

AUSTRALIAN CAPITAL TERRITORY

Poisons and Narcotic Drugs (Amendment) Ordinance (No. 2) 1986

No. 76 of 1986

I, THE GOVERNOR-GENERAL of the Commonwealth of Australia, acting with the advice of the Federal Executive Council, hereby make the following Ordinance under the *Seat of Government (Administration) Act 1910*.

Dated 14 November 1986.

N. M. STEPHEN
Governor-General

By His Excellency's Command,

G. SCHOLES
Minister of State for Territories

An Ordinance to amend the *Poisons and Narcotic Drugs Ordinance 1978*

Short title

1. This Ordinance may be cited as the *Poisons and Narcotic Drugs (Amendment) Ordinance (No. 2) 1986*.¹

Principal Ordinance

2. In this Ordinance, "Principal Ordinance" means the *Poisons and Narcotic Drugs Ordinance 1978*.²

Interpretation

3. Section 3 of the Principal Ordinance is amended—

- (a) by inserting after the definition of "analyst" in sub-section (1) the following definition:

“ ‘Authority’ means the Australian Capital Territory Health Authority;”;

- (b) by omitting from sub-section (1) the definition of “Chairman” and substituting the following definition:

“ ‘Chairperson’ means the Chairperson of the Committee;”;

- (c) by inserting after the definition of “dentist” in sub-section (1) the following definition:

“ ‘General Manager’ means the General Manager of the Authority;”;

- (d) by adding at the end of sub-section (1) the following definition:

“ ‘Tribunal’ means the Administrative Appeals Tribunal.”; and

- (e) by inserting after sub-section (1) the following sub-section:

“(1A) The Chairperson may be referred to as the Chairman or Chairwoman, as the case requires.”.

Heading to Part II

4. The heading to Part II of the Principal Ordinance is omitted and the following heading substituted:

“PART II—ADDICTIVE SUBSTANCES AND RESTRICTED SUBSTANCES”.

Persons authorised to possess Schedule 8 substances

5. Section 9 of the Principal Ordinance is amended by omitting from subparagraph (c) (ii) “Capital Territory Health Commission authorized by the Chairman” and substituting “Authority authorised by the General Manager”.

Authority to possess Schedule 8 substances

6. Section 10 of the Principal Ordinance is amended by omitting from sub-sections (1), (2) and (3) “Chairman” and substituting “General Manager”.

Chairperson of the Committee

7. Section 18 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “Chairman” and substituting “Chairperson”; and
- (b) by omitting sub-section (2) and substituting the following sub-section:

“(2) The Chairperson may resign the office of Chairperson by writing signed by him or her and delivered to the Minister.”.

Procedure where application referred to Committee

8. Section 19 of the Principal Ordinance is amended by omitting “Chairman” and substituting “Chairperson”.

Powers of Committee

9. Section 20 of the Principal Ordinance is amended by omitting from sub-section (2) “Chairman of the Committee” and substituting “Chairperson”.

Variation of approvals

10. Section 21 of the Principal Ordinance is amended by omitting from sub-section (3) “Chairman of the Committee” and substituting “Chairperson”.

Surrender of authority to possess or supply Schedule 8 substances

11. Section 27 of the Principal Ordinance is amended—

- (a) by omitting from sub-sections (1), (2) and (3) “Chairman” and substituting “General Manager”; and
- (b) by omitting from sub-section (6) “Chairman” (wherever occurring) and substituting “General Manager”.

12. After Division 6 of Part II of the Principal Ordinance the following Division is inserted:

“Division 6A—Restricted substances to be prescribed or supplied only by authorised specialists

Interpretation

“27A. In this Division, ‘specialist’ means a medical practitioner who is recognised as a consultant physician or specialist in accordance with section 61 of the *Health Insurance Act 1973*.

Substances to which Division applies

“27B. This Division applies to the following substances:

- (a) clomiphene;
- (b) cyclofenil;
- (c) etretinate;

- (d) isotretinoin;
- (e) dinoprost.

Unauthorised prescribing or supplying

“27C. A medical practitioner shall not supply to, or prescribe for, a person a substance to which this Division applies unless the medical practitioner is authorised by the Medical Officer of Health, pursuant to section 27E, to supply or prescribe that substance.

Penalty: \$2,000 or imprisonment for 2 years, or both.

Application for authorisation

“27D. (1) A specialist may apply to the Medical Officer of Health for authorisation to supply or prescribe a substance to which this Division applies.

