



Australian Capital Territory

Drugs of Dependence Act 1989 No 11

Republication No 6

Republication date: 23 October 2001

Last amendment made by Act 2001 No 56

Amendments incorporated to 12 September 2001

Authorised by the ACT Parliamentary Counsel

About this republication

The republished law

This is a republication of the *Drugs of Dependence Act 1989* as in force on 23 October 2001. It includes any amendment, repeal or expiry affecting the republished law to 12 September 2001 and any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes).

The legislation history and amendment history of the republished law are set out in endnotes 3 and 4.

Kinds of republications

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- authorised republications to which the *Legislation Act 2001* applies
- unauthorised republications.

The status of this republication appears on the bottom of each page.

Editorial changes

The *Legislation Act 2001*, part 11.3 authorises the Parliamentary Counsel to make editorial amendments and other changes of a formal nature when preparing a law for republication. Editorial changes do not change the effect of the law, but have effect as if they had been made by an Act commencing on the republication date (see *Legislation Act 2001*, s 115 and s 117). The changes are made if the Parliamentary Counsel considers they are desirable to bring the law into line, or more closely into line, with current legislative drafting practice.

This republication includes amendments made under part 11.3 (see endnote 1).

Uncommenced provisions and amendments

If a provision of the republished law has not commenced or is affected by an uncommenced amendment, the symbol **U** appears immediately before the provision heading. The text of the uncommenced provision or amendment appears only in the last endnote.

Modifications

If a provision of the republished law is affected by a current modification, the symbol **M** appears immediately before the provision heading. The text of the modifying provision appears in the endnotes. For the legal status of modifications, see *Legislation Act 2001*, section 95.

Penalties

The value of a penalty unit for an offence against this republished law at the republication date—

- (a) if the person charged is an individual—\$100; or
- (b) if the person charged is a corporation—\$500.

Amendments incorporated to
12 September 2001



Australian Capital Territory

Drugs of Dependence Act 1989

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12 September 2001



Australian Capital Territory

Drugs of Dependence Act 1989

An Act to prohibit or regulate the manufacture, sale, supply, possession, use and administration of certain drugs of dependence and other substances, and for related purposes

Part 1 Preliminary

1 Short title

This Act may be cited as the *Drugs of Dependence Act 1989*.

3 Interpretation for Act

(1) In this Act—

Note A definition applies except so far as the contrary intention appears (see *Legislation Act 2001*, s 155).

analyst means a person appointed as an analyst under section 183.

cannabis means a cannabis plant, whether living or dead, and includes any flowering or fruiting top, leaf, seed, stalk or any other part of a cannabis plant and any mixture of parts of a cannabis plant or cannabis plants, but does not include cannabis resin or cannabis fibre.

cannabis fibre means a substance consisting wholly or substantially of fibre from a cannabis plant but not containing any other material from a cannabis plant.

cannabis oil means cannabis resin in a purified form.

cannabis plant means a plant of the Genus *Cannabis*.

cannabis resin means a substance consisting wholly or substantially of resin, whether crude, purified or in any other form, from a cannabis plant.

central store, in relation to a class 1 institution, means a store under the direct control of the chief pharmacist of that institution and from which drugs of dependence are distributed to dispensaries, or to wards, in that institution.

chief pharmacist, in relation to a class 1 institution, means the pharmacist having the supervision of all other pharmacists

employed in that institution, and, if the institution has a central store, having the control of its central store.

class 1 institution means a hospital, nursing home or other institution that has a dispensary and is used for the accommodation, treatment and care of persons suffering from mental or physical conditions.

class 2 institution means a nursing home or other institution that does not have a dispensary and is used for the accommodation, treatment and care of persons suffering from mental or physical conditions.

community pharmacy means a pharmacy with a dispensary, elsewhere than at a class 1 institution.

dentist means a person registered as a dentist under the *Dentists Registration Act 1931*.

Director means the public servant for the time being performing the functions of Director, Alcohol and Drug Service, Australian Capital Territory Health and Community Care Service by virtue of section 3A.

dispensary means any premises, or any part of premises, from which drugs are dispensed by a pharmacist.

drug dependence means the condition by virtue of which a person is a drug dependent person.

drug dependent person, in relation to a drug of dependence or a prohibited substance, means a person with a condition such that—

- (a) as a result of the administration to him or her of the drug or substance, the person demonstrates—
 - (i) impaired control; or
 - (ii) drug-seeking behaviour that suggests impaired control;in relation to the person's use of the drug or substance; or

- (b) the cessation of the administration of the drug or substance is likely to cause the person to experience symptoms of mental or physical distress or disorder.

drug inspector means a person appointed as a drug inspector under section 175.

drug of dependence means a substance specified in the *Drugs of Dependence Regulations 1993*, schedule 1, column 1.

enrolled nurse means a person enrolled under the *Nurses Act 1988*.

government analyst means the government analyst under section 183A.

hospital means—

- (a) a recognised hospital within the meaning of the *Health Insurance Act 1973* (Cwlth); or
- (b) a building registered as a private hospital under the *Public Health (Private Hospitals) Regulations*.

institution means a class 1 institution or a class 2 institution.

intern means a person who is registered as a medical practitioner subject to conditions imposed under the *Medical Practitioners Act 1930*, section 10.

manufacture, in relation to a drug of dependence or a prohibited substance, means—

- (a) carry out any process by which the drug or substance is obtained; or
- (b) refine the drug or substance; or
- (c) transform the drug or substance into another drug of dependence or prohibited substance; or
- (d) make or prepare tablets, pills, capsules, ampoules, vials or other dosage forms consisting of, or containing, the drug or substance; or

- (e) mix, compound or formulate the drug or substance; or
- (f) pack or repack the drug or substance for the purpose of sale by wholesale or for use in connection with a profession, trade, business or industry.

manufacturer's licence means a licence granted under section 6.

medical practitioner means a person registered as a medical practitioner under the *Medical Practitioners Act 1930*.

mental condition does not include drug dependence.

nurse means a person who is registered under the *Nurses Act 1988*.

opioid dependency treatment centre means a treatment centre or other facility where treatment, including the supply and administration of methadone or buprenorphine, is provided to drug dependent persons for their drug dependency—

- (a) if the facility is—
 - (i) conducted by the Territory; or
 - (ii) approved under division 9.4, as a treatment centre of that type; and
- (b) whether or not the main purpose of the facility is to provide treatment for drug dependent persons.

pharmacist means a person registered as a pharmacist under the *Pharmacy Act 1931*.

physical condition means—

- (a) a physical disease, illness, ailment, defect or injury; or
- (b) pregnancy; or
- (c) a physical state which may be changed by surgery in the course of professional medical practice;

but does not include drug dependence.

prescription means an authorisation for the supply to a person of a substance for administration to that person.

prohibited substance means a substance specified in the *Drugs of Dependence Regulations 1993*, schedule 2, column 1, or a drug analogue.

reconciliation amount means—

- (a) for a dose of methadone—the quantity of methadone allowed for wastage in preparing the dose; and
- (b) for a dose of buprenorphine—the quantity of buprenorphine allowed for wastage in preparing the dose.

register means a register kept pursuant to this Act.

requisition means an authorisation for the supply of a substance—

- (a) to a ward in a class 1 institution from a dispensary in the institution, or from the central store of the institution; or
- (b) to a dispensary in a class 1 institution from another dispensary in the institution, or from the central store of the institution; or
- (c) to the central store of an institution, from a dispensary or ward in the institution.

sell includes offer or expose for sale.

sell by wholesale means—

- (a) sell for the purpose of retail sale; or
- (b) sell for the purpose of use in connection with a profession, trade, business or industry.

supply includes offer to supply but does not include administer.

syringe includes the needle section or the plunger section of a syringe.

treatment, in relation to the treatment of a person for drug dependence, means treatment, therapy or a program which is aimed at assisting the person in relation to that dependence, and includes—

- (a) medical treatment or therapy or an education or rehabilitation program; and
- (b) in relation to the treatment of a person with methadone or buprenorphine at an opioid dependency treatment centre—
 - (i) the administration of methadone or buprenorphine to the person at the centre; or
 - (ii) the supply of methadone or buprenorphine to the person at the centre for self-administration at the centre or elsewhere.

treatment centre means—

- (a) a hospital, nursing home, hostel or other institution that ordinarily provides treatment for persons who are drug dependent in relation to any drug of dependence; or
- (b) premises at which a pharmacist practices pharmacy; or
- (c) premises at which a medical practitioner practices medicine;

but does not include a hospital or other health facility conducted by the Territory or a Territory authority.

treatment centre inspector means a person appointed as a treatment centre inspector under section 176.

veterinary surgeon means a person registered as a veterinary surgeon under the *Veterinary Surgeons Act 1965*.

ward means an area, however described, that forms part of an institution, being an area that is used for the accommodation, treatment and care of persons suffering from mental or physical conditions, and includes an opioid dependency treatment centre that forms a part of an institution.

wholesaler's licence means a licence granted under section 20.

- (2) In this Act a reference to the *secretary* of a corporation shall, in relation to a corporation that has 2 or more secretaries, be read as a reference to each of those secretaries.
- (3) In this Act a reference to an amphetamine within the meaning of part 6, or to buprenorphine, cannabis, cocaine, dextromoramide, hydromorphone, methadone, pentazocine or pethidine shall be read as including a reference to—
 - (a) an active principal of that drug; or
 - (b) a preparation or admixture of that drug; or
 - (c) a salt of that drug or active principal.

3A Director

- (1) There shall be a Director, Alcohol and Drug Service.
- (2) The chief executive of that part of the Australian Capital Territory Health and Community Care Service responsible for the provision of alcohol and drug services shall create and maintain an office in the service the duties of which include performing the functions of Director, Alcohol and Drug Service.
- (3) The director shall be the public servant for the time being performing the duties of the office.

Part 2 Manufacture

4 Definitions for pt 2

In this part:

drug of dependence means a prescribed substance.

licensed premises means any premises the address of which is specified in a manufacturer's licence pursuant to section 6 (2) (d).

licensee means the holder of a manufacturer's licence.

5 Manufacturer's licence—application

- (1) A person who proposes to manufacture a drug of dependence may apply to the Minister for a manufacturer's licence.
- (2) An application for a manufacturer's licence shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify—
 - (i) the full name and business address of the applicant; and
 - (ii) if the applicant is a corporation—the full name and residential address of each director, and the secretary, of the corporation; and
 - (iii) if the applicant proposes to manufacture a drug of dependence under a business name—that name; and
 - (iv) the drug of dependence in relation to which the licence is sought; and
 - (v) the address of each premises at which the drug would be manufactured; and
 - (vi) the security arrangements that would be implemented at each such premises; and

- (vii) the name, address and qualifications of each person under whose supervision the drug would be manufactured; and
- (c) be accompanied by a plan of each of those premises that identifies—
 - (i) each part of the premises where a process of manufacture is proposed to be carried out; and
 - (ii) the nature of that process; and
 - (iii) where it is proposed to store the drug; and
 - (iv) the location and nature of security devices.

Note A fee may be determined under s 204 (Determination of fees) for this section.

6 Manufacturer's licence—grant

- (1) Where, on application in accordance with section 5, the Minister is satisfied that—
 - (a) the applicant and, if the applicant is a corporation, each director, and the secretary, of the corporation, is a fit and proper person to hold a manufacturer's licence; and
 - (b) the applicant proposes to manufacture the drug of dependence specified in the application; and
 - (c) the premises specified in the application are in a condition fit for use for manufacturing and storing that drug; and
 - (d) manufacturing of that drug will at all times be carried out under the supervision of a person possessing qualifications in chemistry, pharmacy, pharmacology, or other appropriate qualifications and who is otherwise a fit and proper person to carry out that supervision; and
 - (e) the applicant, each supervisor and, if the applicant is a corporation, each director and the secretary of the corporation, have not at any time been convicted—

- (i) of an offence against this Act; or
- (ii) in Australia or elsewhere of an offence relating to a drug of dependence or prohibited substance; or
- (iii) in Australia or elsewhere of an offence punishable on conviction by a fine equivalent, at the time of the conviction, to an amount of not less than \$10 000, or by imprisonment for a period of not less than 1 year;

the Minister shall grant a manufacturer's licence to the applicant.

- (2) A manufacturer's licence shall specify—
- (a) the full name and address of the licensee; and
 - (b) if the licensee is a corporation—the full name and address of each director, and of the secretary, of the corporation; and
 - (c) the drug of dependence in relation to which the licence is granted; and
 - (d) the address of each premises at which the drug is to be manufactured; and
 - (e) the name of each person who is to supervise the manufacture of that drug; and
 - (f) the conditions (if any) to which the licence is subject; and
 - (g) the period for which the licence is granted; and
 - (h) such other particulars (if any) as are prescribed.
- (3) A licensee is entitled to—
- (a) manufacture the specified drug of dependence in accordance with the specified conditions (if any); and
 - (b) possess that drug for the purpose of selling it by wholesale; and
 - (c) sell that drug by wholesale and deliver it;
- in accordance with the terms of the licence.

7 Manufacturer's licence—conditions

- (1) The conditions that may be specified in a manufacturer's licence are such conditions as are necessary and reasonable for ensuring—
 - (a) the proper manufacture and safekeeping of the relevant drug; and
 - (b) the proper supervision of that manufacture; and
 - (c) the maintenance of the relevant premises in a condition fit for that manufacture.
- (2) Without limiting the generality of subsection (1), the conditions that may be specified in a manufacturer's licence include a condition requiring compliance with the provisions of the *Poisons and Drugs Act 1978*, part 3 insofar as those provisions are capable of applying in relation to the manufacture of the relevant drug of dependence.

8 Manufacturer's licence—variation of conditions

- (1) The Minister may vary the conditions specified in a licence, with effect from a date specified in the notice of variation given pursuant to section 198 (being not less than 28 days after the date of the notice), to such an extent as is necessary and reasonable for ensuring—
 - (a) the proper manufacture and safekeeping of the relevant drug of dependence; and
 - (b) the proper supervision of that manufacture; and
 - (c) the maintenance of the relevant premises in a condition fit for that manufacture.
- (2) Within 28 days of service of a notice referred to in subsection (1), the relevant licensee shall submit the licence to the chief health officer.

Maximum penalty: \$2 000.

- (3) On receipt of a licence, the chief health officer shall—

- (a) endorse the licence with the variation of conditions notified under subsection (1); and
- (b) return it to the licensee.

9 Manufacturer's licence—amendment

- (1) If a change occurs in the address of a licensee, the licensee shall, within 14 days after the change, lodge the licence with the chief health officer together with written notification of the change.
- (2) Where a licensee proposes to manufacture the drug of dependence for which the licence was granted at premises other than licensed premises, the licensee shall lodge the licence with the chief health officer together with written notification of the proposed change—
 - (a) specifying—
 - (i) the address of the new premises; and
 - (ii) the date on which the licensee proposes to commence the manufacture of the drug at the new premises; and
 - (iii) the security arrangements proposed to be implemented at the new premises; and
 - (b) accompanied by a plan of the premises identifying each part where a process of manufacture would be carried out, the nature of that process, where the drug would be stored and the location and nature of security devices;

no later than 28 days before the specified date.

Maximum penalty: \$2 000.

- (3) Where a licensee proposes that the drug of dependence for which the licence was granted be manufactured under the supervision of a person other than a person whose name is specified in the licence for the purpose, the licensee shall lodge the licence with the chief health officer together with written notification of the proposed change specifying the name, address and qualifications of the person under whose supervision the drug would be manufactured.

- (4) On receipt of a notification under subsection (1), the chief health officer shall amend the licence accordingly and return it to the licensee.
- (5) On receipt of a notification under subsection (2) or (3), the chief health officer shall amend the licence accordingly if the Minister is satisfied—
 - (a) in the case of a notification under subsection (2)—that the premises specified in the notification are in a condition fit for manufacturing and storing the drug of dependence for which the licence was granted; or
 - (b) in the case of a notification under subsection (3)—that the qualifications possessed by the person specified in the notice as the proposed supervisor are qualifications of the kind referred to in section 6 (1) (d);

and the chief health officer shall, in any event, return the licence to the licensee.

10 Manufacturer's licence—surrender

- (1) A licensee may surrender the licence by giving written notice of surrender to the chief health officer.
- (2) The surrender of a licence takes effect on the date the notice of surrender is given, or on such later date as may be specified in the notice for that purpose.

11 Manufacturer's licence—cancellation

- (1) The Minister may cancel a manufacturer's licence if—
 - (a) the licensee, or, if the licensee is a corporation, that corporation, any of its directors or its secretary has been convicted—
 - (i) of an offence against this Act; or

- (ii) in Australia or elsewhere of any other offence relating to a drug of dependence or prohibited substance; or
 - (iii) in Australia or elsewhere of an offence punishable on conviction by a fine equivalent, at the time of the conviction, to an amount of not less than \$10 000, or by imprisonment for a period of not less than 1 year; or
 - (b) the Minister believes on reasonable grounds—
 - (i) that the licensee has ceased to manufacture the relevant drug; or
 - (ii) that the licensee has contravened a term or condition of the licence; or
 - (iii) that the licensee or, if the licensee is a corporation, that the licensee or a director or the secretary of the corporation, is no longer a fit and proper person to hold a licence.
- (2) The cancellation of a manufacturer's licence takes effect on the date the notice of cancellation is given pursuant to section 198.

12 Reports of dealings—manufacturers

A licensee shall, on the expiration of the period of 7 days after the date on which the manufacturer's licence was granted, and at subsequent intervals each not exceeding 7 days, lodge with the chief health officer a report containing details of all dealings by the licensee with the drug of dependence for which the licence was granted since the date of the grant or the date of the last report, as the case requires.

Maximum penalty: \$2 000.

13 Manufacturer's licence—duration

A manufacturer's licence shall remain in force, unless sooner surrendered or cancelled, until the expiration of 31 March next

following the date on which it was granted and may be renewed in accordance with section 14.

14 Manufacturer's licence—renewal

- (1) A licensee may, before the expiration of the term of the licence, apply to the Minister for its renewal.
- (2) An application for the renewal of a manufacturer's licence must be signed by the applicant.

Note A fee may be determined under s 204 (Determination of fees) for this subsection.

- (3) On application for the renewal of a manufacturer's licence, the Minister shall renew the licence for a period of 12 months commencing on 1 April of the year in which, but for its renewal, the licence would have expired.

