 47 of 2016 s. 4; [Misuse of Drugs Amendment \(Methylamphetamine Offences\) Bill 2017 cl. 4.](#)]

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.]

3B. Specified drugs

- (1) The Governor may, on the recommendation of the Minister and the Minister responsible for administering the *Medicines and Poisons Act 2014*, make regulations prescribing a substance to be a specified drug for the purposes of this Act.
- (2) A recommendation that a substance be prescribed to be a specified drug may only be made if the relevant Minister is satisfied that there is high propensity for the substance to be misused, abused, used illicitly or diverted for the manufacture of a substance with a high propensity for misuse, abuse or illicit use.

[Section 3B inserted by No. 13 of 2014 s. 167.]

4. Drugs and plants to which Act applies

- (1) Subject to subsection (4), the drugs to which this Act applies are —
 - (a) drugs of addiction; and
 - (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) plants from which a drug of addiction may be obtained, derived or manufactured; and
 - (b) whether or not they are also plants referred to in paragraph (a), the plants specified in Schedule II.

s. 5A

- (3) This Act does not apply to the non-viable seeds of the opium poppy *Papaver somniferum*.
- (4) This Act does not apply to processed industrial hemp.
[Section 4 amended by No. 1 of 2004 s. 51; No. 13 of 2014 s. 168.]

5A. Authority required for some investigations

This Act is subject to the *Criminal Appeals Act 2004* section 46C.

[Section 5A inserted by No. 9 of 2012 s. 10.]

5B. Authorisation under *Medicines and Poisons Act 2014*

- (1) In this section —
appropriate licence has the meaning given in the *Medicines and Poisons Act 2014* section 12;
appropriate permit has the meaning given in the *Medicines and Poisons Act 2014* section 12;
professional authority has the meaning given in the *Medicines and Poisons Act 2014* section 3.
- (2) For the purposes of this Act the manufacture or preparation of a prohibited drug is authorised under the *Medicines and Poisons Act 2014* if the prohibited drug is manufactured —
 - (a) under an appropriate licence or a professional authority;
and
 - (b) in accordance with regulations made under that Act.
- (3) For the purposes of this Act, the sale or supply of a prohibited drug is authorised under the *Medicines and Poisons Act 2014* if the prohibited drug is supplied —
 - (a) under an appropriate licence, an appropriate permit or a professional authority; and
 - (b) in accordance with regulations made under that Act.
- (4) For the purposes of this Act, a person is authorised under the *Medicines and Poisons Act 2014* to manufacture, prepare, sell or supply a prohibited drug if —
 - (a) the person —
 - (i) holds an appropriate licence or an appropriate permit that authorises the manufacture or supply of the drug; or

- (ii) is authorised by a professional authority to manufacture or supply the drug; or
 - (iii) is an employee or agent of a person referred to in subparagraph (i) or (ii);
 - and
 - (b) the manufacture, preparation, sale or supply is in accordance with the licence, permit or authority.
- (5) For the purposes of this Act, a person is authorised under the *Medicines and Poisons Act 2014* to possess a prohibited drug if—
- (a) the drug is a Schedule 4 or 8 poison as defined in the *Medicines and Poisons Act 2014* section 3 and possession of the drug by the person would not be an offence under the *Medicines and Poisons Act 2014* section 14(4); or
 - (b) the drug is a Schedule 9 poison as defined in the *Medicines and Poisons Act 2014* section 3 and possession of the drug by the person would not be an offence under *Medicines and Poisons Act 2014* section 17.
- (6) For the purposes of this Act a person is authorised under the *Medicines and Poisons Act 2014* to use a prohibited drug if the drug is prescribed for the person by the holder of a professional authority who is authorised under the *Medicines and Poisons Act 2014* to prescribe the drug to the person and the use is in accordance with the instructions of the prescriber.
- (7) For the purposes of this Act, an investigator as defined in the *Medicines and Poisons Act 2014* section 3 is authorised to supply, obtain or possess a prohibited drug if the drug is supplied, obtained or possessed in the course of conducting an investigation under that Act.

[Section 5B inserted by No. 13 of 2014 s. 169.]

Part VI — General

31. Undercover officers

- (1) An undercover officer who is not a police officer commits a simple offence if, after having been warned under subsection (2), the officer acquires a prohibited drug or prohibited plant while acting in the course of an undercover operation and does not deliver the prohibited drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition.
- (2) The Commissioner must warn in writing an undercover officer who is not a police officer that if, having acquired a prohibited drug or prohibited plant whilst acting in the course of an undercover operation, that undercover officer does not deliver the prohibited drug or prohibited plant to a police officer as soon as is reasonably practicable after that acquisition, that undercover officer commits a simple offence under subsection (1).

[Section 31 inserted by No. 55 of 2012 s. 120.]