“(2) An application under sub-section (1) shall—

- (a) be in writing signed by the medical practitioner making the application;
- (b) state—
 - (i) the name of the applicant and the address, or an address, at which the applicant carries on the practice of his or her profession;
 - (ii) the name of the substance or substances to which the application relates; and
 - (iii) the field in which the applicant is recognised as a specialist; and
- (c) be lodged with the Medical Officer of Health.

Grant of authorisation

“27E. (1) The Medical Officer of Health shall grant the authorisation sought in an application under sub-section (1) if, and only if—

- (a) in the case of an application that relates to clomiphene or cyclofenil—
the applicant is a specialist practising in the field of gynaecology, endocrinology or obstetrics;
- (b) in the case of an application that relates to etretinate or isotretinoin—
the applicant is a specialist physician, or a specialist practising in the field of dermatology; and

- (c) in the case of an application that relates to dinoprost—the applicant is a specialist physician, or a specialist practising in the field of gynaecology or endocrinology.

“(2) Where the Medical Officer of Health grants an authorisation under this section he or she shall—

- (a) notify the applicant in writing of the authorisation; and
- (b) specify, in that notification, an identifying number in respect of that authorisation.

Dispensing

“27F. A pharmacist shall not supply to another person a substance to which this Division applies except on a prescription on which a specialist has endorsed ‘Section 27E’ and the identifying number in respect of the relevant authorisation under that section.

Penalty: \$1,000.”.

Application for licence

13. Section 29C of the Principal Ordinance is amended by omitting from paragraph (b) “Chairman” and substituting “General Manager”.

Grant of licence

14. Section 29D of the Principal Ordinance is amended—

- (a) by omitting from sub-section (1) “Chairman” and substituting “General Manager”;
- (b) by omitting from paragraph (1) (b) “Capital Territory Health Commission” and substituting “Authority”; and
- (c) by omitting from sub-sections (2), (3) and (4) “Chairman” and substituting “General Manager”.

Duration of licence

15. Section 29F of the Principal Ordinance is amended by omitting “Chairman” and substituting “General Manger”.

Cancellation of licence

16. Section 29G of the Principal Ordinance is amended by omitting “Chairman” and substituting “General Manger”.

Repeal of sections 29H and 29J

17. Sections 29H and 29J of the Principal Ordinance are repealed.

Advertising of scheduled substances

18. Section 48A of the Principal Ordinance is amended by inserting in sub-section (1) “3,” after “1,”.

19. Section 49 of the Principal Ordinance is repealed and the following sections are substituted:

Notification of decisions

“49. (1) Where—

(a) the General Manger makes a decision—

- (i) refusing to give an authorisation under section 10;
- (ii) specifying a condition or restriction under sub-section 10 (3);
- (iii) varying or revoking an authorisation under section 10;
- (iv) refusing to grant a licence under section 29D;
- (v) imposing a condition under section 29D; or
- (vi) cancelling a licence under section 29G; or

(b) the Medical Officer of Health makes a decision refusing to give an authorisation under section 27E,

the General Manager or the Medical Officer of Health, as the case may be, shall cause a notice in writing to be given to the person whose interests are affected by the decision, setting out the decision and giving the reasons for the decision.

“(2) A notice under sub-section (1) shall include a statement to the effect that, subject to the *Administrative Appeals Tribunal Act 1975*, a person whose interests are affected by the decision to which the notice relates is entitled to apply to the Tribunal for a review of the decision.

“(3) The validity of a decision to which a notice under sub-section (1) relates shall not be taken to be affected by a failure to comply with sub-section (2).

Review of decisions

“49A. (1) Application may be made to the Tribunal for a review of a decision of the General Manger—

- (a) refusing to give an authorisation under section 10;
- (b) specifying a condition or restriction under sub-section 10 (3);
- (c) varying or revoking an authorisation under section 10;
- (d) refusing to grant a licence under section 29D;
- (e) imposing a condition under section 29D; or
- (f) cancelling a licence under section 29G.

“(2) Application may be made to the Tribunal for a review of a decision of the Medical Officer of Health refusing to give an authorisation under section 27E.”.

Search of premises

20. Section 50 of the Principal Ordinance is amended—

- (a) by omitting from sub-section (3) “Chairman” and substituting “General Manager”; and
- (b) by omitting from sub-section (4) “Chairman” (wherever occurring) and substituting “General Manager”.

Forfeiture

21. Section 53 of the Principal Ordinance is amended by omitting from sub-section (2) “Chairman” and substituting “General Manager”.

NOTES

1. Notified in the *Commonwealth of Australia Gazette* on 21 November 1986.
2. No. 38, 1978 as amended by Nos. 19 and 56, 1981; No. 47, 1982; No. 67, 1985; No. 32, 1986.