15 Offences—manufacturers

- (1) A licensee shall not—
 - (a) manufacture or possess the drug of dependence in relation to which the licence was granted at; or
 - (b) sell or supply that drug from;
any place other than the licensed premises.
- (2) A licensee shall not manufacture the drug of dependence in relation to which the licence was granted otherwise than under the supervision of a person whose name is specified in the licence for that purpose.

Maximum penalty: \$10 000.

16 Disposal of by-products

- (1) The chief health officer may, by written notice given to a licensee, give directions to the licensee with respect to the disposal of any by-

product of the manufacture of a drug of dependence manufactured by the licensee.

- (2) A licensee shall not contravene a direction given to that licensee pursuant to subsection (1).

Maximum penalty (subsection (2)): \$10 000, imprisonment for 5 years or both.

17 Return of licence to chief health officer

Upon ceasing to be a licensee, a person shall not, without reasonable excuse, fail to return the licence to the chief health officer.

Maximum penalty: \$2 000.

Part 3 Wholesale

18 Definitions for pt 3

In this part:

licensed premises means premises the address of which is specified in a wholesaler's licence pursuant to section 20 (2) (a).

licensee means the holder of a wholesaler's licence.

19 Wholesaler's licence—application

- (1) A person who proposes to sell by wholesale a drug of dependence may apply to the Minister for a wholesaler's licence.
- (2) An application for a wholesaler's licence shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify—
 - (i) the full name and business address of the applicant; and
 - (ii) if the applicant is a corporation—the full name and residential address of each director, and the secretary, of the corporation; and
 - (iii) if the applicant proposes to sell by wholesale a drug of dependence under a business name—that business name; and
 - (iv) the drug of dependence in relation to which the licence is sought; and
 - (v) the address of each premises at which that drug would be sold by wholesale; and
 - (vi) the security arrangements that would be implemented at each such premises; and

- (vii) the name and address of any person under whose supervision the drug would be sold by wholesale; and
- (c) be accompanied by a plan of each of those premises that identifies—
 - (i) where it is proposed to store the drug; and
 - (ii) the location and nature of security devices.

Note A fee may be determined under s 204 (Determination of fees) for this section.

20 Wholesaler's licence—grant

- (1) Where, on application in accordance with section 19, the Minister is satisfied that—
 - (a) the applicant and, if the applicant is a corporation, each director, and the secretary, of the corporation is a fit and proper person to hold a wholesaler's licence; and
 - (b) the applicant proposes to sell by wholesale the drug of dependence specified in the application; and
 - (c) the premises specified in the application are in a condition fit for use for storing and selling by wholesale that drug of dependence; and
 - (d) the selling by wholesale of the drug will at all times be carried out under the supervision of a person who is a fit and proper person to carry out that supervision; and
 - (e) the applicant, each supervisor and, if the applicant is a corporation, each director and the secretary of the corporation, have not at any time been convicted—
 - (i) of an offence against this Act; or
 - (ii) in Australia or elsewhere of an offence relating to a drug of dependence or prohibited substance; or

- (iii) in Australia or elsewhere of an offence punishable on conviction by a fine equivalent, at the time of the conviction, to an amount of not less than \$10 000, or by imprisonment for a period of not less than 1 year; or

the Minister shall grant a wholesaler's licence to the applicant.

- (2) A wholesaler's licence shall specify—
 - (a) the full name and address of the licensee; and
 - (b) if the licensee is a corporation—the full name and address of each director, and of the secretary, of the corporation; and
 - (c) the drug of dependence in relation to which the licence is granted; and
 - (d) the address of each premises at which the drug is to be sold by wholesale; and
 - (e) the name of each person who is to supervise the sale by wholesale of that drug; and
 - (f) the conditions (if any) to which the licence is subject; and
 - (g) the period for which the licence is granted; and
 - (h) such other particulars (if any) as are prescribed.
- (3) A licensee is entitled to—
 - (a) possess the specified drug of dependence for the purpose of selling it by wholesale; and
 - (b) pack or repack that drug for the purpose of selling it by wholesale; and
 - (c) sell that drug by wholesale and deliver it;in accordance with the terms of the licence.

21 Wholesaler's licence—conditions

- (1) The conditions that may be specified in a wholesaler's licence are such conditions as are necessary and reasonable for ensuring—
 - (a) the proper safekeeping of the relevant drug of dependence; and
 - (b) the proper supervision of its sale by wholesale; and
 - (c) the maintenance of the relevant premises in a condition fit for that safekeeping and sale.
- (2) Without limiting subsection (1), the conditions that may be specified in a wholesaler's licence include a condition requiring compliance with the provisions of the *Poisons and Drugs Act 1978*, part 3 insofar as those provisions are capable of applying in relation to the sale by wholesale of the relevant drug of dependence.

22 Wholesaler's licence—variation of conditions

- (1) The Minister may vary the conditions specified in the licence, with effect from a date specified in the notice of variation given pursuant to section 198 (being not less than 28 days after the date of the notice), to such an extent as is necessary and reasonable for ensuring—
 - (a) the proper safekeeping of the relevant drug of dependence; and
 - (b) the proper supervision of its sale by wholesale; and
 - (c) the maintenance of the relevant premises in a condition fit for that safekeeping and sale.
- (2) Within 28 days of service of a notice referred to in subsection (1), the relevant licensee shall submit the licence to the chief health officer.
Maximum penalty: \$2 000.
- (3) Upon receipt of a licence submitted to the chief health officer for the purpose of this section, the chief health officer shall—

- (a) endorse the licence with the variation of conditions notified under subsection (1); and
- (b) return it to the licensee.

23 Wholesaler's licence—change of address

- (1) If a change occurs in the address of a licensee, the licensee shall, within 14 days after the change, lodge the licence with the chief health officer together with written notification of the change.

Maximum penalty: \$2 000.

- (2) Where a licensee proposes to store and sell by wholesale the drug of dependence for which the licence was granted at premises other than the licensed premises, the licensee shall lodge the licence with the chief health officer together with written notification of the proposed change—

- (a) specifying—
 - (i) the address of the new premises; and
 - (ii) the date on which the licensee intends commencing selling the drug by wholesale from the new premises; and
 - (iii) the security arrangements to be implemented at the new premises; and
- (b) accompanied by a plan of the premises identifying where the drug would be stored, and the location and nature of security devices; and

not later than 28 days before the specified date.

Maximum penalty: \$2 000.

- (3) On receipt of notification under subsection (1), the chief health officer shall amend the licence accordingly and return it to the licensee.
- (4) On receipt of notification under subsection (2), the chief health officer shall amend the licence accordingly if the chief health officer

is satisfied that the premises specified in the notification are in a condition fit for storing and selling by wholesale the drug of dependence for which the licence was granted, and the chief health officer shall, in any event, return the licence to the licensee.

24 Wholesaler's licence—surrender

- (1) A licensee may surrender the licence by giving written notice of surrender to the chief health officer.
- (2) The surrender of a licence takes effect on the date the notice of surrender is given, or on such later date as may be specified in the notice for that purpose.

25 Wholesaler's licence—cancellation

- (1) The Minister may cancel a wholesaler's licence if—
 - (a) the licensee or, if the licensee is a corporation, that corporation, any of its directors or its secretary has been convicted—
 - (i) of an offence against this Act; or
 - (ii) in Australia or elsewhere of any other offence relating to a drug of dependence or prohibited substance; or
 - (iii) in Australia or elsewhere of an offence punishable on conviction by a fine equivalent, at the time of the conviction, to an amount of not less than \$10 000, or by imprisonment for a period of not less than 1 year; or
 - (b) the Minister believes on reasonable grounds—
 - (i) that the licensee has ceased to sell by wholesale the relevant drug; or
 - (ii) that the licensee has contravened a term or condition of the licence; or
 - (iii) that the licensee or, if the licensee is a corporation, that the licensee or a director or the secretary of the

corporation, is no longer a fit and proper person to hold a licence.

- (2) The cancellation of a wholesaler's licence takes effect on the date the notice of cancellation is given under section 198.

26 Reports of dealings—wholesalers

A licensee shall, on the expiration of 7 days after the date on which the licence was granted, and at subsequent intervals each not exceeding 7 days, lodge with the chief health officer a report containing details of all dealings by the licensee with the drug of dependence for which the licence was granted since the date of the grant or the date of the last report, as the case requires.

Maximum penalty: \$2 000.

27 Wholesaler's licence—duration

A wholesaler's licence shall remain in force, unless sooner surrendered or cancelled, until the expiration of 31 March next following the date on which it was granted and may be renewed in accordance with section 28.

28 Wholesaler's licence—renewal

- (1) A licensee may, before the expiration of the term of the licence, apply to the Minister for its renewal.
- (2) An application for the renewal of a manufacturer's licence must be signed by the applicant.

Note A fee may be determined under s 204 (Determination of fees) for this subsection.

- (3) On application for the renewal of a wholesaler's licence, the Minister shall renew the licence for a period of 12 months commencing on 1 April of the year in which, but for its renewal, the licence would have expired.

29 Offences—wholesalers

- (1) A licensee shall not—
- (a) possess the drug of dependence in relation to which the licence was granted at; or
 - (b) sell or supply that drug from;
any place other than the licensed premises.
- (2) A licensee shall not sell or supply the drug of dependence in relation to which the licence was granted otherwise than under the supervision of a person whose name is specified in the licence for that purpose.

Maximum penalty: \$10 000.

30 Return of licence to chief health officer

Upon ceasing to be a licensee, a person shall not, without reasonable excuse, fail to return the licence to the chief health officer.

Maximum penalty: \$2 000.

Part 4 Research, education and first aid

Division 4.1 Authorisation for research or education

31 Definitions for div 4.1

In this division—

authorisation means an authorisation granted under section 33.

authorised person means the holder of an authorisation.

clinical trial protocol, in relation to a program of research, means a written statement describing—

- (a) its aims; and
- (b) the proposed means of conducting it; and
- (c) the proposed method of analysis of its results.

institution means a recognised educational institution or a recognised research institution.

program means a program of research or education.

recognised educational institution means—

- (a) an educational institution conducted by the Territory; or
- (b) the Australian National University; or
- (c) the University of Canberra.

recognised research institution means a recognised educational institution or the Commonwealth Scientific and Industrial Research Organisation.

use, in relation to a drug of dependence, includes manufacture.

32 Authorisation (research or education)—application

- (1) A person who proposes to conduct a program that would require the possession or use by that person of a drug of dependence or prohibited substance may apply to the Minister for an authorisation in relation to that drug or substance.
- (2) An application for an authorisation shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify—
 - (i) the full name, address and academic, professional or other relevant qualifications of the applicant; and
 - (ii) the drug of dependence or prohibited substance in relation to which the authorisation is sought; and
 - (iii) the strength and form in which the drug or substance is to be possessed and used; and
 - (iv) the maximum quantity of the drug or substance to be possessed at any one time, and the total quantity to be possessed during the period of the program; and
 - (v) details of the manner in which the drug or substance would be used in the program; and
 - (vi) the institution where the program is to be conducted; and
 - (vii) the name and academic, professional or other relevant qualifications of any person other than the applicant under whose supervision the program would be conducted; and
 - (viii) the security arrangements that would be undertaken while the drug or substance is possessed or used; and
 - (c) be accompanied by—
 - (i) a written description of the program, including its estimated duration; and

- (ii) in the case of a program of research—a clinical trial protocol; and
- (iii) a written statement approving the program signed by the person in charge of the institution.

Note A fee may be determined under s 204 (Determination of fees) for this subsection.

33 Authorisation (research or education)—grant

- (1) Where, on an application in accordance with section 32, the Minister is satisfied that—
 - (a) the described program cannot be carried out satisfactorily without the use of the specified drug or substance; and
 - (b) in the case of a program of research—taking into account the clinical trial protocol accompanying the application, the research is scientifically viable; and
 - (c) the applicant is a fit and proper person to conduct the program; and
 - (d) the program will be adequately supervised; and
 - (e) in the case of a program of research—the research is to be conducted at, or under the auspices of, a recognised research institution; and
 - (f) in the case of a program of education—the program is to be conducted at, or under the auspices of, a recognised educational institution;

the Minister shall grant an authorisation to the applicant.

- (2) An authorisation shall specify—
 - (a) the name and address of the authorised person; and
 - (b) the drug of dependence or prohibited substance in relation to which the authorisation is granted; and

- (c) the strength and form in which the drug or substance may be possessed and used; and
 - (d) the maximum quantity of the drug or substance that may be possessed at any one time, and the total quantity that may be possessed during the period of the program; and
 - (e) the purpose for which the authorisation is granted; and
 - (f) the institution in relation to which the authorisation is granted; and
 - (g) the conditions (if any) to which the authorisation is subject; and
 - (h) the period for which the authorisation is granted; and
 - (i) such other particulars (if any) as are prescribed.
- (3) An authorised person is entitled to possess and to use the specified drug or substance, in the specified manner and for the specified purpose, in accordance with the terms of the authorisation.

34 Authorisation (research or education)—conditions

The conditions that may be specified in an authorisation are such conditions as are necessary and reasonable for ensuring—

- (a) the proper use and safekeeping of the relevant drug or substance; and
- (b) that proper records concerning the receipt, use and disposal of the drug or substance are kept.

35 Authorisation (research or education)—variation of conditions

- (1) The Minister may vary the conditions specified in an authorisation, with effect from a date specified in the notice of variation given pursuant to section 198 (being not less than 28 days after the date of the notice), to such an extent as is necessary and reasonable for ensuring—

- (a) the proper use and safekeeping of the relevant drug or substance; or
 - (b) that proper records concerning the receipt, use and disposal of the drug or substance are kept.
- (2) Within 28 days of service of a notice referred to in subsection (1), the relevant authorised person shall submit the authorisation to the Minister.

Maximum penalty: \$2 000.

- (3) On receipt of an authorisation, the chief health officer shall—
- (a) endorse the authorisation with the variation of conditions notified under subsection (1); and
 - (b) return it to the authorised person.

36 Authorisation (research or education)—surrender

- (1) An authorised person may surrender the authorisation by giving written notice of surrender to the chief health officer.
- (2) The surrender of a licence takes effect on the date the notice of surrender is given, or on such later date as may be specified in the notice for that purpose.

37 Authorisation (research or education)—cancellation

- (1) The Minister may cancel an authorisation if—
 - (a) the authorised person has been convicted—
 - (i) of an offence against this Act; or
 - (ii) in Australia or elsewhere of any other offence relating to a drug of dependence or prohibited substance; or
 - (iii) in Australia or elsewhere of an offence punishable on conviction by imprisonment for a period of not less than 1 year; or

- (b) the Minister believes on reasonable grounds that the authorised person—
 - (i) has ceased to conduct the relevant program; or
 - (ii) has contravened a term or condition of the authorisation; or
 - (iii) is not conducting the relevant program in a proper manner; or
 - (iv) is no longer a fit and proper person to hold an authorisation.
- (2) Where the person in charge of the institution in relation to which an authorisation was granted lodges with the chief health officer a written request that the authorisation be cancelled, the Minister shall cancel the authorisation with effect from the date referred to in subsection (3) or such later date as is specified for that purpose in the request.
- (3) Subject to subsection (2), the cancellation of an authorisation takes effect on the date the notice of cancellation is given pursuant to section 198.

38 Authorisation (research or education)—duration

An authorisation shall remain in force, unless sooner surrendered or cancelled, until the expiration of the period specified in the authorisation, and may be renewed in accordance with section 39.

39 Authorisation (research or education)—renewal

- (1) An authorised person may, before the expiration of the term of the authorisation, apply to the Minister for its renewal.
- (2) An application for the renewal of an authorisation shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify the period of renewal sought; and

- (c) be accompanied by a statement signed by the person in charge of the institution where the relevant program is being conducted supporting the application.

Note A fee may be determined under s 204 (Determination of fees) for this subsection.

- (3) On application for the renewal of an authorisation, the Minister shall renew the authorisation—
- (a) for the period specified in the application for renewal; or
- (b) for such shorter period as the Minister considers reasonable; commencing on the day immediately following the day on which, but for its renewal, the authorisation would have expired.

40 Return of authorisation to chief health officer

Upon ceasing to be an authorised person, a person shall not, without reasonable excuse, fail to return the authorisation to the chief health officer.

Maximum penalty: \$2 000.

Division 4.2 First-aid kits

41 Definitions for div 4.2

In this division:

authorisation means an authorisation granted under section 43.

authorised person means the holder of an authorisation.

42 Authorisation (first-aid)—application

- (1) A person who proposes to include in a first-aid kit under the person's control a drug of dependence may apply to the chief health officer for an authorisation in relation to that drug.
- (2) An application for an authorisation shall—

- (a) be in writing signed by the applicant; and
- (b) specify—
 - (i) the full name, address and occupation of the applicant; and
 - (ii) the drug of dependence in relation to which the authorisation is sought; and
 - (iii) the strength and form in which the drug would be possessed and used; and
 - (iv) the maximum quantity of the drug that would be possessed at any one time; and
 - (v) the security arrangements that would be undertaken while the first-aid kit contained such a drug; and
 - (vi) the period for which the authorisation is sought.

Note A fee may be determined under s 204 (Determination of fees) for this section.

43 Authorisation (first-aid)—grant

- (1) Where, on application in accordance with section 42, the chief health officer is satisfied that the applicant is—
 - (a) a person residing or employed in an isolated locality; or
 - (b) a nurse employed to provide first aid to workers in the course of their employment; or
 - (c) a representative of an organisation established to conduct search and rescue operations in mountainous regions; or
 - (d) a person who, in the opinion of the chief health officer, has an adequate reason for including in a first-aid kit under the person's control the drug of dependence specified in his or her application;

and that the applicant is a fit and proper person to possess and use that drug, the chief health officer shall grant an authorisation to the applicant.

- (2) An authorisation shall specify—
 - (a) the name and address of the authorised person; and
 - (b) the drug of dependence in relation to which the authorisation is granted; and
 - (c) the strength and form in which the drug may be possessed; and
 - (d) the maximum quantity of the drug that may be possessed at any one time; and
 - (e) the purpose for which the relevant first-aid kit is, or is to be, used; and
 - (f) the conditions (if any) to which the authorisation is subject; and
 - (g) the period for which the authorisation is granted; and
 - (h) such other particulars (if any) as are prescribed.
- (3) An authorised person is entitled to possess the specified drug in a first-aid kit, and to use that drug in accordance with the terms of the authorisation, where the person believes that the use of the drug is necessary for the emergency treatment of a person's mental or physical condition.

44 Authorisation (first-aid)—conditions

The conditions that may be specified in an authorisation are such conditions as are necessary and reasonable for ensuring the proper use and safekeeping of the relevant drug.