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; or
 - (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;

or

- (c) a relevant drug offence and, at the time of the commission of the offence, was a member of a declared criminal organisation,

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), or the relevant drug offence referred to in paragraph (c), 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 —

declared criminal organisation has the meaning given in the *Criminal Organisations Control Act 2012* section 3(1);

external serious drug offence means —

- (a) offence against a law of the Commonwealth, of another State, or of a Territory, which offence is prescribed to correspond to a crime under section 6(1), [7\(1\) or 33\(1\)\(a\) or, under section 33\(2\), conspiring to commit a crime under section 6\(1\) or 7\(1\); or ~~7\(1\), 33\(1\)\(a\) or 33\(2\)\(a\); or~~](#)
- (b) offence against —
- (i) the repealed section 233B of the *Customs Act 1901* of the Commonwealth; or
- (ii) a law of the Commonwealth, which offence is prescribed to correspond to an offence against that repealed section;

member, of a declared criminal organisation, has the meaning given in the *Criminal Organisations Control Act 2012* section 3(1);

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relevant drug offence means an offence under any of the following provisions —

- (a) section 5(1)(a)(i);
- (b) section 5(1)(c), where the premises are used for the purpose referred to in section 5(1)(a)(i);
- (c) sections 6(1), 7(1) and 14(1);
- (d) section 33, where the principal offence (as defined in that section) is one of the offences listed in paragraphs (a) to (c);

serious drug offence means a crime under section 6(1), [7\(1\) or 33\(1\)\(a\) or, under section 33\(2\), conspiring to commit a crime under section 6\(1\) or 7\(1\).](#)~~7(1), 33(1)(a) 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); No. 4 of 2004 s. 58; No. 62 of 2004 s. 7; No. 40 of 2006 s. 4; No. 49 of 2012 s. 179; [Misuse of Drugs Amendment \(Methylamphetamine Offences\) Bill 2017 cl. 5.](#)]

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

- (1) A person who attempts to commit an offence [under this Act](#) (the **principal offence**) commits —
 - (a) if the principal offence is a crime, the crime; or
 - (b) if the principal offence is a simple offence, the simple offence,

and is liable on conviction to the same penalty to which a person who commits the principal offence is liable.

- (2) [A person who conspires with another to commit an offence under this Act \(the **principal offence**\) commits —](#)
 - [\(a\) if the principal offence is a crime under section 6\(1\) that does not involve methylamphetamine, the crime, but is liable on conviction to the penalty referred to in section 34\(1\)\(b\); or](#)
 - [\(b\) if the principal offence is a crime under section 7\(1\), the crime, but is liable on conviction to the penalty referred to in section 34\(1\)\(ba\); or](#)
 - [\(c\) if the principal offence is a simple offence or a crime other than a crime referred to in paragraph \(a\) or \(b\), the simple offence or the crime, as the case requires, and is](#)

liable on conviction to the same penalty 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 a crime under section 6(1) or 7(1) the crime, 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 a crime, other than a crime referred to in paragraph (a), the simple offence or that crime, as the case requires, and is liable on conviction to the same penalty to which a person who commits the principal offence is liable.~~
- (3) A person who incites another person to commit, or becomes an accessory after the fact to, an offence under this Act (the *principal offence*) commits —
- (a) if the principal offence is a crime, the crime; 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 to which a person who commits the principal offence is liable; and ~~fine;~~
~~and~~
- (d) to imprisonment for a term not exceeding —
- (i) 14 years, in a case where the person who commits the principal offence is liable to imprisonment for life; and
- (ii) half of the term to which a person who commits the principal offence is liable, in any other case.
- ~~(d) to imprisonment for a term not exceeding half of the term,~~
- ~~to which a person who commits the principal offence is liable.~~

[Section 33 amended by No. 4 of 2004 s. 58; No. 62 of 2004 s. 8; Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017 cl. 6.]

s. 34

34. Penalties

(1A) In this section —

trafficable quantity of methylamphetamine means a quantity of methylamphetamine not less than that specified in Schedule VII item 8.

(1) Subject to subsections (2) and (3), a person who is convicted of —

(a) a crime under section 6(1) that involves a trafficable quantity of methylamphetamine is liable to imprisonment for life; or

(aa) any other crime under section 6(1) is liable to a fine not exceeding \$100 000 or to imprisonment for a term not exceeding 25 years or both; or

(ab) a crime under section 7(1) is liable to a fine not exceeding \$100 000 or to imprisonment for a term not exceeding 25 years or both; or

(b) conspiring with another to commit a crime under section 6(1) that does not involve methylamphetamine is liable to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 20 years or both; or

(ba) conspiring with another to commit a crime under section 7(1) is liable to a fine not exceeding \$75 000 or to imprisonment for a term not exceeding 20 years or both; or

~~(a) a crime 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; or~~

~~(b) conspiring with another to commit a crime 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; or~~

(c) an offence under section 7A(1) is liable —

(i) if convicted on indictment, to a fine not exceeding \$20 000 or to imprisonment for a term not exceeding 5 years or both;

(ii) if convicted by a summary court, to a fine not exceeding \$2 000 or to imprisonment for a term not exceeding 2 years or both;

or

- (d) a simple offence under section 5(1) (other than a simple offence under section 5(1)(e)), 8, 20J, 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), 7A(3) or 31(1) is liable to a fine not exceeding \$2 000 or to imprisonment for a term not exceeding 2 years or both; or
- (f) a simple offence under section 15(1), (2) or (3), 16(1) or (2), 17(1) or (2), or 18(1) or (2) is liable to a fine not exceeding \$5 000 for a first offence and to a fine not exceeding \$15 000 for any subsequent offence under the same provision.
- (2) A person who is convicted of a crime [under section 6\(1\) or 7\(1\)](#)~~referred to in subsection (1)(a)~~ —
- (a) being a crime —
- (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.
- (3) If a court is sentencing a person for an offence [under section 6\(1\) or 7\(1\)](#)~~referred to in subsection (1)(a)~~ that involved selling or supplying, or offering to sell or supply, a prohibited drug or a prohibited plant to a child, and the person was an adult when the offence was committed, then, despite the *Sentencing Act 1995* Part 5 —
- (a) for a first offence the court must use one of only these sentencing options —
- (i) suspended imprisonment imposed under the *Sentencing Act 1995* section 39 and Part 11;
- (ii) conditional suspended imprisonment imposed under section 39 and Part 12 of that Act;
- (iii) a term of imprisonment imposed under section 39 and Part 13 of that Act;

s. 34

and

- (b) for any subsequent offence (whether or not under the same provision) the court —
 - (i) must impose a term of imprisonment of at least 6 months; and
 - (ii) must not suspend the term of imprisonment.

(4) If a court is sentencing a person for —

- (a) an offence under section 6(1)(b); or
- (b) an offence under section 7(1)(a) that involved cultivating a prohibited plant; or
- (c) an offence under section 14(1),

committed in circumstances where the acts constituting the offence endangered the life, health or safety of a child under 16 years of age, and the person was an adult when the offence was committed, then, despite the *Sentencing Act 1995* Part 5 —

- (d) for a first offence the court must use one of only these sentencing options —
 - (i) suspended imprisonment imposed under the *Sentencing Act 1995* section 39 and Part 11;
 - (ii) conditional suspended imprisonment imposed under section 39 and Part 12 of that Act;
 - (iii) a term of imprisonment imposed under section 39 and Part 13 of that Act;

and

- (e) for any subsequent offence (whether or not under the same provision) the court —
 - (i) must impose a term of imprisonment of at least 6 months; and
 - (ii) must not suspend the term of imprisonment.

(5) If a court is sentencing a person for —

- (a) an offence under section 6(1)(b); or
- (b) an offence under section 7(1)(a) that involved cultivating a prohibited plant; or
- (c) an offence under section 14(1),

committed in circumstances where the acts constituting the offence caused bodily harm (as defined in *The Criminal Code* section 1(1) and (4)) to a child under 16 years of age, and the

person was an adult when the offence was committed, then, despite the *Sentencing Act 1995* Part 5, the court —

- (d) must impose a term of imprisonment of at least 12 months; and
 - (e) must not suspend the term of imprisonment.
- (6) The Minister must carry out a review of the operation and effectiveness of the amendments made to this section by the *Misuse of Drugs Amendment Act 2011* section 9 as soon as practicable after the expiry of 3 years from the commencement of that section.
- (7) The Minister is to lay (or cause to be laid) a report of the review under this section before both Houses of Parliament as soon as practicable after the review is completed.

[Section 34 amended by No. 44 of 1995 s. 12; No. 52 of 2003 s. 31; No. 4 of 2004 s. 58; No. 62 of 2004 s. 6; No. 56 of 2011 s. 9; No. 55 of 2012 s. 121; No. 47 of 2016 s. 7; [Misuse of Drugs Amendment \(Methylamphetamine Offences\) Bill 2017 cl. 7.](#)]

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. Deleted 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.

s. 38A

- (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; and
 - (b) how the thing was obtained, or when and from whom the thing was received; and
 - (c) a description, and the quantity or mass, of the thing obtained or received; and
 - (d) that the thing was analysed or examined by the analyst or botanist; and
 - (e) the method of analysis or examination; and
 - (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. Accused may obtain copy of certificate

- (1) If —
- (a) a certificate has been given under section 38(1) in relation to an analysis or examination; and
 - (b) an accused 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 accused.

- (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 accused.

[Section 38A inserted by No. 44 of 1995 s. 13; amended by No. 84 of 2004 s. 82.]