45 Authorisation (first-aid)—variation of conditions

- (1) The chief health officer may vary the conditions specified in an authorisation, with effect from a date specified in the notice of

variation given pursuant to section 198 (being not less than 28 days after the date of the notice), to such an extent as is necessary and reasonable for ensuring the proper use and safekeeping of the relevant drug.

- (2) Within 28 days of service of notice referred to in subsection (1), the relevant authorised person shall submit the authorisation to the chief health officer.

Maximum penalty: \$1 000.

- (3) On receipt of an authorisation, the chief health officer shall—
- (a) by endorsement, vary the authorisation in the manner notified under subsection (1); and
 - (b) return it to the authorised person.

46 Authorisation (first-aid)—change of address

- (1) If a change occurs in the address of an authorised person, that person shall, within 14 days after the change, lodge the authorisation with the chief health officer together with written notification of the change.

Maximum penalty: \$2 000.

- (2) On receipt of a notification, the chief health officer shall amend the authorisation accordingly, and return it to the authorised person.

47 Authorisation (first-aid)—surrender

- (1) An authorised person may surrender the authorisation by giving written notice of surrender to the chief health officer.
- (2) The surrender of an authorisation takes effect on the date the notice of surrender is given, or such later date as may be specified in the notice for that purpose.

48 Authorisation (first-aid)—cancellation

The chief health officer may cancel an authorisation if—

- (a) the authorised person has been convicted—
 - (i) of an offence against this Act; or
 - (ii) in Australia or elsewhere of any other offence relating to a drug of dependence or prohibited substance; or
 - (iii) in Australia or elsewhere of an offence punishable on conviction by imprisonment for a period of not less than 1 year; or
- (b) the chief health officer believes on reasonable grounds that the authorised person—
 - (i) has ceased to require the relevant drug for inclusion in a first-aid kit under his or her control; or
 - (ii) has contravened a term or condition of the authorisation; or
 - (iii) is no longer a fit and proper person to hold an authorisation.

49 Authorisation (first-aid)—duration

An authorisation shall remain in force, unless sooner surrendered or cancelled, until the expiration of the period specified in the authorisation, and may be renewed in accordance with section 50.

50 Authorisation (first-aid)—renewal

- (1) An authorised person may, before the expiration of the term of the authorisation, apply to the chief health officer for its renewal.
- (2) An application for the renewal of an authorisation shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify the period of renewal sought.

Note A fee may be determined under s 204 (Determination of fees) for this section.

- (3) On application for the renewal of an authorisation, the chief health officer shall renew the authorisation—
- (a) for the period specified in the application for renewal; or
 - (b) for such shorter period as the chief health officer considers reasonable;

commencing on the day immediately following the day on which, but for its renewal, the authorisation would have expired.

51 Return of authorisation to chief health officer

Upon ceasing to be an authorised person, a person shall not, without reasonable excuse, fail to return the authorisation to the chief health officer.

Maximum penalty: \$1 000.

Part 5 Orders and delivery

52 Application of pts

This part does not apply where a drug of dependence is sold or supplied on a prescription or requisition.

53 Written orders

- (1) A person shall not sell or supply a drug of dependence to another person except in response to a written, signed and dated order from that other person.
- (2) A person shall not sell or supply a drug of dependence to the owner, or the agent of the owner, of a ship unless—
 - (a) the person has received a written order, in duplicate, signed and dated by the owner or agent; and
 - (b) the sale or supply, and the delivery of the drug to the master of the ship, are authorised in writing by the chief health officer.

Maximum penalty: \$10 000, imprisonment for 5 years or both.

54 Delivery

- (1) A person who sells or supplies a drug of dependence to another person shall ensure that it is not delivered to that other person otherwise than—
 - (a) by the seller or supplier; or
 - (b) by a person of or over the age of 18 years who is employed by the seller or supplier; or
 - (c) by a courier service; or
 - (d) by registered post addressed to the purchaser.
- (2) Where a drug of dependence that has been sold or supplied is delivered in the manner referred to in subsection (1) (a), (b) or (c),

the seller, supplier, employee or courier, as the case may be, shall not deliver that drug, or cause or permit that drug to be delivered, to a person other than—

- (a) if the drug was sold or supplied to the owner, or the agent of the owner, of a ship—the master of the ship; or
 - (b) in any other case—
 - (i) the purchaser; or
 - (ii) a person of or over the age of 18 years who is employed by the purchaser and who has been nominated by the purchaser in writing for the purpose of taking the delivery.
- (3) Where a drug of dependence that has been sold or supplied is delivered in the manner referred to in subsection (1) (a) or (b), the person to whom the drug is delivered shall, at the time of delivery, give to the seller, supplier or employee, as the case may be, a signed and dated receipt endorsed on—
- (a) where the drug is delivered to the master of a ship—each of 2 copies of the order relating to the sale or supply of the drug; or
 - (b) in any other case—1 copy of that order.
- (4) Where a drug of dependence that has been sold or supplied is delivered by courier service or registered post—
- (a) the seller or supplier of the drug shall forward to the person to whom the drug is delivered, together with the drug—
 - (i) if the drug is delivered to the master of a ship—2 copies of the order relating to the sale or supply of the drug; or
 - (ii) in any other case—1 copy of the order relating to the sale or supply of the drug; and
 - (b) the person to whom the drug is delivered shall, within 24 hours after the delivery, forward to the seller or supplier a signed and dated receipt endorsed on—

- (i) if the drug was delivered to the master of a ship—each of 2 copies of the order relating to the sale or supply of the drug; or
 - (ii) in any other case—1 copy of that order.
- (5) A seller or supplier of a drug of dependence shall, within 48 hours after receipt of 2 copies of an order endorsed by a master of a ship in accordance with subsection (3) or (4), forward 1 of those copies to the chief health officer.
- (6) A seller or supplier of a drug of dependence who uses a courier service to deliver the drug shall—
 - (a) obtain a written undertaking from the person providing the courier service that the person will ensure that the requirements of this section applicable to that delivery are complied with; and
 - (b) not knowingly use a courier in circumstances in which the requirements of this section have not been, or are not being, observed.
- (7) A seller or supplier of a drug of dependence who uses registered post to deliver the drug shall—
 - (a) include with the drug a delivery docket or packing slip relating to the quantity posted; and
 - (b) obtain written evidence of the posting of the drug.

Maximum penalty: \$5 000.

55 Notification of drug inspector

- (1) Where—
 - (a) a drug of dependence is delivered by courier service or by registered post; and
 - (b) the seller or supplier has not, within 7 days after the drug was delivered, received a copy or 2 copies, as the case requires, of

the written order relating to the sale or supply of the drug endorsed in accordance with section 54 (4);

the seller or supplier shall accordingly notify a drug inspector—

- (c) orally forthwith; and
- (d) in writing within 24 hours.

Maximum penalty: \$5 000.

- (2) Where the seller or supplier becomes aware that any drug of dependence despatched for delivery to another person has not been delivered to that other person, the seller or supplier shall accordingly notify a drug inspector—

- (a) orally forthwith; and
- (b) in writing within 24 hours.

Maximum penalty: \$5000.

- (3) Where a drug inspector receives a report under subsection (2), he or she shall, if—

- (a) the report is of a theft; or
- (b) the inspector believes on reasonable grounds that the reported loss is a theft;

give an immediate oral or written report of the loss to a police officer.

Part 6 Supply and administration

Division 6.1 Interpretation

56 Definitions for div 6.1

In this part:

amphetamine means any of the following drugs:

- (a) amphetamine;
- (b) dexamphetamine;
- (c) methamphetamine;
- (d) methylphenidate;
- (e) phenmetrazine.

medical practitioner includes an intern.

Division 6.2 Prescriptions

57 Issue of prescriptions

- (1) A person who is not a medical practitioner or veterinary surgeon shall not prescribe a drug of dependence.
- (2) An intern shall not prescribe a drug of dependence except in the course of treatment conducted at an institution where he or she is working as an intern.
- (3) A veterinary surgeon shall not prescribe a drug of dependence otherwise than for the treatment of an animal.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

58 Drugs of dependence

- (1) A medical practitioner shall not prescribe a drug of dependence except—
 - (a) if the drug is methadone or buprenorphine—for the treatment in accordance with section 59 of the drug dependence of a person in relation to any drug of dependence or prohibited substance; or
 - (b) in any case—for the treatment of a person's mental or physical condition.
- (2) If a medical practitioner believes on reasonable grounds that—
 - (a) a person is a drug dependent person in relation to any drug of dependence or prohibited substance; or
 - (b) the person has used any such drug or substance continuously for a period exceeding 2 months, or for periods that, in the aggregate, exceed 2 months;the medical practitioner shall obtain the written approval of the chief health officer before prescribing any drug of dependence for the treatment of that person.
- (2A) A medical practitioner is authorised to prescribe a drug of dependence for a drug dependent person without first obtaining the approval of the chief health officer under subsection (2) if—
 - (a) the medical practitioner is satisfied that the person requires the use of the drug in the course of treatment as an in-patient in a hospital; and
 - (b) the drug is prescribed for a course of treatment for that person for a period not exceeding 14 days after the date of his or her admission.
- (3) Unless a medical practitioner believes on reasonable grounds that a person is—
 - (a) suffering from narcolepsy; or

- (b) under the age of 19 years and suffering from hyperkinetic syndrome;

the medical practitioner shall obtain the written approval of the chief health officer before prescribing an amphetamine for the treatment of that person.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

59 Methadone or buprenorphine

Where a medical practitioner believes on reasonable grounds that a person is a drug dependent person in relation to any drug of dependence or prohibited substance, the medical practitioner may, with the written approval of the chief health officer, prescribe methadone or buprenorphine for the treatment of the person's drug dependence if—

- (a) the medical practitioner believes on reasonable grounds that methadone or buprenorphine would be suitable for such treatment; and
- (b) the treatment is to be provided at an opioid dependency treatment centre.

59A Morphine

- (1) The chief health officer shall approve an application by a medical practitioner for the prescription of morphine for a person if the chief health officer is satisfied that—
- (a) a specialist has diagnosed the person to be suffering from a terminal illness and estimates the person's life expectancy to be less than 1 year; and
- (b) the morphine is for use by the person only for therapeutic purposes for the relief of pain.
- (2) In subsection (1) (a):

specialist means a medical practitioner who is recognised as a consultant physician or specialist in accordance with the *Health Insurance Act 1973* (Cwlth), section 61.

60 Written prescriptions

- (1) Except as provided in section 61, a prescription for the supply of a drug of dependence shall, in addition to the requirements of any law in force in the Territory relating to such a prescription—
 - (a) be in legible handwriting; and
 - (b) be written in terms and symbols used in ordinary professional practice; and
 - (c) specify the name, address and qualification of the person writing the prescription; and
 - (d) specify the date on which the prescription is issued; and
 - (e) specify the name and address of the person for whose treatment the drug is prescribed or, if the drug is prescribed for the treatment of an animal, the name and address of the owner of the animal; and
 - (f) specify the drug, and the quantity, form and strength of the drug, to be supplied; and
 - (g) specify the number of times the drug is to be dispensed and, if it is to be dispensed more than once, the interval or intervals that are to elapse between the dispensations; and
 - (h) if the prescription is for an unusual or dangerous dose—bear the initials of the person writing the prescription beside an underlined reference to the dose; and
 - (j) if the prescription is for an amphetamine—
 - (i) if the chief health officer has approved the prescription—be endorsed ‘APPROVED BY CHO’ and have attached to it a copy of the approval; or

- (ii) if the approval of the chief health officer was not required under section 58—be endorsed ‘CHO APPROVAL NOT REQUIRED’; and
 - (k) if the prescription is issued by a veterinary surgeon—
 - (i) be endorsed as for the treatment of an animal; and
 - (ii) specify the species of the animal; and
 - (iii) if possible, specify a means of identifying the animal; and
 - (m) be signed by the person writing the prescription.
- (2) A medical practitioner or veterinary surgeon shall not issue a written prescription for a drug of dependence that fails to comply with subsection (1).

Maximum penalty: \$2 000, imprisonment for 1 year or both.

61 Prescriptions issued orally

- (1) A prescription for a drug of dependence may be issued orally by a medical practitioner or a veterinary surgeon in accordance with this section.
- (2) A medical practitioner or veterinary surgeon shall only orally issue a prescription for a drug of dependence—
- (a) if the medical practitioner or veterinary surgeon believes on reasonable grounds that the quantity of the drug to be supplied is necessary for the emergency treatment of a mental or physical condition of the person, or the emergency treatment of the animal, as the case may be, for the treatment of whom or of which the drug is prescribed; and
 - (b) to—
 - (i) a pharmacist; or
 - (ii) in a class 1 institution, if no pharmacist is available at the time at which the drug is required—a nurse in that institution.

- (3) A medical practitioner or veterinary surgeon who orally issues a prescription for a drug of dependence shall—
- (a) inform the pharmacist or nurse to whom the prescription is issued of the details referred to in section 60 (1) (c), (e), (f) and (g); and
 - (b) if the prescription is for an unusual or dangerous dose—inform that pharmacist or nurse accordingly.
- (4) If a medical practitioner or veterinary surgeon orally issues a prescription for a drug of dependence, he or she shall, within 24 hours, furnish the pharmacist or nurse to whom it was issued with a written prescription corresponding to the orally issued prescription and complying with the requirements of section 60 (1).
- (5) Where—
- (a) a pharmacist or nurse has supplied a drug of dependence in accordance with an orally issued prescription; and
 - (b) he or she does not, within 72 hours, receive from the medical practitioner or veterinary surgeon who issued it a written prescription corresponding to the orally issued prescription and complying with the requirements of section 60 (1); and

the pharmacist or nurse shall notify a drug inspector in writing accordingly.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

Division 6.3 Requisitions

62 Requisitions generally

- (1) A person who is not—
- (a) a pharmacist in a dispensary in a class 1 institution; or
 - (b) a medical practitioner; or

(c) in charge, for the time being, of a ward at a class 1 institution or for the time being authorised, in writing or orally in the presence of a witness, by the person in charge; or

shall not issue a requisition for a drug of dependence.

(2) A person shall not issue a requisition for a drug of dependence otherwise than—

(a) for the treatment of patients at a class 1 institution; and

(b) to a pharmacist, or the chief pharmacist, at the institution.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

63 Written requisitions

(1) Except as provided in section 64, a requisition for a drug of dependence shall—

(a) be in legible handwriting; and

(b) specify the name of the person issuing the requisition and the capacity in which he or she issues it; and

(c) specify the drug and the quantity, form and strength of the drug to be supplied; and

(d) specify the ward or dispensary where the drug is required; and

(e) be signed by the person issuing the requisition; and

(f) be countersigned by either the pharmacist who is to supply the drug, or a medical practitioner.

(2) A person shall not issue a written requisition for a drug of dependence that fails to comply with subsection (1).

Maximum penalty: \$2 000, imprisonment for 1 year or both.

64 Requisitions issued orally

(1) A requisition for a drug of dependence may be issued orally by a medical practitioner in accordance with this section.

- (2) A person who is not a medical practitioner shall not orally issue a requisition for a drug of dependence.
- (3) A medical practitioner shall not orally issue a requisition for a drug of dependence unless the quantity of the drug requisitioned is, in the opinion of the medical practitioner, necessary for the emergency treatment of mental or physical conditions of patients at a class 1 institution.
- (4) A medical practitioner who orally issues a requisition for a drug of dependence shall inform the pharmacist to whom it is issued of the details referred to in section 63 (1) (b), (c) and (d).
- (5) If a medical practitioner orally issues a requisition for a drug of dependence, he or she shall, within 24 hours, furnish the pharmacist to whom it was issued with—
- (a) a written prescription corresponding to the orally issued requisition and complying with the requirements of section 61; or
 - (b) a written requisition corresponding to the orally issued requisition and complying with the requirements of section 63.
- (6) Where—
- (a) a pharmacist has supplied a drug of dependence in accordance with an orally issued requisition; and
 - (b) he or she does not within 72 hours receive from the medical practitioner who issued it a written prescription or requisition corresponding to the orally issued requisition and complying with the requirements of section 60 (1) or 63, as the case may be;

the pharmacist shall notify the chief health officer in writing accordingly.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

Division 6.4 Approval of prescriptions

65 Definitions for div 6.4

In this division:

chairperson means the person appointed under section 66 to be the chairperson of the committee;

committee means the drugs advisory committee established under section 66;

medical practitioner does not include an intern.

66 Drugs advisory committee—establishment

- (1) For the purposes of this division, there shall be a committee called the Drugs Advisory Committee.
- (2) The committee shall consist of 3 members who shall be appointed, as occasion requires, by the Minister.
- (3) A person shall not be eligible for appointment unless he or she is a medical practitioner.
- (4) The Minister shall so exercise the power of appointment as to ensure that, at all times—
 - (a) at least 1 member of the committee is a person who has had experience in the teaching or practice of psychiatry; and
 - (b) 1 member is a person nominated on behalf of the members of the Australian Capital Territory Group of the Australian Medical Association.
- (5) A member of the committee shall hold office for the period, not exceeding 3 years, specified in the instrument of his or her appointment, and shall be eligible for reappointment.
- (6) A member of the committee may resign his or her office by writing signed by him or her and delivered to the Minister.

- (7) The Minister shall, as occasion requires, appointment 1 of the members of the committee to be the chairperson of the committee.
- (8) The chairperson may resign the office of chairperson by writing signed by him or her and delivered to the Minister.

67 Termination of appointment

The Minister shall terminate the appointment of a member of the committee—

- (a) if the member ceases to be a medical practitioner; or
- (b) for physical or mental incapacity; or
- (c) for misbehaviour; or
- (d) if, on 3 consecutive occasions, on notice from the chairperson, the member fails, without leave granted by the Minister, to make himself or herself available for a proposed meeting of the committee; or
- (e) if the member is convicted, in Australia or elsewhere, of an offence punishable on conviction by imprisonment for a period of not less than 1 year; or
- (f) if the Minister becomes aware that the member has been convicted, in Australia or elsewhere, at some time during the 5 years before the member's appointment, of an offence punishable by imprisonment for a period of not less than 1 year.