38B. Accused may object to use of certificate

- (1) Section 38(2) does not apply if, not less than 21 days before the proceedings, the accused delivers notice in writing to the Commissioner requiring the approved analyst or approved botanist to attend as a witness in those proceedings.
- (2) An accused shall be afforded a reasonable opportunity to deliver a notice referred to in subsection (1).
- (3) An accused shall not in any proceedings adduce evidence in rebuttal of any facts stated in a certificate unless the accused 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; amended by No. 84 of 2004 s. 82.]

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 —
CEO (Health) has the meaning given to CEO by section 3 of the *Health Legislation Administration Act 1984*.
- (2) In any proceedings under this Act, production of a copy of any code adopted under the *Medicines and Poisons Act 2014* section 132 purporting to be certified by the CEO (Health) to be a true copy of the code as at any date or during any period is, without proof of the signature of the CEO (Health), sufficient evidence of the contents of the code as at that date or during that period.

[Section 38D inserted by No. 48 of 1995 s. 43; amended by No. 28 of 2006 s. 394; No. 13 of 2014 s. 176.]

s. 39

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 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; and

- (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 *Medicines and Poisons Act 2014*, but if and to the extent that inconsistency exists between regulations made under this Act and regulations made under the *Medicines and Poisons Act 2014* 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; No. 13 of 2014 s. 177.]

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; or
 - (b) deleting and substituting all or any of the items therein; or
 - (c) altering any item therein.

s. 42A

- (2) Subject to this section, on the publication in the *Gazette* of an Order in Council made under subsection (1), the Schedule to which that Order in Council relates is amended accordingly and, as so amended, has the same force and effect as if the amendment effected by that Order in Council had been effected by an Act amending this Act.
- (3) The Minister shall cause a copy of every Order in Council made under subsection (1) to be laid on the Table of each House of Parliament within the first 14 sitting days of that House after the publication of that Order in Council in the *Gazette*.
- (4) If a copy of an Order in Council made under subsection (1) is not laid on the Table of a House of Parliament in accordance with subsection (3), that Order in Council ceases to have effect when that copy is not so laid but without affecting the validity or curing the invalidity of anything done or omitted to be done in good faith before that Order in Council so ceases to have effect.
- (5) If either House of Parliament passes a resolution, of which notice has been given within the first 14 sitting days of that House after a copy of the relevant Order in Council made under subsection (1) has been laid on the Table of that House under subsection (3), that that Order in Council be disallowed, that Order in Council thereupon ceases to have effect, but the disallowance of that Order in Council does not affect the validity or cure the invalidity of anything done or omitted to be done in good faith before the passing of that resolution.

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

42A. Annual report to Minister on Part 4A

- (1) The Commissioner must give a report to the Minister that provides the following information for each financial year —
 - (a) the numbers of vehicle search authorisations and premises search authorisations issued during the financial year;
 - (b) the areas that were subject to a vehicle search authorisation;
 - (c) the premises that were subject to a premises search authorisation;
 - (d) the periods during which any authorisations had effect;
 - (e) the number of occasions when, as a result of the exercise of the powers conferred by section 20G(2), a prohibited

- drug, prohibited plant or a controlled precursor was detected by a preliminary drug detection test;
- (f) the number of occasions when, as a result of the exercise of the powers conferred by section 20H(1), a prohibited drug, prohibited plant or a controlled precursor was detected by a preliminary drug detection test;
 - (g) the number of occasions when, as a result of the exercise of the powers conferred by section 20I(2)(e), a prohibited drug, prohibited plant or controlled precursor was detected;
 - (h) a statement of any defect or irregularity identified in relation to a vehicle search authorisation or premises search authorisation.
- (2) The Minister is to cause the report to be laid before each House of Parliament no later than 12 sitting days of that House after receiving the report.

[Section 42A inserted by No. 47 of 2016 s. 8.]

42B. Review of Part 4A

- (1) In this section —
- commencement day* means the day on which the *Misuse of Drugs Amendment (Search Powers) Act 2016* section 5 comes into operation.
- (2) The Minister must carry out a review of the operation and effectiveness of Part 4A as soon as practicable after the expiration of 5 years from commencement day.
- (3) The Minister must lay (or cause to be laid) a report of the review under this section before both Houses of Parliament —
- (a) as soon as practicable after the review is completed; but
 - (b) not later than 2 years after the end of the period of 5 years.

[Section 42B inserted by No. 47 of 2016 s. 8.]

Schedule VII — Amounts of prohibited drugs for purposes of drug trafficking

[s. 32A(1)(b)(i)]

[Heading amended by No. 19 of 2010 s. 4.]

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
1.	AMPHETAMINE	28.0
2AA.	BENZOYLINDOLES (not specifically included elsewhere in this Schedule)	3.0 kg
2A.	BENZYLPIPERAZINE (BZP)	28.0
2B.	1-BUTYL-3-(1-NAPHTHOYL) INDOLE (JWH-073)	3.0 kg
2.	CANNABIS	3.0 kg
3.	CANNABIS RESIN	100.0
4.	COCAINE	28.0
4A.	1-CYCLOHEXYLETHYL-3-(2-METHOXYPHENYLACETYL) INDOLE (RCS-8)	3.0 kg
4B.	CYCLOHEXYLPHENOLS (not specifically included elsewhere in this Schedule)	3.0 kg
5.	DIACETYLMORPHINE	28.0
5AAA.	DIBENZOPYRANS (not specifically included elsewhere in this Schedule)	3.0 kg
5AA.	DIMETHYLAMPHETAMINE	28.0
5AB.	5-(1,1-DIMETHYLHEPTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL (CP 47,497)	3.0 kg
5AC.	5-(1,1-DIMETHYLOCTYL)-2-[(1R,3S)-3-HYDROXYCYCLOHEXYL]-PHENOL (CANNABICYCLOHEXANOL or CP 47,497 C8 HOMOLOGUE)	3.0 kg
5A.	EPHEDRINE	28.0
6A.	1-(5-FLUOROPENTYL)-3-(2-IODOBENZOYL) INDOLE (AM-694)	3.0 kg
6B.	1-(5-FLUOROPENTYL)-3-(1-NAPHTHOYL) INDOLE (AM-2201)	3.0 kg
6C.	1-HEXYL-3-(1-NAPHTHOYL) INDOLE (JWH-019)	3.0 kg

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
6D.	9-(HYDROXYMETHYL)-6,6-DIMETHYL-3-(2-METHYLOCTAN-2-YL)-6A,7,10,10A-TETRAHYDROBENZO[C]CHROMEN-1-OL (HU-210)	3.0 kg
6.	LYSERGIC ACID DIETHYLAMIDE (LSD)	0.01
7.	METHADONE	5.0
8A.	METHCATHINONE	28.0
8BA.	4-METHOXYPHENYL(1-BUTYL-1H-INDOL-3-YL)-METHANONE (RCS-4 (C4))	3.0 kg
8BB.	2-(4-METHOXYPHENYL)-1-(1-PENTYL-1H-INDOL-3-YL)-ETHANONE (JWH-201)	3.0 kg
8B.	2-(2-METHOXYPHENYL)-1-(1-PENTYLINDOL-3-YL)ETHANONE (JWH-250)	3.0 kg
8C.	2-(3-METHOXYPHENYL)-1-(1-PENTYLINDOL-3-YL)ETHANONE (JWH-302)	3.0 kg
8.	METHYLAMPHETAMINE	28.0
9.	3, 4-METHYLENEDIOXYAMPHETAMINE (MDA)	28.0
10.	3, 4-METHYLENEDIOXY-N, ALPHA-DIMETHYLPHENYLETHYLAMINE (MDMA)	28.0
11A.	3, 4-METHYLENEDIOXYPYROVALERONE (MDPV)	28.0
11.	MORPHINE	28.0
12A.	1-[2-(4-MORPHOLINYL)ETHYL]-3-(1-NAPHTHOYL) INDOLE (JWH-200)	3.0 kg
12B.	NAPHTHOYLINDOLES (not specifically included elsewhere in this Schedule)	3.0 kg
12C.	NAPHTHYLMETHYLINDOLES	3.0 kg
12D.	NAPHTHOYLPYRROLES	3.0 kg
12E.	NAPHTHYLMETHYLINDENES	3.0 kg
12.	OPIUM	100.0
13A.	1-PENTYL-3-(4-CHLORO-1-NAPHTHOYL) INDOLE (JWH-398)	3.0 kg
13B.	1-PENTYL-3-(2-CHLOROPHENYLACETYL)	

Misuse of Drugs Act 1981**Schedule VII** Amounts of prohibited drugs for purposes of drug trafficking

<i>Item</i>	<i>Prohibited drug</i>	<i>Amount (in grams unless otherwise stated)</i>
	INDOLE (JWH-203)	3.0 kg
13C.	1-PENTYL-3-(4-ETHYL-1-NAPHTHOYL) INDOLE (JWH-210)	3.0 kg
13D.	1-PENTYL-3-[(4-METHOXY)-BENZOYL] INDOLE (RCS-4)	3.0 kg
13E.	1-PENTYL-3-(4-METHOXY-1-NAPHTHOYL) INDOLE (JWH-081)	3.0 kg
13.	1-PENTYL-3-(1-NAPHTHOYL) INDOLE (JWH-018)	3.0 kg
14.	1-PENTYL-3-(4-METHYL-1-NAPHTHOYL) INDOLE (JWH-122)	3.0 kg
15A.	PHENYLACETYLINDOLES (not specifically included elsewhere in this Schedule)	3.0 kg
15.	PRAVADOLINE (WIN 48098)	3.0 kg
16.	1-PROPYL-2-METHYL-3-(1-NAPHTHOYL) INDOLE (JWH-015)	3.0 kg

*[Schedule VII inserted by No. 50 of 1990 s. 6; amended in Gazette
29 Nov 1991 p. 6041; 22 Mar 1994 p. 1245; 29 Apr 2011 p. 1533-4;
1 Jul 2011 p. 2744-5; 11 Oct 2011 p. 4319-20; 13 Apr 2012 p. 1665;
30 Oct 2012 p. 5196.]*

Notes

- ¹ This is a compilation of the *Misuse of Drugs Act 1981* and includes the amendments made by the other written laws referred to in the following table ^{1a}. The table also contains information about any reprint.