68 Application for approval

An application for an approval under this division shall—

- (a) be in writing signed by the applicant; and
- (b) specify—

- (i) the full name of the applicant and the address, or an address, at which the applicant carries on the practice of his or her profession; and
 - (ii) the name of the drug of dependence to which the application relates; and
 - (iii) the quantity, form and strength of the drug; and
 - (iv) the dosage in which, and the frequency with which, that drug is to be administered; and
 - (v) the name and place of residence of the person to whom that drug is to be administered; and
 - (vi) the condition from which that person is suffering that, in the opinion of the applicant, necessitates the administration of that drug; and
 - (vii) in the case of an approval required under section 58—whether, in the opinion of the applicant, that person is drug dependent in relation to any drug of dependence or prohibited substance; and
- (c) be enclosed in an envelope that is sealed and marked ‘confidential’; and
- (d) be given to the chief health officer.

69 Powers of chief health officer

- (1) Where the chief health officer is given an application under section 68, he or she shall—
- (a) grant approval in the terms sought; or
 - (b) grant approval in terms different from those sought; or
 - (c) refuse the application; or
 - (d) refer the application to the committee.

- (2) Where an application for an approval is made for the purpose of compliance with section 58 (2)—
 - (a) if the application is made on the ground that the administration of the drug to the person is necessary for the treatment of an organic disease—the chief health officer may grant the approval or refer the application to the committee; or
 - (b) in any other case—the chief health officer shall refer the application to the committee.
- (3) Upon receipt of a notice given by the committee pursuant to section 70 (3) or 71 (3), the chief health officer shall comply with the direction specified in the notice.
- (4) Where the chief health officer makes a decision referred to in subsection (1) (a), (b) or (c), or where he or she complies, under subsection (3), with a direction of the committee, the chief health officer shall, within 7 days of making the decision, or complying with the direction, give the relevant applicant written notice of that action.

70 Powers of committee

- (1) Where an application—
 - (a) for approval under this division; or
 - (b) for review under section 72;has been referred or made, as the case may be, to the committee, the chairperson shall arrange for the application to be considered by the committee.
- (2) After considering the application, the committee shall direct the chief health officer —
 - (a) to grant approval in the terms sought; or
 - (b) to grant approval in terms different from those sought; or
 - (c) not to grant approval; or

- (d) if the application is made for the review of a decision by the chief health officer to vary an approval—
 - (i) to vary the approval in the terms of the decision by the chief health officer; or
 - (ii) to rescind that decision and to vary the approval in terms different from those terms; or
 - (iii) to rescind that decision; or
 - (e) if the application is made for the review of a decision by the chief health officer to revoke an approval—
 - (i) to revoke the approval; or
 - (ii) to rescind that decision and to vary the approval in specified terms; or
 - (iii) to rescind that decision.
- (3) The chairperson shall give a written notice to the chief health officer of each direction given by the committee under subsection (2).

71 Variation and revocation of approvals

- (1) The chief health officer may, at any time, vary or revoke an approval granted without reference to the committee.
- (2) Where the committee has directed the chief health officer to grant an approval it may, at any time and in its discretion, direct the chief health officer to vary or revoke that approval.
- (3) The chairperson shall give a written notice to the chief health officer of each direction given by the committee under subsection (2).

72 Review of decisions of chief health officer

- (1) Where the chief health officer —
 - (a) under section 69 (1)—

- (i) grants approval in terms different from those sought by an applicant; or
 - (ii) refuses to grant approval; or
- (b) under section 71 (1), varies or revokes an approval;

the applicant for the approval may, within 7 days of being given notice of the decision, apply to the committee, in writing signed by the applicant, for a review of the decision.

- (2) Where, in accordance with subsection (1), an application is made to the committee for a review of a decision by the chief health officer varying or revoking an approval, the approval shall, notwithstanding that decision, be deemed to have continued, and to continue, in force, under the terms originally granted, pending the action of the chief health officer in relation to the application.

73 Form of approvals

- (1) An approval under this division, or a variation or revocation of such an approval, shall be in writing signed by the chief health officer.
- (2) An approval under this division—
- (a) shall specify the strength, form and quantity of the relevant drug that may be prescribed; and
 - (b) shall specify the period during which that drug may be so prescribed; and
 - (c) is subject to such conditions (if any) specified in the approval as the chief health officer, or the committee, thinks fit to impose.

74 Date of effect of approvals

- (1) An approval under this division is effective from the time at which the approval is signed by the chief health officer.
- (2) Subject to section 72 (2) a variation or revocation of an approval under this division takes effect at the time at which notice of the

variation or revocation, as the case may be, is given to the applicant for the approval.

75 Transitional

(1) In this section:

commencement date means the date of commencement of this Act.

(2) Where, before the commencement date, an approval was granted under the *Poisons and Drugs Act 1978*, part 2, division 5, it shall, for the purposes of this Act, be deemed to be an approval granted under this division.

(3) Where, before the commencement date, an application had been given to the chief health officer under the *Poisons and Drugs Act 1978*, section 15 and the chief health officer had not granted or refused the application pursuant to section 20 of that Act, the application shall be treated by the chief health officer or the committee, as the case requires, as if it were an application for approval under this division.

(4) A person who was, immediately before the commencement date, appointed as a member or the chairperson of the Drugs Advisory Committee established under the *Poisons and Drugs Act 1978*, section 17 shall be deemed to be appointed as a member or the chairperson, as the case requires, of the committee established under section 66 of this Act, and shall hold office, subject to this division, for the remainder of the period for which he or she was so appointed.

Division 6.5 Supply

76 Definitions for div 6.5

In this division:

licensee means the holder of a manufacturer's or wholesaler's licence.

order means an order referred to in section 53.

77 Method of supply

A person shall not supply a drug of dependence otherwise than in accordance with the terms of—

- (a) an order; or
- (b) a requisition issued in accordance with division 3; or
- (c) a prescription issued in accordance with division 2.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

78 Supply on order

- (1) A person shall not supply a drug of dependence upon an order unless the person is—

- (a) a licensee; or
- (b) a pharmacist.

- (2) A person shall not supply a drug of dependence upon an order otherwise than to a person the supplier believes on reasonable grounds to be—

- (a) a licensee; or
- (b) a pharmacist; or
- (c) a medical practitioner or veterinary surgeon; or
- (d) if the drug is cocaine, pentazocine or pethidine—a dentist; or
- (e) the person in charge, for the time being, of an opioid dependency treatment centre, other than a ward; or
- (f) the holder of an authorisation granted in accordance with division 4.1 or 4.2; or
- (g) the owner, or the agent of the owner, of a ship.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

79 Supply on requisition

- (1) A person shall not supply a drug of dependence upon a requisition unless the person is a pharmacist in a class 1 institution.
- (2) A person shall not supply a drug of dependence from a pharmacy, or the central store, in a class 1 institution upon a requisition otherwise than to—
 - (a) in the case of a written requisition—
 - (i) a pharmacist in that institution; or
 - (ii) a person in charge, for the time being, of a ward in that institution or for the time being authorised, in writing or orally in the presence of a witness, by the person in charge; or
 - (iii) a medical practitioner; or
 - (b) in the case of an orally issued requisition—a medical practitioner;

for the treatment of patients at that institution.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

80 Supply on prescription

- (1) A person shall not supply a drug of dependence upon a prescription unless the person is—
 - (a) a pharmacist; or
 - (b) a medical practitioner; or
 - (c) a person under the personal supervision of a medical practitioner or pharmacist; or
 - (d) a veterinary surgeon; or
 - (e) if the drug is methadone or buprenorphine—a nurse employed at an opioid dependency treatment centre conducted by the Territory or a Territory authority.

- (2) A medical practitioner, or a person under the personal supervision of a medical practitioner, shall not supply a drug of dependence upon a prescription otherwise than for the treatment of a patient under the medical practitioner's professional care.
- (3) A veterinary surgeon shall not supply a drug of dependence upon a prescription otherwise than for the treatment of an animal under the veterinary surgeon's professional care.
- (4) A person shall not supply a drug of dependence upon a prescription otherwise than to a person the supplier believes on reasonable grounds to be—
- (a) a person for the treatment of whom, or for the treatment of an animal in whose custody, the drug has been supplied; or
 - (b) if a person referred to in paragraph (a) has a guardian—that guardian; or
 - (c) if a person referred to in paragraph (a) is a minor—a parent or guardian of that person; or
 - (d) if neither paragraph (b) nor (c) applies—the duly authorised agent of a person referred to in paragraph (a);
- on presentation of the prescription.
- (5) Where an intern prescribes a drug of dependence, a pharmacist in control of a dispensary in a community pharmacy, or a person under the personal supervision of such a pharmacist, shall not supply that drug to any person upon that prescription.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

81 Restrictions on supply

A person shall not supply a drug of dependence upon an order, written requisition or written prescription if that document—

- (a) appears to that person to have been forged or altered in a material particular by a person other than the person who signed it; or

- (b) bears upon it the word 'cancelled' or any other indication that it is cancelled; or
- (c) bears a date more than 6 months before the date on which it is presented for supply.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

82 Forged prescriptions, requisitions and orders

Where a person believes on reasonable grounds that an order, requisition or prescription presented to the person for the supply of a drug of dependence is forged or has been altered in a material particular by a person other than the person who wrote that document, the firstmentioned person shall—

- (a) immediately notify a police officer and a drug inspector accordingly; and
- (b) forward a written report to the chief health officer setting out the grounds on which he or she believes it to have been forged or altered.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

83 Supplying dextromoramide and hydromorphone

A person shall not, upon a written prescription, supply dextromoramide or hydromorphone unless the person—

- (a) is familiar with the handwriting of the person who issued the prescription; or
- (b) verifies with the person who apparently issued the prescription that it was issued by that person; or
- (c) knows the person for whom the drug was prescribed.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

Division 6.6 Administration

84 Administration—witnesses

(1) In this section:

institution includes a methadone program treatment centre conducted by the Territory or a Territory authority but does not include an opioid dependency treatment centre approved under section 150 (1), irrespective of whether the centre is a ward.

medical practitioner does not include an intern.

(2) A person shall not administer a drug of dependence to a patient at an institution, except in the presence of—

- (a) if the person is an intern—a medical practitioner, dentist or nurse; or
- (b) in any other case—
 - (i) a medical practitioner, intern, dentist, pharmacist or nurse; or
 - (ii) an enrolled nurse who has completed a course on the use of drugs of dependence approved for the purpose of this section by the Minister.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

Part 7 Supply of syringes

85 Definitions for pt 7

In this part:

approval means an approval under section 86.

approved person means a person who holds a current approval.

health worker means a person who has completed a course of instruction.

course of instruction means a course approved by the Minister about appropriate health counselling and the hygienic distribution, use, collection and disposal of syringes.

86 Distribution of syringes—approval

- (1) A medical practitioner, pharmacist, nurse or health worker may apply to the chief health officer for approval to supply syringes.
- (2) An application shall—
 - (a) be in writing signed by the applicant; and
 - (b) state the full name of the applicant and his or her occupational, business or private address; and
 - (c) set out details of the applicant's occupation or business; and
 - (d) if the applicant is a health worker—set out particulars of the most recent course of instruction which the applicant has completed.
- (3) Where, on an application in accordance with this section, the chief health officer is satisfied that—
 - (a) having regard to—
 - (i) the desirability of preventing the spread of disease; and

- (ii) the number of approved persons;
there is a need for an additional person to be approved; and
 - (b) the applicant has attended a course of instruction; and
 - (c) the applicant is a fit and proper person to be approved;
- the chief health officer shall grant an approval to the applicant.
- (4) An approval shall specify—
- (a) the full name and address of the approved person; and
 - (b) the capacity in which the person is approved; and
 - (c) an identifying number; and
 - (d) the period for which the approval is granted.
- (5) An approval granted to a health worker may be made subject to the condition that the health worker attend a further course of instruction.

87 Approval—surrender

- (1) An approved person may surrender the approval by giving written notice of surrender to the chief health officer.
- (2) The surrender of an approval takes effect on the date the notice of surrender is given, or on such later date as may be specified in the notice for that purpose.

88 Approval—cancellation

- (1) Where the chief health officer believes on reasonable grounds that an approved person—
 - (a) without reasonable excuse, has not attended a course of instruction, where that attendance is a condition to which the person's approval is subject; or
 - (b) has been convicted of an offence against sections 91 or 92; or

- (c) is no longer a fit and proper person to hold an approval; or
the chief health officer may cancel that person's approval.
- (2) The cancellation of an approval takes effect on the date the notice of cancellation is given pursuant to section 198.

89 Approval—duration

An approval shall remain in force, unless sooner cancelled, for a period of 12 months commencing on the date on which the approval was granted, and may be renewed in accordance with section 90.

90 Approval—renewal

- (1) An approved person may, at any time before the expiration of the term of the approval, apply to the chief health officer for a renewal of the approval.
- (2) An application for the renewal of an approval shall be in writing signed by the approval holder.
- (3) On application for the renewal of an approval, the chief health officer shall renew the approval for a further period of 12 months, commencing on the day immediately following the day on which or, but for its renewal, the approval would have expired.
- (4) A renewal of an approval of a health worker under this section may be made subject to the condition that the health worker attend a further course of instruction.

91 Approval—production to police

Upon request by a police officer, an approved person shall not, without reasonable excuse, fail to produce the approval for inspection by the police officer.

Maximum penalty: \$1 000.

92 Approval—lending to another person

An approved person shall not lend or give the approval to another person for the purpose of assisting the person to supply syringes.

Maximum penalty: \$1 000.

93 Offences under Crimes Act 1900

- (1) An approved person who supplies a syringe to another person shall not, by reason only of that supply, be taken to commit any offence under or by virtue of a provision in the *Crimes Act 1900*, part 8 if—
 - (a) the supply is in the course of the professional practice or occupational duties of the approved person; and
 - (b) the approved person has reasonable grounds for believing that—
 - (i) the syringe might be used for the purpose of the administration to the other person of a drug of dependence or prohibited substance; and
 - (ii) the supply of the syringe might assist in preventing the spread of disease.
- (2) A person who prints or publishes a notice, announcement or advertisement in any form about the supply by approved persons of syringes in the circumstances referred to in subsection (1) shall not, by reason only of that printing or publishing, be taken to have committed any offence under or by virtue of a provision in the *Crimes Act 1900*, part 8.

94 Return of approval to chief health officer

Upon ceasing to be an approved person, a person shall not, without reasonable excuse, fail to return the approval to the chief health officer.

Maximum penalty: \$1 000.

Part 8 Records, safekeeping and disposal

Division 8.1 Records of drugs of dependence

95 Definitions for div 8.1

In this division:

drug register means a register kept pursuant to section 99.

first-aid register means a register kept pursuant to section 103.

licensee means the holder of a manufacturer's or wholesaler's licence.

order means an order referred to in section 53.

prescribed person means—

- (a) a licensee; or
- (b) a pharmacist in control of a dispensary; or
- (c) a chief pharmacist; or
- (d) a medical practitioner, dentist or veterinary surgeon; or
- (e) a person in charge of an opioid dependency treatment centre.

ward includes an opioid dependency treatment centre, whether or not the centre forms part of an institution.

ward register means a register kept pursuant to section 101.

96 Orders

A person who directly controls a place from which drugs of dependence are sold or supplied on order shall, while they control that place—

- (a) keep the receipt for each drug of dependence sold or supplied from that place upon an order for a period of 2 years from the date of the receipt; and
- (b) maintain at that place each such receipt in order of the date of the receipt; and
- (c) keep the written evidence of each despatch of a drug of dependence by registered post from that place for a period of 2 years from the date of despatch; and
- (d) maintain at that place all such evidence in order of the date of despatch.

Maximum penalty: \$2 000.

97 Prescriptions and requisitions

- (1) In this section:

prescription includes the duplicate of a prescription issued under the *National Health Act 1953* (Cwlth) or the *Veteran's Entitlements Act 1986* (Cwlth).

- (2) A person who supplies a drug of dependence upon a prescription or requisition shall, at the time when the drug is supplied or, in the case of an orally issued prescription or an orally issued requisition, at the time when the corresponding written prescription or requisition under section 61 (4) or 64 (5) is received, endorse upon the face of the prescription or requisition in a permanent form—
- (a) the date on which the drug was supplied; and
 - (b) the usual signature of the person; and
 - (c) the address or location of the dispensary or place from which the drug was supplied; and
 - (d) in the case of a prescription containing a direction to repeat the supply—the number of the repeat supplied; and

- (e) in the case of a requisition, or a prescription not containing a direction to repeat, or when the last repeat of a prescription is supplied—the word ‘cancelled’.
- (3) A person who directly controls a place, including the central store or a dispensary or ward in a class 1 institution, from which drugs of dependence are supplied upon prescription or requisition shall, while they control that place—
- (a) keep the prescription or requisition for each drug of dependence sold or supplied from that place which has been endorsed as cancelled pursuant to subsection (2) for a period of 2 years from the date of endorsement; and
 - (b) number, and maintain at that place, each such prescription and requisition in order of the date of its endorsement.
- (4) A person who supplies a drug of dependence upon a prescription shall mark the label on the bottle or package of the drug with—
- (a) the name of the person for the administration to whom the drug is supplied; and
 - (b) the number accorded to the prescription for the drug pursuant to subsection (3).

Maximum penalty: \$2 000, imprisonment for 1 year or both.

98 Supply of information to chief health officer

A person who supplies a drug of dependence upon an order, prescription or requisition shall, within 7 days of the end of the month in which the drug was supplied, give the chief health officer details of the information contained in the relevant order, prescription or requisition.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

99 Drug registers

A prescribed person shall keep, or cause to be kept, at the place where any drugs of dependence are kept by that person, a register of drugs of dependence in accordance with the form approved under section 205 (Approved forms) for this section.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

100 Entries in drug registers

- (1) A prescribed person shall, within 24 hours of manufacturing or receiving a drug of dependence, enter or cause to be entered in the relevant drug register—
 - (a) the date on which the drug was manufactured or received, as the case may be; and
 - (b) the name, quantity, form and strength of the drug; and
 - (c) the name and occupational or business address of the person (if any) who supplied the drug.
- (2) Where a prescribed person sells, supplies or administers, or causes to be sold, supplied or administered, a drug of dependence he or she shall, within 24 hours, enter or cause to be entered in the relevant drug register—
 - (a) the date of the sale, supply or administration; and
 - (b) the name, quantity, form and strength of the drug; and
 - (c) if the drug is supplied upon prescription or requisition—the name and occupational address of the person prescribing or requisitioning the drug, and the number accorded to the prescription or requisition pursuant to section 97 (3) (b); and
 - (d) if the prescribed person is a pharmacist at a class 1 institution—details of the dispensary or ward to which the drug was supplied; and

- (e) if the prescribed person is a pharmacist in control of a dispensary at a community pharmacy, a medical practitioner, a dentist or a veterinary surgeon—the name and residential address of—
 - (i) the person for the treatment of whom, or for the treatment of an animal in the care of whom, the drug was supplied or administered; and
 - (ii) if the drug is not supplied to that person—the person to whom the drug is supplied; and
 - (f) if the prescribed person is a veterinary surgeon—the species of animal, and, where possible, a means of identifying the animal for the treatment of which the drug was supplied; and
 - (g) if the prescribed person is a licensee—the name and occupational or business address of the person to whom the drug was supplied; and
 - (h) the quantity of the drug still kept by the prescribed person.
- (3) A person who makes an entry in a drugs register shall sign the entry.
Maximum penalty: \$2 000.