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> published in <i>Gazette</i> 30 Nov 1990 p. 5937			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> published in <i>Gazette</i> 29 Nov 1991 p. 6040-1			29 Nov 1991
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 1994</i> published in <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> 27 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(1) and <i>Gazette</i> 30 Dec 1994 p. 7211)
<i>Misuse of Drugs Amendment Act 1995</i> ³	44 of 1995	18 Oct 1995	s. 1 and 2: 18 Oct 1995; Act other than s. 1 and 2: 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)

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Short title	Number and year	Assent	Commencement
<i>Criminal Property Confiscation (Consequential Provisions) Act 2000</i> s. 5 ⁴	69 of 2000	6 Dec 2000	1 Jan 2001 (see s. 2 and <i>Gazette</i> 29 Dec 2000 p. 7903)
Reprint of the <i>Misuse of Drugs Act 1981</i> as at 11 Jan 2002 (includes amendments listed above)			
<i>Nurses Amendment Act 2003</i> Pt. 3 Div. 2	9 of 2003	9 Apr 2003	9 Apr 2003 (see s. 2)
<i>Cannabis Control Act 2003</i> Pt. 5	52 of 2003	1 Oct 2003	22 Mar 2004 (see s. 2 and <i>Gazette</i> 9 Mar 2004 p. 733)
<i>Industrial Hemp Act 2004</i> Pt. 7	1 of 2004	12 Mar 2004	19 May 2004 (see s. 2 and <i>Gazette</i> 18 May 2004 p. 1561)
<i>Criminal Code Amendment Act 2004</i> s. 58	4 of 2004	23 Apr 2004	21 May 2004 (see s. 2)
<i>Courts Legislation Amendment and Repeal Act 2004</i> s. 141	59 of 2004	23 Nov 2004	1 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7128)
<i>Misuse of Drugs Amendment Act 2004</i>	62 of 2004	24 Nov 2004	s. 1 and 2: 24 Nov 2004; Act other than s. 1 and 2: 1 Jan 2005 (see s. 2 and <i>Gazette</i> 10 Dec 2004 p. 5965)
<i>Criminal Procedure and Appeals (Consequential and Other Provisions) Act 2004</i> s. 82	84 of 2004	16 Dec 2004	2 May 2005 (see s. 2 and <i>Gazette</i> 31 Dec 2004 p. 7129 (correction in <i>Gazette</i> 7 Jan 2005 p. 53))
Reprint 3: The <i>Misuse of Drugs Act 1981</i> as at 1 Jul 2005 (includes amendments listed above)			
<i>Machinery of Government (Miscellaneous Amendments) Act 2006</i> Pt. 14 Div. 2	28 of 2006	26 Jun 2006	1 Jul 2006 (see s. 2 and <i>Gazette</i> 27 Jun 2006 p. 2347)
<i>Misuse of Drugs Amendment Act 2006</i>	40 of 2006	22 Sep 2006	s. 1 and 2: 22 Sep 2006; Act other than s. 1 and 2: 28 Apr 2007 (see s. 2 and <i>Gazette</i> 27 Apr 2007 p. 1775)
<i>Nurses and Midwives Act 2006</i> Sch. 3 cl. 15	50 of 2006	6 Oct 2006	19 Sep 2007 (see s. 2 and <i>Gazette</i> 18 Sep 2007 p. 4711)
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 2007</i> published in <i>Gazette</i> 7 Dec 2007 p. 5985			cl. 1 and 2: 7 Dec 2007 (see cl. 2(a)); Order other than cl. 1 and 2: 8 Dec 2007 (see cl. 2(b))
Reprint 4: The <i>Misuse of Drugs Act 1981</i> as at 29 Feb 2008 (includes amendments listed above)			
<i>Medical Practitioners Act 2008</i> Sch. 3 cl. 37	22 of 2008	27 May 2008	1 Dec 2008 (see s. 2 and <i>Gazette</i> 25 Nov 2008 p. 4989)
<i>Police Amendment Act 2009</i> s. 21	42 of 2009	3 Dec 2009	13 Mar 2010 (see s. 2(b) and <i>Gazette</i> 12 Mar 2010 p. 941)