101 Ward registers

- (1) A person who, for the time being, is in charge of a ward, shall keep, or cause to be kept, in the ward—
 - (a) in respect of methadone administered at an opioid dependency treatment centre for the purpose of treating drug dependency—a ward methadone register in accordance with the appropriate form approved under section 205 (Approved forms) for this paragraph; or
 - (b) in relation to buprenorphine administered at an opioid dependency treatment centre for the purpose of treating drug dependency—a ward buprenorphine register in accordance

with the appropriate form approved under section 205 (Approved forms) for this paragraph; or

- (c) in any other case—a ward drugs of dependence register in accordance with the appropriate form approved under section 205 (Approved forms) for this paragraph.

Maximum penalty: \$5 000, imprisonment for 6 months or both.

- (2) Subsection (1) does not apply to an opioid dependency treatment centre approved under section 150 (1).

102 Entries in ward drugs of dependence registers

- (1) A person who keeps, or causes to be kept, a ward drugs of dependence register shall enter, or cause to be entered, in that register, in respect of each drug of dependence to which section 101 (1) (b) relates that is supplied for use in the ward or returned to a dispensary, within 24 hours after the drug is supplied or returned —
 - (a) the date on which the drug was supplied or returned; and
 - (b) the name, quantity, form and strength of the drug; and
 - (c) in the case of supply at a class 2 institution—the name and business address of the person who supplied the drug.
- (2) A person who is to administer a drug of dependence to which section 101 (1) (b) relates to a patient in a ward shall, when the drug is removed from a drug cabinet or safe for that purpose, enter in the relevant ward drugs of dependence register —
 - (a) the anticipated date and time of the administration; and
 - (b) the name, quantity, form, strength and dose of the drug; and
 - (c) the number accorded to the relevant prescription pursuant to section 97 (3); and
 - (d) the name of the medical practitioner who prescribed the drug; and

- (e) the name of the patient to whom the drug is to be administered;
and
 - (f) the quantity of the drug remaining in the ward.
- (3) A person who makes an entry in a ward drugs of dependence register pursuant to subsection (1) shall sign the entry.
- (3A) A person who makes an entry in a ward drugs of dependence register pursuant to subsection (2) shall, within 24 hours after the entry was made—
- (a) if necessary, correct the particulars relating to the date and time of the administration; and
 - (b) sign the entry.
- (4) A person who—
- (a) supplies a drug of dependence to which section 101 (1) (b) relates to a ward or returns such a drug to a dispensary; or
 - (b) witnesses, under section 84, the administration of a drug of dependence to which section 101 (1) (b) relates to a patient in the ward;

shall countersign the relevant entry in the ward drugs of dependence register.

Maximum penalty: \$1 000.

102A Entries in ward methadone registers

- (1) A person who administers methadone during a shift at a centre referred to in section 101 (1) (a) for the purpose referred to in that paragraph shall enter in the ward methadone register—
- (a) at the beginning of the shift—
 - (i) the name of the centre and its location; and
 - (ii) the strength and form in which the methadone is to be administered; and

- (iii) the amount of methadone removed from the dispensary or other place where the methadone is stored; and
- (b) immediately after each dose of methadone is administered—
 - (i) the date and time of administration; and
 - (ii) the name of the patient to whom the methadone was administered; and
 - (iii) the quantity of methadone administered; and
 - (iv) the name of the person who administered the methadone; and
 - (v) the name of the person who witnessed under section 84 the administration; and
 - (vi) the name of the medical practitioner who prescribed the methadone; and
- (c) at the end of the shift—
 - (i) the reconciliation amount for each dose; and
 - (ii) the quantity of methadone returned to the dispensary or other place where the methadone is stored.
- (2) The person who administered the methadone during the shift shall, at the end of the shift, sign the ward methadone register.
- (3) The person who witnessed that administration shall, at the end of the shift, countersign the ward methadone register.

102B Entries in ward buprenorphine registers

- (1) A person who administers buprenorphine during a shift at an opioid dependency treatment centre for the purpose of treating drug dependency must enter in the ward buprenorphine register—
 - (a) at the beginning of the shift—
 - (i) the name of the centre and its location; and

- (ii) the strength and form in which the buprenorphine is to be administered; and
 - (iii) the amount of buprenorphine removed from the dispensary or other place where the buprenorphine is stored; and
- (b) immediately after each dose of buprenorphine is administered—
 - (i) the date and time of administration; and
 - (ii) the name of the patient to whom the buprenorphine was administered; and
 - (iii) the quantity of buprenorphine administered; and
 - (iv) the name of the person who administered the buprenorphine; and
 - (v) the name of the person who witnessed under section 84 (Administration—witnesses) the administration; and
 - (vi) the name of the medical practitioner who prescribed the buprenorphine; and
- (c) at the end of the shift—
 - (i) the reconciliation amount for each dose; and
 - (ii) the quantity of buprenorphine returned to the dispensary or other place where the buprenorphine is stored.
- (2) The person who administered the buprenorphine during the shift must, at the end of the shift, sign the ward buprenorphine register.
- (3) The person who witnessed that administration must, at the end of the shift, countersign the ward buprenorphine register.

103 First-aid registers

A person authorised under division 4.2 to have control of a first-aid kit containing a drug of dependence shall keep or cause to be kept,

in a locked receptacle or room to which that person has exclusive access, a first-aid drugs of dependence register in accordance with the form approved under section 205 (Approved forms) for this section.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

104 Entries in first-aid registers

- (1) A person who keeps a first-aid register shall enter, or cause to be entered, in the register—
 - (a) in respect of each drug of dependence contained in the kit—
 - (i) the date on which the drug was supplied; and
 - (ii) the name, quantity, form and strength of the drug; and
 - (iii) the name and business address of the person who supplied the drug; and
 - (b) in respect of each drug of dependence (being a drug that was contained in the first-aid kit) that is supplied for, or administered to, a person—
 - (i) the date on which the drug was supplied or administered; and
 - (ii) the name and residential address of the person, if ascertainable; and
 - (iii) the name, quantity, form and strength of the drug supplied or administered; and
 - (iv) the mental or physical condition for the treatment of which the drug was supplied or administered; and
 - (v) the quantity of the drug remaining in the first-aid kit.
- (2) A person who makes an entry in a first-aid register shall sign the entry.

Maximum penalty: \$1 000.

105 Record of disposal

- (1) Where a drug of dependence in relation to which an entry has been made in a register has been disposed of or surrendered in accordance with section 120, the person who is required to keep, or cause to be kept, the register shall enter in it—
 - (a) if the drug is surrendered—the name of the person to whom the drug is surrendered; and
 - (b) the name, quantity, form and strength of the drug disposed of or surrendered; and
 - (c) the date of disposal or surrender and, where the drug is disposed of, the method of disposal; and

and that person shall sign the entry.

- (2) Where a drug of dependence is disposed of in accordance with section 120—
 - (a) the person who disposed of the drug shall sign; and
 - (b) the person who supervised that disposal shall countersign;the relevant entry in the relevant register.

Maximum penalty: \$1 000.

106 Registers—general provisions

- (1) Subject to subsection (2) and section 102 (3A), a person shall not alter, or cause or permit to be altered, an entry made in a register.
- (2) A person who keeps, or causes to be kept, a register shall, by the addition of a notation signed by the person making the notation and by a witness, correct, or cause to be corrected, a mistake in any entry made in that register.
- (3) Subject to section 109, a person who keeps, or causes to be kept, a register shall—

- (a) retain possession of the register for 2 years after the date of the last entry made in the register; and
 - (b) make the register available for inspection on request by—
 - (i) a drug inspector; or
 - (ii) a police officer authorised in writing for the purpose by the Minister.
- (4) A person who keeps, or causes to be kept, a register shall, immediately upon discovering the loss or destruction of the register or part of the register—
- (a) advise the chief health officer in writing accordingly; and
 - (b) make, or cause to be made, for the purpose of compiling a new register, an inventory in accordance with the appropriate form approved under section 205 (Approved forms) for this section of each drug of dependence kept by him or her; and
 - (c) on the basis of that inventory, any previous relevant inventories and the copies of relevant orders, prescriptions and requisitions held pursuant to section 96 and section 97 (3), compile a new register or reconstruct, as far as possible, that part of the old register which was lost or destroyed.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

107 False entries in registers

A person who keeps, or causes to be kept, a register shall not make, or cause or permit to be made, in the register an entry that is, to the knowledge of that person, false or misleading in any particular.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

108 Patients' records

A person who administers a drug of dependence to a patient at an institution, or an opioid dependency treatment centre that does not form part of an institution, shall enter on the prescription for that

drug which forms part of the clinical records maintained by the institution or centre in relation to that patient, or in those records in relation to that prescription—

- (a) the date and time of the administration; and
- (b) a notation confirming that the drug was administered in accordance with the prescription;

and that person shall initial the entry.

Maximum penalty: \$1 000.

109 Transfer of control of pharmacies

- (1) Where it is proposed that a pharmacist take control of a dispensary in a community pharmacy for a continuous period exceeding 14 days, the pharmacist previously in control of the dispensary shall, prior to ceasing to control the dispensary—
 - (a) make an inventory in accordance with the appropriate form approved under section 205 (Approved forms) for this section of each quantity of each drug of dependence held in the dispensary; and
 - (b) sign and date the inventory and deliver it to the firstmentioned pharmacist; and
 - (c) enter in the register kept at the dispensary particulars of each such quantity, and give the register to the firstmentioned pharmacist.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

- (2) A pharmacist taking control of a dispensary in the circumstances specified in subsection (1) shall, upon taking control of the dispensary, check the inventory made pursuant to subsection (1) (a) against—
 - (a) the drugs of dependence kept in the dispensary; and

- (b) the entries in the register, being the entries referred to in subsection (1) (c);

and, if the inventory is, in his or her opinion, correct, the pharmacist shall mark the inventory accordingly and sign it.

Maximum penalty: \$2 000.

- (3) Where, after checking an inventory in the manner required by subsection (2), a pharmacist forms the opinion that the inventory is incorrect in any particular, he or she shall accordingly—

- (a) mark the inventory; and
(b) notify a drug inspector—
 (i) orally immediately; and
 (ii) in writing within 24 hours.

Maximum penalty: \$2 000.

Division 8.2 Safekeeping of drugs of dependence

110 Definitions for div 8.2

In this division:

drug cabinet means a receptacle which is either—

- (a) constructed of black mild steel plate of not less than 10 mm thickness; and
(b) constructed with continuous welding of all edges; and
(c) fitted with a door, constructed of black mild steel plate of not less than 10 mm thickness, swung on hinges welded to the door and body of the cabinet, the door being flush fitting with a clearance around the door of not more than 1.5 mm; and

- (d) fitted with a fixed locking bar, welded to the inside face of the door near the hinge edge, which engages in a rebate in the cabinet when the door is closed; and
- (e) fitted with a five-lever key lock or locking mechanism providing at least the same degree of security, securely affixed to the rear of the face of the door; and
- (f) securely attached to a wall or a floor so that—
 - (i) where the wall and the floor are constructed of brick or concrete—it is fixed to the wall or the floor or both by means of not less than 4 expanding bolts of at least 10 mm in diameter; and
 - (ii) where the wall or walls are constructed of brick or concrete—it is fixed to the wall or the walls by means of not less than 4 expanding bolts of at least 10 mm in diameter; and
 - (iii) where the wall is of timber construction, but the floor is constructed of brick or concrete—the fixing is to the floor by means of not less than 4 suitably sized expanding bolts of at least 10 mm in diameter through suitable sized holes drilled in the bottom of the cabinet and not less than 2 substantial coach screws into the wooden uprights behind or alongside the cabinet as close to the top of the wall face as is possible; and
 - (iv) where neither a floor nor a wall constructed of brick or concrete is available—the fixing is to the timber frame of the wall or the timber frame of the floor by a method that will ensure that the cabinet cannot be removed within a period of 30 minutes from the floor or wall;

or which—

- (g) conforms to the specifications referred to in paragraphs (a) to (e); and

- (h) is embedded in a floor of reinforced concrete of at least 10 mpa compressive strength.

key safe means a safe, designed to be opened by means of a combination lock, used for the purpose of keeping the key to a vault, strong room, safe or drug cabinet.

licensee means the holder of a manufacturer's or wholesaler's licence.

safe means a safe which is constructed in such a manner as to prevent ready access to its contents by cutting, sawing or unbolting, and which is—

- (a) freestanding and weighing not less than 350kg; or
- (b) is securely affixed or anchored to, or embedded in, a concrete floor or a concrete or brick wall.

strong room means a structure—

- (a) of brick or concrete; and
- (b) fitted with a door; and
- (c) which may reasonably be expected to resist, when locked, attempts to gain entry by tools, torch or explosives for a period of not less than 1 hour.

vault means a structure—

- (a) constructed of reinforced concrete forming all walls, floor and ceiling; and
- (b) fitted with a door; and
- (c) which may reasonably be expected to resist, when locked, attempts to gain entry by tools, torch or explosives for a period of not less than 1 hour.

111 Safekeeping by manufacturers and wholesalers

- (1) A licensee shall keep each drug of dependence held by the licensee in a vault, strong room or safe at the premises specified in the relevant licence.

Maximum penalty: \$10 000.

- (2) A licensee shall not keep a drug of dependence in a strong room or safe without the written approval of the chief health officer.

Maximum penalty: \$10 000.

- (3) The chief health officer shall give an approval for the purpose of subsection (2) where, in the opinion of the chief health officer, the total quantity of the drugs of dependence held by the licensee at any time is not large enough to require storage in a vault.

- (4) A licensee shall ensure that the vault, strong room or safe used by the licensee to keep drugs of dependence is fitted with such warning devices and detectors as are, or as are of a type, approved in writing for the purpose by the chief health officer.

Maximum penalty: \$10 000.

- (5) The chief health officer may approve in writing warning devices or detectors, or types of such devices or detectors for the purposes of subsection (4).

112 Safekeeping by chief pharmacists

- (1) A chief pharmacist shall keep each drug of dependence held by him or her in a vault, strong room or safe.

Maximum penalty: \$5 000, imprisonment for 1 year or both.

- (2) For the purposes of subsection (1), a chief pharmacist shall not be taken to hold a drug of dependence unless it is kept in the central store of the relevant institution, or a dispensary in the institution under the direct control of the chief pharmacist.

- (3) A chief pharmacist shall ensure that—

- (a) each vault, strong room or safe used by him or her to keep drugs of dependence; and
- (b) each drug cabinet and each other safe in the relevant institution; and
- (c) each key safe used for keeping the key to any such vault, strong room, safe or drug cabinet;

is fitted with such warning devices and detectors as are, or as are of a type, approved in writing for the purpose by the chief health officer.

Maximum penalty: \$5 000, imprisonment for 1 year or both.

- (4) The chief health officer may approve in writing warning devices or detectors, or types of such devices or detectors, for the purpose of subsection (3).

113 Safekeeping by medical practitioners, dentists and veterinary surgeons

A medical practitioner, dentist, veterinary surgeon or a person authorised under division 4.2 to control a first-aid kit containing a drug of dependence shall—

- (a) keep each drug of dependence held by him or her in a locked receptacle securely fixed to the premises, or in a locked room, except any drug of dependence that is being carried by him or her; and
- (b) keep each drug of dependence that is being carried by him or her in a locked bag or container.

Maximum penalty: \$5 000.

114 Safekeeping by other persons

- (1) Where a drug of dependence is kept by—

- (a) a pharmacist in control of a dispensary, not being the central store of an institution or a dispensary under the direct control of the chief pharmacist of an institution; or
- (b) a person in charge, for the time being, of a ward at an institution; or
- (c) if the drug is kept at an opioid dependency treatment centre which is not a ward—a person in charge, for the time being, of the centre; or
- (d) a person in charge of a class 2 institution;

that person shall keep the drug, or cause it to be kept, in a drug cabinet, or in a safe securely embedded in a concrete floor.

Maximum penalty: \$5 000.

- (2) Where a drug of dependence is kept in a drug cabinet or safe—
 - (a) at a class 2 institution by the person in charge of the institution; or
 - (b) at an opioid dependency treatment centre which is not a ward by the person in charge of the centre; or
 - (c) in a dispensary at a community pharmacy by the pharmacist in control of the dispensary;

that person shall ensure that the drug cabinet or safe, and the key safe (if any) used for keeping the key to that cabinet or safe, is fitted with such warning devices and detectors as are, or as are of a type, approved in writing by the chief health officer.

Maximum penalty: \$5 000.

- (3) The chief health officer may approve in writing warning devices or detectors, or types of such devices or detectors, for the purposes of subsection (2).
- (4) Subsection (2) does not apply where—

- (a) the relevant drug cabinet or safe is in a dispensary at a community pharmacy; and
- (b) the chief health officer is satisfied on reasonable grounds that the building or building complex in which that pharmacy is situated is patrolled by a security service in a satisfactory manner.

115 Safekeeping at institutions

- (1) A person in charge of a class 2 institution shall not keep, or cause or permit to be kept, at that institution a quantity of a drug of dependence exceeding that prescribed by a medical practitioner for the treatment of a patient at the institution.
- (2) A person shall not remove any quantity of a drug of dependence that is to be administered to a patient in an institution from the receptacle or place in which the drug is stored, until that quantity of the drug is required for that purpose.

Maximum penalty: \$5 000.

116 Loss or theft of a drug of dependence

- (1) A person keeping a drug of dependence shall, on becoming aware of the loss or theft of a quantity of the drug—
 - (a) if the person believes on reasonable grounds that the drug was stolen—accordingly notify a drug inspector and a police officer—
 - (i) orally immediately; and
 - (ii) in writing within 24 hours;
 - (b) in the case of a loss—give a written report of the circumstances of the loss to a drug inspector; and
 - (c) record the loss or theft accordingly in the relevant register or, in the case of a person authorised under division 4.1, in the

records required to be kept by that person as a condition of the authorisation.

Maximum penalty: \$2 000.

- (2) Where a quantity, or part of a quantity, of a drug of dependence which was lost or stolen is recovered, the person who originally held that quantity or part shall record its recovery accordingly in the relevant register or, in the case of a person authorised under division 4.1, in the records required to be kept by that person as a condition of the authorisation.

Maximum penalty: \$2 000.

- (3) Where a drug inspector receives a report under subsection (1), he or she shall, if—
- (a) the report is of a theft; or
 - (b) the drug inspector believes on reasonable grounds that a reported loss is a theft;

immediately give a report of the circumstances or the loss to a police officer.

117 Access to combinations and keys of drug receptacles

- (1) In this section:

responsible person means—

- (a) a licensee who is a natural person; or
- (b) each person specified in a licence as a supervisor; or
- (c) a chief pharmacist; or
- (d) a pharmacist in control of a dispensary; or
- (e) a medical practitioner, dentist or veterinary surgeon; or
- (f) a person in charge, for the time being, of a ward at an institution or a person for the time being authorised, in writing

or orally in the presence of a witness, by the person in charge; or

- (g) in the case of an opioid dependency treatment centre which is not a ward—the person in charge, for the time being, of the centre; or
 - (h) a person in charge of a class 2 institution.
- (2) Where a responsible person keeps a drug of dependence in a receptacle or place designed to be opened by means of a combination lock, that person shall maintain personal access to, and keep confidential, the combination of the lock.
- (3) Where a responsible person keeps a drug of dependence in a receptacle or place designed to be opened with a key, that person shall—
- (a) if the drug is kept at an institution, or an opioid dependency treatment centre which is not a ward—
 - (i) retain personal custody of the key; or
 - (ii) if the key is kept in a key safe—maintain personal access to, and keep confidential, the combination of the lock of the key safe; or
 - (b) in any other case—retain personal custody of the key.
- (4) Where a licensee who is a corporation keeps a drug of dependence in a receptacle or place, each director of that corporation nominated by the corporation for the purpose shall—
- (a) if that receptacle or place is designed to be opened by means of a combination lock—maintain personal access to, and keep confidential, the combination of the lock; or
 - (b) if that receptacle or place is designed to be opened with a key—retain personal custody of the key.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

118 Safekeeping—general

A person keeping a drug of dependence shall—

- (a) keep it in conditions which preserve the stability and quality of the drug; and
- (b) except where the person is a medical practitioner, veterinary surgeon or a dentist, or a pharmacist in control of the dispensary at a community pharmacy—ensure that only drugs of dependence or other drugs or prohibited substances are kept in the receptacle or place where the drug is kept; and
- (c) ensure that the receptacle or place where the drug is kept, and the key safe (if any) used for keeping the key to that receptacle or place, is kept locked at all times except when it is necessary to carry out essential operations in connection with the drugs of dependence, or to gain access to any other items kept in that receptacle or place.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

Division 8.3 Inspection—class 1 institutions

119 Inspection of records and storage facilities

The chief pharmacist of a class 1 institution shall make, or cause to be made, at intervals of not greater than 6 months, an inspection of—

- (a) the records kept under division 8.1 in relation to any drug of dependence; and
- (b) the central store, each dispensary and each ward;
at that institution for the purpose of ensuring that each drug of dependence held in the institution—
- (c) accords with the relevant record; and
- (d) is being stored pursuant to the provisions of division 8.2.

Maximum penalty: \$2 000.

Division 8.4 Disposal of drugs of dependence

120 Procedure for disposal

- (1) Where a person holds a quantity of a drug of dependence that the person wishes to dispose of, or which has become unfit for use, that person shall—
 - (a) keep the quantity stored pursuant to division 8.2 until it is disposed of or surrendered; and
 - (b) ensure that that quantity is disposed of or surrendered in accordance with this section.

Maximum penalty: \$2 000, imprisonment for 1 year or both.

- (2) Subsection (1) does not apply to a drug inspector or an analyst.
- (3) A drug of dependence referred to in subsection (1) shall be—
 - (a) disposed of under the supervision of, and in accordance with the direction of, a drug inspector; or
 - (b) surrendered to a drug inspector by—
 - (i) delivering it personally to the inspector; or
 - (ii) sending it to the inspector by registered mail or courier service;

to be disposed of as the chief health officer directs.
- (4) Where a drug of dependence referred to in subsection (1) is held at a class 1 institution, it shall be—
 - (a) if the drug is held by the chief pharmacist of that institution—disposed of in the presence of—
 - (i) a medical practitioner, intern, dentist, pharmacist or nurse; or

- (ii) an enrolled nurse who has completed a course on the use of drugs of dependence approved for the purpose of this section by the Minister; or
 - (b) if the drug is held by any other person—disposed of in the presence of the chief pharmacist of the institution or a pharmacist for the time being authorised, in writing or orally in the presence of a witness, by the chief pharmacist; or
 - (c) in any case—disposed or surrendered in accordance with subsection (3).
- (5) Where a drug of dependence referred to in subsection (1) is surrendered to a drug inspector, it shall be disposed of in the presence of—
 - (a) a chief pharmacist of an institution; or
 - (b) a person referred to in any of subsection (4) (a) (i) or (ii).
- (5A) Notwithstanding subsection (4), the residue left after a drug of dependence has been administered may be disposed of by a person referred to in subsection (4) (a) (i) or (ii) in the presence of another such person.
- (6) For the purposes of this section, a chief pharmacist of an institution shall not be taken to hold a drug of dependence unless it is kept in the central store of the relevant institution, or a dispensary in the institution under the direct control of the chief pharmacist.
- (7) For the purposes of this section, a drug of dependence shall be taken to be unfit for use if that drug is—
 - (a) contaminated; or
 - (b) kept later than the date specified on its container or packet as the date after which it should not be used; or
 - (c) otherwise unfit for use.

Part 9 Treatment

Division 9.1 Preliminary

121 Definitions for pt 9

In this part:

approved treatment centre means a hospital or other health facility conducted by the Territory or a Territory authority, or a treatment centre in respect of which an approval under division 9.4 is in force.

assessment order means an order under section 122.

member means a member of a panel.

offender means a person referred to in section 122 (1).

panel means a treatment assessment panel established under division 9.3.

proper officer means—

- (a) in relation to the Supreme Court—the registrar of that court; and
- (b) in relation to the Magistrates Court or the Childrens Court—the registrar of that court.

responsible officer means—

- (a) in relation to an offender who is not 18 years old or older—the chief executive responsible for administering the *Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility); or
- (b) in any other case—the administrator under the *Remand Centres Act 1976*.

treatment order means an order under section 123.

Division 9.2 Assessment orders and treatment orders

122 Assessment orders

- (1) Where a court finds an offence under this Act or under any other law in force in the Territory proved against a person, the court may, having regard to whether the person may have been—
 - (a) under the influence of a drug of dependence or a prohibited substance when he or she committed the offence; or
 - (b) motivated to commit the offence by a desire—
 - (i) to administer a drug of dependence or prohibited substance to himself or herself; or
 - (ii) to obtain such a drug or substance for administration to himself or herself; or
 - (iii) to obtain resources to enable him or her to obtain such a drug or substance for administration to himself or herself;order the person to submit himself or herself for assessment by a panel and, if so required by the panel, for assessment at an approved treatment centre or centres.
- (2) A court shall only make an order under subsection (1)—
 - (a) with the consent of the offender; and
 - (b) before convicting or sentencing the offender, or otherwise disposing of the matter.
- (3) Where a court makes an order under subsection (1) in relation to an offender, the proper officer of the court shall—
 - (a) cause the order to be written down in accordance with the form approved under section 205 (Approved forms) for this section; and

- (b) cause a copy of the order to be given to the offender and to the director.

123 Treatment orders

- (1) In this section:

probation officer, in relation to an offender, means a person authorised by the responsible officer to supervise the offender.

- (2) Where—

- (a) a court makes an assessment order in relation to an offender; and
- (b) the panel by which the offender is assessed issues a recommendation that the offender undergo treatment at an approved treatment centre;

the court may make an order under subsection (3), taking into consideration the panel's assessment and recommendation, together with any relevant assessment from an approved treatment centre.

- (3) In the circumstances referred to in subsection (2), a court may, with the consent of the offender, order that the offender, during a period of 2 years, or such shorter period as the court may specify in the order—
 - (a) in accordance with the recommendation of the panel, submit himself or herself for the treatment specified in the order at the approved treatment centre specified in the order, or for any other treatment at that centre or any other centre, as directed from time to time by a panel under section 142 or 143, in accordance, in any case, with the reasonable requirements of the person in charge of the relevant centre; and
 - (b) comply with such other conditions as the court specifies in the order.

- (4) Where a court makes an order under subsection (3), without limiting the generality of that subsection, a court may specify conditions in the order relating to—
- (a) the supervision by a probation officer of the offender; or
 - (b) the attendance by the offender at the relevant approved treatment centre; or
 - (c) the periodic attendance by the offender before a panel for review of the treatment being undergone by the offender.
- (5) Before making a treatment order, the court shall explain to the offender in respect of whom the order is to be made—
- (a) the effect that the proposed order would have; and
 - (b) the consequences of noncompliance with the order and of the commission of an offence under section 124 (2); and
 - (c) that the court has the power to review the order upon the application of the director or of the offender.
- (6) Nothing in this section affects the power of a court—
- (a) to make an order under the *Crimes Act 1900*, section 437, 556A, 556B or 556G in respect of an offender; and
 - (b) to make an order for costs against an offender; and
 - (c) to suspend or cancel an offender's licence to drive a motor vehicle or to disqualify an offender from holding such a licence for such period as the court thinks fit.
- (7) Where a court makes a treatment order, the proper officer of the court shall—
- (a) cause the order to be written down in accordance with the form approved under section 205 (Approved forms) for this section; and
 - (b) cause a copy of the order to be given to the offender, the director and the responsible officer.

124 Offences—treatment orders

- (1) In this section:

the court means the court which made the relevant treatment order in relation to an offender referred to in this section.

- (2) An offender who, without reasonable excuse, refuses or fails—
- (a) to comply with a treatment order; or
 - (b) to inform the person in charge of the approved treatment centre attended by the offender pursuant to such an order of any change in the offender's address; or
 - (c) to appear before a panel convened under section 142, 143 or 144 as required by a notice issued in accordance with section 146 (1); or
 - (d) where, under section 145 (3), a panel convened under section 142, 143 or 144 requires the offender to attend an approved treatment centre for assessment—to appear at the centre in accordance with the notice given under section 145 (4);

is guilty of an offence and shall be dealt with in accordance with this section.

- (3) Where an information is laid before the court that an offender has committed an offence under subsection (2), the court may—
- (a) issue a summons requiring the offender to appear, at a time and date to be fixed, before the court and to show cause why the offender should not be dealt with by the court under this section; or
 - (b) if the information is laid on oath—issue a warrant for the arrest of the person to be brought before the court to be dealt with under this section.
- (4) If the offender fails to appear before a court in answer to a summons issued in accordance with subsection (3), the court shall adjourn the

proceedings and may issue a warrant for the apprehension of the offender and for the offender to be brought before that court.

- (5) The court may, with the consent of an offender who appears or is brought before a court pursuant to this section, make an order that the offender submit himself or herself for assessment by a panel.
- (6) Where a court makes an order under subsection (5) in relation to an offender, the proper officer of the court shall cause a copy of the order to be given to the director.
- (7) Where an offender appears or is brought before a court pursuant to this section, and the court is satisfied that the offender has committed an offence under subsection (2), the court may make an order—
 - (a) in accordance with the recommendation of a panel, where the offender and the person in charge of the relevant approved treatment centre consent—
 - (i) extending the period during which the relevant treatment order is to remain in force, or otherwise varying the conditions of that order; or
 - (ii) revoking the order referred to in subsection (1); or
 - (b) imposing on the offender any penalty which the court would, if the offender had then been convicted of the original offence committed by the offender, then have been empowered to impose; or
 - (c) that any security under a recognisance given by the offender pursuant to any order in relation to the original offence committed by the offender be forfeited.
- (8) Where—
 - (a) an offender appears or is brought before a court pursuant to this section; and

- (b) the court is satisfied that the offender has committed an offence under subsection (2), but is of the opinion that an order should not be made under subsection (7);

the court may decline to make such an order and instead admonish the offender in respect of that offence.

- (9) In making an order under subsection (7), or in declining under subsection (8) to make such an order, a court shall have regard to—
- (a) the length of the period of compliance with the relevant treatment order; and
- (b) any other orders made in relation to the original offence committed by the offender.

125 Further offences

- (1) Where, after a treatment order has been made by a court in respect of an offender, the offender is—
- (a) convicted by the Supreme Court of an offence of the type referred to in section 122 (1); or
- (b) is committed to the Supreme Court pursuant to subsection (3) (b);

the Supreme Court may deal with the offender in relation to that order in like manner as the firstmentioned court could deal with him or her under section 124 if he or she had committed an offence under section 124 (2).

- (2) The powers of the Supreme Court under subsection (1) are in addition to its powers to deal with the offender in relation to the offender's later offence referred to in subsection (1) (a).
- (3) Where, after a treatment order has been made in respect of an offender, the offender is convicted by the Magistrates Court of an offence of the type referred to in section 122 (1), then, in addition to dealing with the offender in relation to that offence, the court—

- (a) may, if the order was made by that court, deal with the offender in the like manner as it could deal with him or her under section 124 if he or she had committed an offence under section 124 (2) in relation to the order; or
 - (b) shall, if the order was made by the Supreme Court, commit the offender to the Supreme Court to be dealt with in accordance with subsection (1).
- (4) Where, pursuant to subsection (3) (b), the Magistrates Court commits an offender to the Supreme Court, the Magistrates Court may admit him or her to bail on such recognisance as it thinks fit, on condition that he or she appears before the Supreme Court at a time and place to be fixed to be dealt with by the Supreme Court in accordance with subsection (1), or may direct that he or she be kept in such custody as the Magistrates Court directs until he or she can be brought before the Supreme Court.

126 Apprehension of offender about to leave Territory

- (1) Where a magistrate, or a judge of the Supreme Court, is satisfied by information on oath that there are reasonable grounds for believing that an offender is about to leave the Territory with the intention of avoiding any of the requirements of an order under this division, the magistrate or judge may issue a warrant for the apprehension of the offender and for the offender to be brought before the Magistrates Court or the Supreme Court, as the case may be.
- (2) A warrant under subsection (1) shall—
 - (a) be in writing signed by the magistrate or judge issuing it; and
 - (b) be directed to all police officers or to a named police officer; and
 - (c) state shortly the matters of the information on which it is founded.
- (3) A person who has been apprehended pursuant to a warrant issued under this section shall be brought before the Magistrates Court, or

the Supreme Court, as the case may be, as soon as practicable after he or she is taken into custody.

127 Power of court where offender about to leave Territory

- (1) Where a court is satisfied that an offender brought before it pursuant to section 126 is about to leave the Territory with the intention of avoiding any of the requirements of an order under this division, the court shall—
 - (a) if the court is the Magistrates Court and the order was made by the Supreme Court—remand the officer in custody to be brought before the Supreme Court; or
 - (b) in any other case—deal with the offender in like manner as it could deal with him or her under section 124 if he or she had committed an offence under section 124 (2) in relation to the order.
- (2) Where an offender is brought before the Supreme Court in the circumstances referred to in subsection (1) (a), the court may deal with the offender in like manner as it could deal with him or her under section 124 if he or she had committed an offence under section 124 (2) in relation to the relevant order.

128 Power of court where offender apprehended under div 9.2

- (1) Where an offender is apprehended and brought before a court in accordance with this division, otherwise than in accordance with section 126, the court has the same power to remand the offender in custody, admit the offender to bail, or order the discharge of the offender upon recognisance as it has in respect of a defendant.
- (2) Where an offender fails to comply with the condition of a recognisance entered into for the purposes of this division, the court has the same powers as it would have if at the time the offender entered into the recognisance he or she had been a defendant.

129 Revocation and variation of periods of orders

(1) On the application of an offender in respect of whom a treatment order was made, or of the director in relation to such an order, the court which made that order may—

- (a) revoke the order; or
- (b) with the consent of the relevant offender, vary the order by extending or reducing the period during which the order is to remain in force;

in accordance with the recommendation of a panel if, having regard to the circumstances which have arisen since the order was made, it appears to the court to be in the interests of justice to do so.

(2) Where, under subsection (1), a court revokes an order, the court may make such other order in respect of the relevant offender as it thinks fit, being an order that the court would, if the offender were then before the court for sentence for the offence in respect of which the firstmentioned order was made, be empowered to make, and in making such an order the court shall have regard to—

- (a) the length of the period or periods of compliance with the firstmentioned order; and
- (b) any other orders made in relation to the original offence.

(3) Where an offender applies to a court under subsection (1), the proper officer of the court shall cause a copy of the application and notice of the time and place fixed for the hearing of the application to be given to the director.

(4) The director shall not apply to a court under subsection (1) unless a panel has recommended that a treatment order be revoked or that the period during which the order is to remain in force be reduced or extended.

(5) Where the director applies to a court under subsection (1), the director shall cause to be delivered to the proper officer of the court a copy of the relevant recommendation made by a panel.

- (6) Where the director applies to a court under subsection (1), the court shall issue a summons to the offender to appear before it on the hearing of the application and, if he or she does not appear in answer to the summons, the court shall adjourn the hearing of the application and may issue a warrant for the apprehension of the offender and for the offender to be brought before the court.

Division 9.3 Treatment assessment panels

130 Establishment

- (1) The Minister shall, in writing, establish such treatment assessment panels as are necessary for the purposes of this part.
- (2) A panel shall consist of—
- (a) a legal practitioner; and
 - (b) 2 other persons, each of whom has, in the opinion of the Minister, extensive knowledge of—
 - (i) the physical, psychological and social problems connected with the abuse of drugs of dependence or prohibited substances; or
 - (ii) the treatment of persons suffering from such problems; or
 - (iii) health education in relation to such problems.

131 Appointment of members

- (1) The Minister may, in writing signed by the Minister, appoint persons to be members of panels.
- (2) A person shall be appointed as a part-time member.
- (3) The Minister shall not appoint as a member a person who—
- (a) has been convicted in Australia or elsewhere at any time within the previous 5 years of an offence punishable on conviction by imprisonment for a period of not less than 1 year; or

- (b) is otherwise not, in the opinion of the Minister based on reasonable grounds, a fit and proper person to be a member of a panel.