Short title	Number and year	Assent	Commencement
<i>Standardisation of Formatting Act 2010</i> s. 4	19 of 2010	28 Jun 2010	11 Sep 2010 (see s. 2(b) and <i>Gazette</i> 10 Sep 2010 p. 4341)
<i>Health Practitioner Regulation National Law (WA) Act 2010</i> Pt. 5 Div. 37	35 of 2010	30 Aug 2010	18 Oct 2010 (see s. 2(b) and <i>Gazette</i> 1 Oct 2010 p. 5075-6)
<i>Misuse of Drugs Amendment Act 2010</i>	44 of 2010	28 Oct 2010	s. 1 and 2: 28 Oct 2010 (see s. 2(a)); s. 3, 4 and 7(3) and (4): 22 Jan 2011 (see s. 2(b) and <i>Gazette</i> 21 Jan 2011 p. 157); s. 5-7(1) and (2), 8-10: 9 Jul 2011 (see 2(b) and <i>Gazette</i> 8 Jul 2011 p. 2895)
<i>Cannabis Law Reform Act 2010</i> Pt. 3	45 of 2010	28 Oct 2010	1 Aug 2011 (see s. 2(b) and <i>Gazette</i> 29 Jul 2011 p. 3127)
<i>Misuse of Drugs Amendment Act (No. 2) 2010</i> Pt. 2	50 of 2010	24 Nov 2010	25 Nov 2010 (see s. 2(b))
<i>Misuse of Drugs (Numbers of Cannabis Plants) Order 2010</i> published in <i>Gazette</i> 15 Apr 2011 p. 1425-6			cl. 1 and 2: 15 Apr 2011 (see cl. 2(a)); Order other than cl. 1 and 2: 16 Apr 2011 (see cl. 2(b))
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 2011</i> published in <i>Gazette</i> 29 Apr 2011 p. 1532-4			cl. 1 and 2: 29 Apr 2011 (see cl. 2(a)); Order other than cl. 1 and 2: 30 Apr 2011 (see cl. 2(b))
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order (No. 2) 2011</i> published in <i>Gazette</i> 1 Jul 2011 p. 2742-5			cl. 1 and 2: 1 Jul 2011 (see cl. 2(a)); Order other than cl. 1 and 2: 2 Jul 2011 (see cl. 2(b))
Reprint 5: The Misuse of Drugs Act 1981 as at 16 Sep 2011 (includes amendments listed above)			
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order (No. 3) 2011</i> published in <i>Gazette</i> 11 Oct 2011 p. 4316-20			cl. 1 and 2: 11 Oct 2011 (see cl. 2(a)); Order other than cl. 1 and 2: 12 Oct 2011 (see cl. 2(b))
<i>Misuse of Drugs Amendment Act 2011</i> Pt. 2	56 of 2011	21 Nov 2011	s. 3, 4 and 9: 24 Mar 2012 (see s. 2(b) and <i>Gazette</i> 23 Mar 2012 p. 1363); s. 5-8: 30 Jan 2013 (see s. 2(b) and <i>Gazette</i> 29 Jan 2013 p. 324-5)
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order 2012</i> published in <i>Gazette</i> 13 Apr 2012 p. 1664-5			cl. 1 and 2: 13 Apr 2012 (see cl. 2(a)); Order other than cl. 1 and 2: 14 Apr 2012 (see cl. 2(b))

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Short title	Number and year	Assent	Commencement
<i>Criminal Appeals Amendment (Double Jeopardy) Act 2012</i> s. 10	9 of 2012	21 May 2012	26 Sep 2012 (see s. 2(b) and <i>Gazette</i> 25 Sep 2012 p. 4499)
<i>Misuse of Drugs (Amounts of Prohibited Drugs) Order (No. 2) 2012</i> published in <i>Gazette</i> 30 Oct 2012 p. 5194-6			cl. 1 and 2: 30 Oct 2012 (see cl. 2(a)); Order other than cl. 1 and 2: 31 Oct 2012 (see cl. 2(b))
<i>Criminal Organisations Control Act 2012</i> s. 179	49 of 2012	29 Nov 2012	2 Nov 2013 (see s. 2(b) and <i>Gazette</i> 1 Nov 2013 p. 4891)
<i>Criminal Investigation (Covert Powers) Act 2012</i> Pt. 9 ⁵	55 of 2012	3 Dec 2012	1 Mar 2013 (see s. 2(b) and <i>Gazette</i> 25 Jan 2013 p. 271)
Reprint 6: The Misuse of Drugs Act 1981 as at 19 Apr 2013 (includes amendments listed above except those in the <i>Criminal Organisations Control Act 2012</i>)			
<i>Medicines and Poisons Act 2014</i> Pt. 11 Div. 3	13 of 2014	2 Jul 2014	30 Jan 2017 (see s. 2(b) and <i>Gazette</i> 17 Jan 2017 p. 403)
<i>Misuse of Drugs Amendment (Psychoactive Substances) Act 2015</i>	29 of 2015	21 Oct 2015	s. 1 and 2: 21 Oct 2015 (see s. 2(a)); Act other than s. 1 and 2: 18 Nov 2015 (see s. 2(b) and <i>Gazette</i> 17 Nov 2015 p. 4693-4)
<i>Public Health (Consequential Provisions) Act 2016</i> s. 101	19 of 2016	25 Jul 2016	24 Jan 2017 (see s. 2(1)(c) and <i>Gazette</i> 10 Jan 2017 p. 165)
<i>Misuse of Drugs Amendment (Search Powers) Act 2016</i>	47 of 2016	28 Nov 2016	s. 1 and 2: 28 Nov 2016 (see s. 2(a)); Act other than s. 1 and 2: 14 Jan 2017 (see s. 2(b) and <i>Gazette</i> 13 Jan 2017 p. 337)
Misuse of Drugs Amendment (Methylamphetamine Offences) Bill 2017 Pt. 2		Current Bill No. 6-1	