132 Tenure of office

A member holds office for such period, not exceeding 3 years, as is specified in the instrument of appointment, but is eligible for reappointment.

133 Presiding member

The Minister shall appoint 1 member of each panel to be the presiding member of that panel.

134 Acting appointments

- (1) The Minister may, in writing, appoint a person to act as the presiding member of a panel—
 - (a) during a vacancy in the office of presiding member, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when the presiding member is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.
- (2) The Minister may, in writing, appoint a person to act as a member—
 - (a) during a vacancy in the office of a member, whether or not an appointment has previously been made to the office; or
 - (b) during any period, or during all periods, when a member is absent from duty or from the Territory or is, for any other reason, unable to perform the functions of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (3) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for the appointment of the person had not arisen, that there is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

136 Resignation

A member may resign his or her office by writing signed by the member and delivered to the Minister.

137 Suspension

If, in the opinion of the Minister, based on reasonable grounds, circumstances exist which may lead to the termination of a member's appointment, the Minister may, by notice in writing to the member, suspend the appointment until—

- (a) the appointment is terminated pursuant to section 138; or
- (b) the Minister is satisfied on reasonable grounds that the appointment should not be terminated in those circumstances.

138 Termination of appointment

The Minister shall terminate the appointment of a member—

- (a) if the member is appointed in his or her capacity as a legal practitioner, and the member ceases to be a legal practitioner within the meaning of section 130 (3); or
- (b) for physical or mental incapacity; or
- (c) for misbehaviour; or
- (d) if, on 3 consecutive occasions, on notice from the presiding member of the panel to which the member was appointed, the member fails, without leave granted by the Minister, to make himself or herself available for a proposed meeting of the panel; or

- (e) the member is convicted, in Australia or elsewhere, of an offence punishable on conviction by imprisonment for a period of not less than 1 year; or
- (f) the Minister becomes aware that the member has been convicted in Australia or elsewhere, at any time in the 5 years previous to the member's appointment, of an offence punishable on conviction by imprisonment for a period of not less than 1 year.

139 Meetings of panels

- (1) The presiding member of a panel shall convene such meetings of the panel as are necessary for the efficient performance of its functions.
- (2) A panel shall not meet in the absence of any member.
- (3) A meeting of a panel shall be conducted in private, in the presence of—
 - (a) if required or allowed by the panel—the relevant offender; and
 - (b) while the offender is present—a person (if any) nominated by the offender whose presence is agreed to by the panel; and
 - (c) any other person requested by the panel to be present.
- (4) Where an offender is required to be present at a meeting of a panel, the panel shall, at the request of the offender, exclude any other person from the meeting except any person whose presence is considered by the panel to be necessary for the safety of the members of the panel and any other persons present.
- (5) The panel shall, at the request of the relevant offender, allow the offender to be present at a meeting of the panel while any other person is present.
- (6) At a meeting of a panel—
 - (a) the procedure shall be as determined by the panel; and
 - (b) all questions shall be decided by a majority of votes; and

- (c) the presiding member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.
- (7) An offender who appears before a panel is not entitled to be represented by another person before the panel.
- (8) A panel shall keep a record of its meetings.

140 General powers of panels

For the purposes of performing its functions under this division, a panel—

- (a) may make such enquiries as it considers desirable; and
- (b) may, with the consent of the relevant offender, obtain and consider medical reports about him or her; and
- (c) shall have regard to any information supplied to it orally or in writing by the offender, a police officer, a person in charge of an approved treatment centre, or the responsible officer.

141 Referral for initial assessment

- (1) Upon receipt of a copy of an assessment order, the director shall refer the matter to a panel.
- (2) A panel to which a matter is referred under subsection (1) shall assess—
 - (a) whether the relevant offender is a drug dependent person in relation to any drug of dependence; and
 - (b) whether any treatment for such dependence would be suitable for the offender; and
 - (c) the type, geographical location and duration of any such treatment that would, accordingly, be desirable.
- (3) A panel must notify the director and the offender of an assessment made under subsection (2) and the reasons for the assessment and, in particular—

- (a) whether the panel recommends that the offender undergo any treatment at an approved treatment centre; and
- (b) if the panel so recommends—of the frequency with which the offender should be required to appear before the panel to enable the panel to monitor the progress of such treatment.

Note If a form is approved under s 205 (Approved forms) for a notice of assessment, the form must be used.

- (4) Where a panel has received a notice under section 145 of an approved treatment centre's assessment of the offender, the presiding member shall, for the purpose of notifying the director and the offender, attach that notice to the notice issued pursuant to subsection (3).
- (5) Where the director has received a notice under subsection (3) in relation to an offender, the director shall—
 - (a) sign the notice; and
 - (b) cause that notice, together with any notice under section 145, to be delivered to the proper officer of the court which made the relevant assessment order, and to the responsible officer.

142 Referral for the variation of treatment

- (1) A person who is—
 - (a) an offender attending an approved treatment centre pursuant to a treatment order; or
 - (b) in charge of the approved treatment centre which such an offender is attending;

may apply to the director for consideration of a variation in the treatment being undergone by the relevant offender, not being a variation in the period of the treatment, to be referred to a panel.

- (2) An application under subsection (1) shall be in writing signed by the applicant, and shall specify the variation sought.
- (3) Where the director—

- (a) receives an application in accordance with this section; or
 - (b) considers it necessary to do so;
- the director shall refer the matter to a panel for the purposes of this section.
- (4) A panel shall, by instrument signed by the presiding member stating the reasons for the decision—
 - (a) in the terms sought by the applicant or, in the case referred to in subsection (3) (b), the director—direct that any treatment being undergone by an offender be varied in a specified manner; or
 - (b) refuse to make the direction sought.
 - (5) A panel may only make a direction referred to in subsection (4) (a) with the consent of—
 - (a) the offender; and
 - (b) except where the panel directs that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
 - (6) The presiding member of a panel shall cause a copy of the instrument made pursuant to subsection (4), together with a copy of any notice under section 145 of an approved treatment centre's assessment of the offender, to be given to the offender, the director, the responsible officer, a police officer, and—
 - (a) if the panel directs that the offender attend another approved treatment centre for treatment—the proper officer of the court which made the relevant treatment order and the person in charge of that other centre; or
 - (b) in any other case—the person in charge of the approved treatment centre the offender is currently attending.

143 Referral for periodic review of treatment

- (1) Where the conditions of a treatment order require the attendance of an offender before a panel to review the treatment being undergone by the offender, the director shall refer the matter to a panel for that purpose.
- (2) A panel shall, by instrument signed by the presiding member stating the reasons for the decision—
 - (a) direct that any treatment being undergone by the offender be varied in a specified manner, but not so as to extend or reduce the period of treatment; or
 - (b) recommend that the period of the treatment be extended or reduced by a period specified in the instrument, or that the order be revoked; or
 - (c) recommend that no action be taken in relation to the treatment or the order.
- (3) The presiding member of a panel shall cause a copy of the instrument made pursuant to subsection (2), together with a copy of any notice under section 145 of an approved treatment centre's assessment of the offender, to be given to the offender, the responsible officer, a police officer, and—
 - (a) if the panel directs that the offender attend another approved treatment centre for treatment—the director, the proper officer of the court which made the relevant treatment order and the person in charge of that other centre; and
 - (b) if the panel does not direct that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending; and
 - (c) in the case of a recommendation referred to in subsection (2) (b)—the director.

- (4) A panel may only make a direction referred to in subsection (2) (a) with the consent of—
- (a) the relevant offender; and
 - (b) if the panel does not direct that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
- (5) Where a panel makes a recommendation referred to in subsection (2) (b), the director shall apply under section 129 to the relevant court for an order in terms of that recommendation.

144 Referral for other purposes

- (1) The director shall refer a matter to a panel—
- (a) upon receipt of a copy of a court order under section 124 (5); or
 - (b) upon receipt of a copy of an offender’s application for a court order under section 129; or
 - (c) upon receipt of an application by the person in charge of an approved treatment centre which an offender is attending for treatment pursuant to a treatment order; or
 - (d) as the director considers necessary;
- for the purposes of this section.
- (2) An application referred to in subsection (1) (c) by the person in charge of an approved treatment centre shall be in writing signed by that person, and shall specify the recommendation of the panel sought.
- (3) A panel shall, by instrument signed by the presiding member stating the reasons for the decision, recommend, in relation to treatment being undergone by an offender pursuant to a treatment order—

- (a) that the period of the treatment be extended or reduced by a period specified in the instrument, or that the order be revoked; or
 - (b) in the case referred to in subsection (1) (a)—that the treatment be otherwise varied in the manner specified in the instrument; or
 - (c) that no action be taken in relation to that treatment or the order.
- (4) Where a matter is referred to a panel in the circumstances referred to in subsection (1) (b), (c) or (d), it shall only make a recommendation referred to in subsection (3) (a) or (b) in accordance with the terms sought by—
- (a) in the case referred to in subsection (1) (b)—the offender; or
 - (b) in the case referred to in subsection (1) (c)—the person in charge of the relevant approved treatment centre; or
 - (c) in the case referred to in subsection (1) (d)—the director.
- (5) The presiding member of a panel shall cause a copy of the instrument made pursuant to subsection (3), together with a copy of any notice under section 145 of an approved treatment centre's assessment of the offender, to be given to the offender, the director, the responsible officer, a police officer, and—
- (a) in the case referred to in subsection (1) (a) or (b)—the proper officer of the relevant court; and
 - (b) if the panel recommends that the offender attend another approved treatment centre for treatment—the person in charge of that centre; and
 - (c) if the panel does not recommend that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
- (6) Where a matter is referred to a panel in the circumstances referred to in subsection (1) (c) or (d), and the panel makes a recommendation

referred to in subsection (3) (a), the director shall apply under section 129 to the relevant court for an order in terms of that recommendation.

145 Assessment by treatment centres

- (1) A panel shall not recommend that an offender undergo treatment at an approved treatment centre which the offender is not currently attending pursuant to a treatment order unless a notice of assessment has been issued in accordance with subsection (5) from the centre recommending treatment, being treatment which is available at the centre and is suitable for the offender.
- (2) A panel may, by notice in writing to the person in charge of an approved treatment centre, require that person to cause to be issued to the presiding member of the panel a notice of the centre's assessment of an offender within the period specified in the firstmentioned notice.
- (3) Where a panel has issued a notice under subsection (2) to a person in charge of an approved treatment centre, at the request of that person the presiding member of the panel shall require the relevant offender to attend the centre for assessment at the date and time nominated by that person.
- (4) Where the presiding member of a panel requires an offender to attend an approved treatment centre, the presiding member shall give the offender written notice of—
 - (a) the name and address of the centre; and
 - (b) the date and time nominated for the offender to attend the centre.
- (5) A notice of assessment from an approved treatment centre may only be issued by an officer of the centre authorised for the purpose by the person in charge of the centre.

Note If a form is approved under s 205 (Approved forms) for a notice of assessment, the form must be used.

- (6) If a notice of assessment from an approved treatment centre is not given to the presiding member of a panel within the period required under subsection (2), the presiding member shall report in writing accordingly to the director.

146 Attendance for assessment before panels and at treatment centres

- (1) Where a matter in relation to an offender is referred to a panel under this division, the presiding member of the panel may give written notice to the offender requiring the offender to appear before the panel at the place, date and time fixed for the meeting and specified in the notice.
- (2) Where an offender fails, without reasonable excuse, to appear before a panel as required by a notice given in accordance with subsection (1), the presiding member of the panel shall inform the director accordingly in writing.
- (3) Where, under section 145 (3), a panel requires an offender to attend an approved treatment centre for assessment, and the offender fails, without reasonable excuse, to appear at the centre in accordance with the notice given under section 145 (4), the person in charge of the centre shall inform that presiding member and the director accordingly in writing.
- (4) Where the director is informed pursuant to this section of the failure of an offender to appear before a panel, or at an approved treatment centre, the director shall accordingly—
- (a) orally inform a police officer immediately; and
 - (b) in writing, inform the proper officer of the court—
 - (i) in the case of a matter referred to a panel under section 141 (1)—which made the relevant assessment order in relation to the offender; or
 - (ii) in any other case—which made the relevant treatment order in relation to the offender.

147 Treatment centre reports

Where an offender attends at an approved treatment centre for treatment pursuant to a treatment order made by a court, the person in charge of the centre shall—

- (a) report to the proper officer of that court—
 - (i) immediately upon the occurrence of any breach of that order; and
 - (ii) on the termination of that treatment; and
- (b) send a copy of the reports referred to in paragraph (a) to the presiding member of the panel that made the assessment in relation to that offender and to the responsible officer; and
- (c) where required under the terms of the treatment order—at times specified in that order, report to the panel that made the relevant assessment in relation to that offender about the progress of the offender in undergoing that treatment.

Division 9.4 Approval of treatment centres

148 Definitions for div 9.4

In this division:

approval means an approval granted under this division to conduct a treatment centre.

approval holder means a person to whom an approval is granted.

149 Approval—application

- (1) A person who proposes to conduct a treatment centre may apply to the Minister for an approval.
- (2) An application for an approval shall—
 - (a) be in writing signed by the applicant; and
 - (b) specify—

- (i) the full name and address of the applicant; and
- (ii) if the applicant is a company—the full name and address of each director, and the secretary, of the company; and
- (iii) if the applicant is an incorporated association within the meaning of the *Associations Incorporation Act 1991*—the full name and address of the public officer of the association; and
- (iv) if the applicant is a body established under an ordinance or Act—the full name and address of any person with overall responsibility for the conduct of that body; and
- (v) the proposed name and address of the treatment centre; and
- (vi) the security arrangements which would be implemented at the premises of the treatment centre; and
- (vii) the name, address, qualifications and experience of any person who is to supervise the treatment to be conducted at the proposed treatment centre; and
- (viii) the treatment to be conducted at the proposed treatment centre and, in particular, whether it includes the administration or supply of methadone or buprenorphine.

Note A fee may be determined under s 204 (Determination of fees) for this section.

150 Approval—grant

- (1) Where, on an application in accordance with section 149, the Minister is satisfied that—
 - (a) the applicant and, if the applicant is—
 - (i) a company—each director, and the secretary of the company; or
 - (ii) an incorporated association—the public officer of the association; or

(iii) subject to subsection (4), a body established under an ordinance or Act—any person with overall responsibility for the conduct of that body;

is a fit and proper person to conduct a treatment centre of the type, and at the premises, specified in the application; and

(b) any person who is to supervise the treatment to be conducted at the proposed treatment centre—

(i) has training or experience appropriate to the supervision of; and

(ii) is a fit and proper person to supervise;

treatment of the type specified in the application; and

(c) the treatment to be conducted at the proposed treatment centre is suitable for persons such as those likely to be referred to the centre under this Act, or those likely to be voluntary participants in that treatment; and

(d) the premises specified in the application are fit and proper premises for the conduct of a treatment centre of the type specified in the application;

the Minister shall grant an approval to the applicant to conduct a treatment centre of the type specified in the application at the premises specified in the application.

(2) An approval shall specify—

(a) the full name and address—

(i) of the approval holder; and

(ii) if the approval holder is a company—of each director, and of the secretary, of the company; and

(iii) if the approval holder is an incorporated association—of the public officer of the association; and

- (iv) if the approval holder is a body established under an ordinance or Act—the full name and address of any person with overall responsibility for the conduct of that body; and
 - (b) the name of any person who is to supervise the treatment to be conducted at the treatment centre; and
 - (c) the name and address of the approved treatment centre; and
 - (d) the conditions (if any) to which the approval is subject; and
 - (e) whether, and in what circumstances, the administration or supply of methadone to persons attending the centre for treatment is permitted; and
 - (f) the period for which the approval is granted; and
 - (g) such other particulars (if any) as are prescribed.
- (3) The Minister shall, within 28 days after receiving an application in accordance with section 149, make a decision under subsection (1) granting or refusing to grant an approval to the applicant to conduct a treatment centre of the type, and at the premises, specified in the application.
- (4) Subsection (1) (a) (iii) does not apply to the Australian Capital Territory Health and Community Care Service.

151 Approval—conditions

The conditions that may be specified in an approval shall include, but shall not be limited to, conditions—

- (a) relating to the administration or supply of methadone or buprenorphine to persons attending the treatment centre for treatment; and
- (b) that the approval holder provide a report to the Minister on or before 30 September of each year during which the centre operates, and within 4 weeks after the centre ceases to operate, which shall include details of—

- (i) the number and qualifications of staff; and
 - (ii) the number of persons receiving treatment as residents, and as outpatients; and
 - (iii) the length and nature of the treatment being conducted; and
 - (iv) the types of drug dependence being treated at the centre; over the period of 12 months (or part of such period in the first and last year of operation of the centre) prior to 30 June of each year in which the centre operates; and
 - (v) any other information which the Minister believes on reasonable grounds to be relevant to the conduct of the centre, and which is specified in a written notice given to the approval holder by the Minister before 31 July in the year in which the report is made; and
- (c) that the approval holder provide assessment reports in the manner, and within the time, required under section 145.

152 Approval—variation and revocation of conditions

- (1) On application in writing made by an approval holder, the Minister may, if it believes on reasonable grounds that it is in the interests of patients or residents at the treatment centre to which the application relates, in writing—
- (a) vary, in a specified manner, a condition to which the approval is subject; or
 - (b) revoke a condition to which the approval is subject; or
 - (c) make the approval subject to a specified condition.
- (2) Where the Minister believes on reasonable grounds that, in the interests of patients or residents at an approved treatment centre—
- (a) a condition to which the approval is subject should be varied or revoked; or

- (b) the approval should be made subject to a particular condition; the Minister may by notice in writing served on the approval holder, require the holder, within 28 days after the date of the notice, to show cause why that condition should not be varied in the manner specified in the notice or revoked or why the approval should not be made subject to that particular condition, as the case requires.
- (3) Where a notice under subsection (2) is served on an approval holder, the Minister may, after the expiration of 28 days after the date of the notice, and taking into account any representation made by the approval holder—
- (a) vary, in the manner specified in the notice, the specified condition; or
- (b) revoke the specified condition; or
- (c) make the approval subject to the specified particular condition; as the case requires.
- (4) A decision of the Minister under subsection (3) shall take effect on the date of the notice referred to in subsection (3) or on such later date as may be specified in the notice for that purpose.

153 Approval—surrender

- (1) An approval holder may surrender the approval by giving written notice of surrender to the Minister.
- (2) The surrender of an approval takes effect on the date the notice of surrender is given or on such later date as may be specified in the notice for that purpose.