^{1a} On the date as at which this compilation was prepared, provisions referred to in the following table had not come into operation and were therefore not included in this compilation. For the text of the provisions see the endnotes referred to in the table.

Provisions that have not come into operation

Short title	Number and year	Assent	Commencement
<i>Public Health (Consequential Provisions) Act 2016</i> Pt. 5 Div. 16 ⁷	19 of 2016	25 Jul 2016	To be proclaimed (see s. 2(1)(c))

- ² This provision was renumbered under the *Reprints Act 1984* s. 7(5)(c)(ii).
- ³ The *Misuse of Drugs Amendment Act 1995* s. 16 is a transitional provision that is of no further effect.
- ⁴ The *Criminal Property Confiscation (Consequential Provisions) Act 2000* s. 3 and 6-11 are savings and transitional provisions.
- ⁵ The *Criminal Investigation (Covert Powers) Act 2012* s. 108 and 109 read as follows:

108. Term used: commencement day

In this Part —

commencement day means the day on which this Part comes into operation.

109. Savings provision relating to *Misuse of Drugs Act 1981*

(1) In this section —

former authorisation means an authorisation under the *Misuse of Drugs Act 1981* section 31(1) as in force immediately before the day on which Part 9 comes into operation.

(2) A former authorisation in force immediately before the commencement day, is, on and after the commencement day, to be taken to be an authority as defined in section 5 granted on the commencement day and Part 2 applies, with any necessary modifications, to that authority.

⁶ Footnote not applicable.

⁷ On the date as at which this compilation was prepared, the *Public Health (Consequential Provisions) Act 2016* Pt. 5 Div. 16 had not come into operation. It reads as follows:

Part 5 — Other Acts amended

Division 16 — *Misuse of Drugs Act 1981* amended

311. Act amended

This Division amends the *Misuse of Drugs Act 1981*.

312. Section 3 amended

In section 3(1) delete the definition of *analyst* and insert:

analyst means a person who —

- (a) holds a science degree in, or to a major extent in, chemistry awarded by —
 - (i) a university in Australia; or
 - (ii) a prescribed university;
- and
- (b) has had not less than 2 years' practical experience in the chemical analysis of drugs;

313. Section 38D amended

- (1) Delete section 38D(1) and insert:
 - (1) In this section —
CEO (Health) has the meaning given to CEO by the *Health Legislation Administration Act 1984* section 3;
Chief Health Officer has the meaning given in the *Public Health Act 2016* section 4(1);
needle and syringe programme means a needle and syringe programme (as defined in the *Public Health Act 2016* section 4(1)) approved under that Act.
- (2) After section 38D(2) insert:
- (3) In any proceedings under this Act, production of a certificate purporting to be signed by the Chief Health Officer and stating that on any date or during any period a specified needle and syringe programme was approved under the *Public Health Act 2016* is, without proof of the signature of the Chief Health Officer, sufficient evidence of the facts stated in the certificate.

Note: The heading to amended section 38D is to read:
Evidence of contents of standard and approval

314. Part VII Division 3 inserted

After Part VII Division 2 insert:

Division 3 — Provisions for *Public Health (Consequential Provisions) Act 2016*

49. Transitional provision for registered analysts

- (1) Despite the replacement, by the *Public Health (Consequential Provisions) Act 2016* section 312 (**section 312**), of the definition of *analyst* in section 3(1), any person who, immediately before section 312 comes into operation, is an approved analyst under a declaration made under section 3A continues to be an approved analyst under and subject to section 3A.
- (2) A thing done or omitted to be done under this Act by, to or in relation to an analyst (as defined in section 3(1) as in force immediately before section 312 comes into operation) has the same effect on and after the day on which section 312 comes into operation, to the extent that it has any force or significance on or after that day, as if the thing had been done or omitted by, to or in relation to an analyst as defined in section 3(1) after section 312 comes into operation.