154 Approval—cancellation

- (1) Where the Minister believes on reasonable grounds that—
- (a) a requirement set out in section 150 (1) is no longer satisfied; or

- (b) an approval holder has failed to comply with a condition to which the approval is subject;

the Minister may, by notice in writing served on the approval holder, require the holder, within 28 days after the date of the notice, to show cause why the approval should not be cancelled.

- (2) Where a notice under subsection (1) has been served on an approval holder, the Minister may, after the expiration of the period of 28 days after the date of the notice, and taking into account any representation made by the holder, cancel the approval.
- (3) The cancellation of an approval under this section takes effect on the date the notice of cancellation is given pursuant to section 198, or on such later date as may be specified in the notice for that purpose.

155 Approval—emergency cancellation

- (1) Notwithstanding section 154, where the Minister believes on reasonable grounds that circumstances exist in relation to approved premises that give rise to an immediate risk of danger to the health or safety of patients, residents or staff at those premises, the Minister may cancel the approval.
- (2) Where an approval has been cancelled under subsection (1), the person who was the holder of the approval may apply to the Minister in writing for the restoration of the approval on the ground that, by reason of a specified change in circumstances that has occurred since that date of the cancellation, it is proper that the approval should be restored.
- (3) Upon an application made under subsection (2), the Minister may, if satisfied on reasonable grounds that, by reason of the change in circumstances specified in the application, the approval to which the application relates should be restored, restore the approval accordingly.

156 Alternative arrangements on cancellation

- (1) Where the Minister cancels an approval, or where an approval is surrendered under section 153, the director shall—
 - (a) make alternative arrangements for a person undergoing treatment at the treatment centre in question pursuant to a treatment order; and
 - (b) advise other persons undergoing treatment at the centre of alternative places where that treatment may be continued.
- (2) Where the director makes alternative arrangements for a person referred to in subsection (1) (a), the director shall accordingly advise—
 - (a) the panel that made the assessment in relation to that person; and
 - (b) the responsible officer; and
 - (c) a police officer; and
 - (d) the proper officer of the court that made the relevant treatment order.

157 Approval—duration

An approval shall remain in force, unless sooner surrendered or cancelled, for a period of 12 months commencing on the date on which the approval was granted.

158 Approval—renewal

- (1) An approval holder may, before the expiration of the term of the approval, apply to the Minister for its renewal.
- (2) An application for the renewal of an approval shall be in writing and shall be lodged with the Minister.
- (3) On application for the renewal of an approval, the Minister shall renew the approval for a further period of 12 months, commencing

on the day immediately following the day on which, but for its renewal, the approval would have expired.

159 Return of approval to Minister

Upon ceasing to be an approval holder, a person shall not, without reasonable excuse, fail to return the approval to the Minister.

Maximum penalty: \$2 000.

Part 10 Offences

160 Interpretation for pt 10

(1) In this part:

commercial quantity, in relation to a drug of dependence or a prohibited substance, means a quantity not less than the prescribed quantity.

exempt person means—

- (a) the holder of a manufacturer's licence or a wholesaler's licence that authorises the holder to possess a drug of dependence; or
- (b) a person authorised under or by reason of section 54 to deliver a quantity of a drug of dependence who is in the course of delivering that quantity; or
- (c) a person who is—
 - (i) a medical practitioner, intern, pharmacist or nurse; or
 - (ii) a student nurse who has completed the pharmacology units of his or her nursing studies; or
 - (iii) an enrolled nurse who has completed a course on the use of drugs of dependence, which course is approved for the purpose of this section by the Minister;

who possesses a quantity of a drug of dependence in the course of his or her professional practice, or his or her employment or training, as the case may be, for the treatment of a person's mental or physical condition; or
- (d) a dentist who possesses a quantity of cocaine, pethidine or pentazocine for the treatment of a person's dental condition in the course of the dentist's professional practice; or

- (e) a veterinary surgeon who possesses a quantity of a drug of dependence for the treatment of an animal's condition in the course of the veterinary surgeon's professional practice; or
- (f) a person who is, in accordance with accepted professional practice, acting under the supervision of a person referred to in paragraph (c), (d) or (e) in possessing a quantity of a drug of dependence; or
- (g) a person who is authorised under division 4.1 to possess a quantity of a drug of dependence for the purpose of a program of research or education; or
- (h) a person authorised under division 4.2 to have control of a first-aid kit containing a quantity of a drug of dependence; or
- (i) a drug inspector, in respect of samples of a drug of dependence taken under section 178; or
- (j) a police officer, analyst or officer of a court acting in the course of his or her official duties; or
- (k) a person authorised under section 200 to possess a quantity of a drug of dependence; or
- (m) a person otherwise authorised under any law in force in the Territory to possess a quantity of a drug of dependence; or

manufacturer's licence includes a licence granted under the *Narcotic Drugs Act 1967* (Cwlth), section 9.

premises includes vacant land.

trafficable quantity, in relation to a drug of dependence or a prohibited substance, means a quantity not less than the prescribed quantity.

- (2) For the purposes of this part, an exempt person shall be taken to be exempt in relation to the quantity of the drug of dependence referred to in the relevant paragraph of the definition of *exempt person* in subsection (1).

161 Manufacture

- (1) A person shall not manufacture, or participate in the manufacture of, a drug of dependence.

Maximum penalty: \$20 000, imprisonment for 10 years or both.

- (2) A person shall not manufacture, or participate in the manufacture of, a prohibited substance.

Maximum penalty: \$20 000, imprisonment for 10 years or both.

- (3) Subsection (1) does not apply to—

- (a) the holder of a manufacturer's licence where the licence authorises the manufacture of the drug in question; or
- (b) a pharmacist who manufactures the drug in question at a dispensary in the course of his or her professional practice; or
- (c) a person authorised under division 4.1 to manufacture the quantity in question of the relevant drug; or
- (d) a person who participates in the manufacture of a drug of dependence, where the person has reasonable grounds for believing that—
 - (i) that manufacture is carried out by a person referred to in paragraph (a), (b) or (c); and
 - (ii) subsection (1) does not apply to the lastmentioned person in relation to that manufacture.

- (4) Without limiting this section, a person shall, for the purposes of this section, be taken to participate in the manufacture of a drug of dependence or prohibited substance, if the person—

- (a) participates in any step or process, or causes or permits any step or process to be undertaken, in the course of that manufacture; or
- (b) provides finance, or arranges for the provision of finance, for such a step or process; or

- (c) being an owner, occupier or lessee of any premises, or concerned in the management of any premises, causes or permits those premises to be used for such a step or process.

162 Cultivation of prohibited plants

- (1) In this section:

cultivate, in relation to a prohibited plant, includes plant, sow, scatter the seed produced by, grow, nurture, tend or harvest.

prohibited plant means a plant specified in schedule 5.

- (2) A person shall not cultivate, or participate in the cultivation of, a prohibited plant.

Maximum penalty:

- (a) where not more than 5 cannabis plants are cultivated—\$100; or
(b) in any other case—\$5 000, imprisonment for 2 years or both.

- (3) A person shall not cultivate, or participate in the cultivation of, a prohibited plant for the purpose of sale or supply.

Maximum penalty:

- (a) where more than 1 000 prohibited plants are cultivated—
imprisonment for life; or
(b) where more than 20 but not more than 1 000 prohibited plants are cultivated—
(i) in the case of cannabis plants—\$20 000, imprisonment for 10 years or both; or
(ii) in any other case \$100 000, imprisonment for 25 years or both; or
(c) where more than 5 but not more than 20 prohibited plants are cultivated—
(i) in the case of cannabis plants—\$10 000, imprisonment for 5 years or both; or

- (ii) in any other case \$20 000, imprisonment for 10 years or both; or
- (d) where not more than 5 prohibited plants are cultivated—
 - (i) in the case of cannabis plants—\$5 000, imprisonment for 2 years or both; or
 - (ii) in any other case—\$10 000, imprisonment for 5 years or both.
- (4) Without limiting subsection (2) or (3), a person shall, for the purposes of whichever of those subsections is applicable, be taken to participate in the cultivation of a prohibited plant or prohibited plants if the person—
 - (a) participates in any step or process, or causes or permits any step or process to be undertaken, in the course of that cultivation; or
 - (b) provides finance, or arranges for the provision of finance, for such a step or process; or
 - (c) being an owner, lessee or occupier of any premises, or concerned in the management of any premises, causes or permits those premises to be used for such a step or process.
- (5) For the purposes of this section, where a person cultivates, or participates in the cultivation of, more than 5 prohibited plants, it shall be presumed that the cultivation is for the purpose of sale or supply, but that presumption is rebuttable.

163 Wholesale

- (1) A person shall not conduct, or participate in the conduct of, a business consisting wholly or partly of selling by wholesale a drug of dependence.

Maximum penalty: \$20 000, imprisonment for 10 years or both.

- (2) A person shall not conduct, or participate in the conduct of, a business consisting wholly or partly of selling by wholesale a prohibited substance.

Maximum penalty: \$20 000, imprisonment for 10 years or both.

- (3) Subsection (1) does not apply to—
- (a) the holder of a manufacturer's licence or a wholesaler's licence where the licence authorises the sale by wholesale of the drug in question; or
 - (b) a person who participates in the sale by wholesale of a drug of dependence, where the person has reasonable grounds for believing that—
 - (i) that sale is carried out by a person referred to in paragraph (a); and
 - (ii) subsection (1) does not apply to the lastmentioned person in relation to that sale.
- (4) Without limiting this section, a person shall, for the purposes of this section, be taken to participate in the conduct of a business consisting wholly or partly of selling by wholesale a drug of dependence or a prohibited substance if the person—
- (a) participates in any aspect of such a business; or
 - (b) provides finance, or arranges for the provision of finance, for such a business; or
 - (c) being an owner, occupier or lessee of any premises, or concerned in the management of any premises, causes or permits those premises to be used for such a business.

164 Sale or supply

- (1) In this section:

prohibited substance does not include cannabis.

- (2) A person shall not—

- (a) sell or supply a drug of dependence to any person; or
- (b) participate in the sale or supply of a drug of dependence to any person; or
- (c) possess a drug of dependence for the purpose of sale or supply to any person.

Maximum penalty:

- (a) where the quantity of the drug to which the offence relates is a commercial quantity—imprisonment for life; or
 - (b) where the quantity of the drug to which the offence relates is a trafficable quantity but not a commercial quantity—\$100 000, imprisonment for 25 years or both; or
 - (c) where the quantity of the drug to which the offence relates is less than a trafficable quantity, and is sold or supplied to a person who has not attained the age of 18 years—\$100 000, imprisonment for 25 years or both; or
 - (d) in any other case—\$10 000, imprisonment for 5 years or both.
- (3) A person shall not—
- (a) sell or supply a prohibited substance to any person; or
 - (b) participate in the sale or supply of a prohibited substance to any person; or
 - (c) possess a prohibited substance for the purpose of sale or supply to any person.

Maximum penalty:

- (a) where the quantity of the substance to which the offence relates is a commercial quantity—imprisonment for life; or
- (b) where the quantity of the substance to which the offence relates is a trafficable quantity but not a commercial quantity—\$100 000, imprisonment for 25 years or both; or
- (c) where the quantity of the substance to which the offence relates is less than a trafficable quantity, and is sold or supplied to a

person who has not attained the age of 18 years—\$100 000,
imprisonment for 25 years or both; or

(d) in any other case—\$10 000, imprisonment for 5 years or both.

(4) Subsection (2) does not apply in relation to—

- (a) the holder of a manufacturer's licence or a wholesaler's licence where the licence authorises the sale or supply, or the possession for the purpose of sale or supply, of the relevant drug; or
- (b) a medical practitioner, intern, veterinary surgeon or pharmacist who sells or supplies the relevant drug in the course of his or her professional practice or employment for the treatment of a person's mental or physical condition or, in the case of a veterinary surgeon, for the treatment of an animal's condition, or who possesses the drug for the purpose of such sale or supply; or
- (c) in the case of methadone supplied to a person at an opioid dependency treatment centre conducted by the Territory or a Territory authority—a nurse who supplies the methadone in the course of his or her professional practice or employment for the treatment of the person's drug dependence; or
- (d) for buprenorphine supplied to a person at an opioid dependency treatment centre conducted by the Territory or a Territory authority—a nurse who supplies the buprenorphine in the course of his or her professional practice or employment for the treatment of the person's drug dependence; or
- (e) a dentist who sells to a person a quantity of cocaine, pethidine or pentazocine which is administered by the dentist to that person or the person's child or ward for the treatment of a dental condition of that person, child or ward, as the case may be, in the course of the dentist's professional practice, or who possesses a quantity of such a drug for the purposes of such sale and administration; or

- (f) a person who is, in accordance with accepted professional, employment or training practice, acting under the supervision of a medical practitioner, intern, veterinary surgeon or pharmacist referred to in paragraph (b); or
 - (g) the supply of a quantity of the relevant drug by a person who is authorised under division 4.1 to supply that quantity for the purposes of a program of research or education, or the possession of such a quantity for the purpose of such supply; or
 - (h) the supply of the relevant drug by a person who is authorised under division 4.2 to have control of a first-aid kit containing that drug where the person believes that the supply was necessary for the emergency treatment of a mental or physical condition suffered by the person to whom the drug was supplied, or the possession of the drug for the purpose of such supply.
- (5) Subsection (3) does not apply in relation to the supply of a quantity of the relevant prohibited substance by a person who is authorised under division 4.1 to supply that quantity for the purposes of a program of research or education, or in relation to the possession of such a quantity for the purpose of such supply.
- (6) Paragraph (a), (b) or (c) of the penalty for an offence against subsection (2) does not apply in relation to a person who has been convicted on indictment of an offence against that subsection unless it is alleged in the indictment, and it is proved beyond reasonable doubt, that the quantity of the drug to which the offence relates was—
- (a) in the case of paragraph (a)—a commercial quantity; or
 - (b) in the case of paragraph (b)—a trafficable quantity; or
 - (c) in the case of paragraph (c)—sold or supplied, or possessed for the purpose of sale or supply, to a person who has not attained the age of 18 years.

- (7) Paragraph (a), (b) or (c) of the penalty for an offence against subsection (3) does not apply in relation to a person who has been convicted on indictment of an offence against that subsection unless it is alleged in the indictment, and it is proved beyond reasonable doubt, that the quantity of the substance to which the offence relates was—
- (a) in the case of paragraph (a)—a commercial quantity; or
 - (b) in the case of paragraph (b)—a trafficable quantity; or
 - (c) in the case of paragraph (c)—sold or supplied, or possessed for the purpose of sale or supply, to a person who has not attained the age of 18 years.
- (8) For the purposes of this section, where a person has more than the trafficable quantity of a drug of dependence or a prohibited substance in his or her possession, it shall be presumed that the possession is for the purpose of sale or supply to another person, but that presumption is rebuttable.
- (9) Without limiting subsection (2) or (3), a person shall, for the purposes of whichever of those subsections is applicable, be taken to participate in the sale or supply of a drug of dependence or a prohibited substance if the person—
- (a) participates in any aspect of such sale or supply; or
 - (b) being an owner, occupier or lessee of any premises, or concerned in the management of any premises, causes or permits those premises to be used for such as sale or supply.

165 Sale or supply—cannabis

- (1) A person shall not—
- (a) sell or supply cannabis to any person; or
 - (b) participate in the sale or supply of cannabis to any person; or
 - (c) possess cannabis for the purpose of sale or supply to any person.

Maximum penalty:

- (a) where the quantity of cannabis to which the offence relates is a commercial quantity—imprisonment for life; or
 - (b) where the quantity of cannabis to which the offence relates is a trafficable quantity but not a commercial quantity—\$200 000, imprisonment for 10 years or both; or
 - (c) where the quantity of cannabis to which the offence relates is less than a trafficable quantity, and is sold or supplied to a person who has not attained the age of 18 years—\$10 000, imprisonment for 5 years or both; or
 - (d) in any other case—\$5 000, imprisonment for 2 years or both.
- (2) Subsection (1) does not apply in relation to the supply of a quantity of cannabis by a person who is authorised under division 4.1 to supply that quantity for the purposes of a program of research or education, or the possession of such a quantity for the purpose of such supply.
- (3) Without limiting subsection (1), a person shall, for the purposes of that subsection, be taken to participate in the sale or supply of cannabis to a person if the firstmentioned person—
- (a) participates in any aspect of such sale or supply; or
 - (b) being an owner, occupier or lessee of any premises or concerned in the management of any premises, causes or permits those premises to be used for the sale or supply of cannabis to any person.
- (4) Paragraph (a), (b) or (c) of the penalty for an offence against subsection (1) does not apply in relation to a person who has been convicted on indictment of an offence against that subsection unless it is alleged in the indictment, and it is proven beyond reasonable doubt, that the quantity of cannabis to which the offence relates was—
- (a) in the case of paragraph (a)—a commercial quantity; or
 - (b) in the case of paragraph (b)—a trafficable quantity; or

- (c) in the case of paragraph (c)—sold or supplied, or possessed for the purpose of sale or supply, to a person who has not attained the age of 18 years.
- (5) For the purposes of this section, where a person has more than a trafficable quantity of cannabis in his or her possession, it shall be presumed that the possession is for the purpose of sale or supply to another person, but that presumption is rebuttable.

166 Advertising drugs or prohibited substances

- (1) A person shall not publish or display, or cause or permit to be published or displayed, an advertisement that—
 - (a) promotes or encourages the use of a drug of dependence or prohibited substance; or
 - (b) indicates that the person, or any other person, is willing or authorised to sell or supply a drug of dependence or prohibited substance.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

- (2) For the purposes of subsection (1), the reference to an *advertisement* shall be read as including a reference to every form of advertisement whether in a newspaper or other publication, by television or radio, by display of notices, signs, labels, showcards or goods, by distribution of samples, circulars, catalogues, price lists or other material, by exhibition of pictures, models or films, or in any other way, but does not include an advertisement in a magazine, journal, circular or publication circulating primarily to medical practitioners, dentists, veterinary surgeons or pharmacists, and the reference in subsection (1) to the publishing or display of an advertisement shall be read accordingly.

167 Prescriptions, requisitions, orders

- (1) In this section:

authorised person means:

- (a) a medical practitioner; or
- (b) in relation to a prescription—an intern or a veterinary surgeon;
or
- (c) in relation to a requisition—an intern or a person in charge, for
the time being, of a ward at a class 1 institution; or
- (d) in relation to an order—
 - (i) the holder of a manufacturer’s or wholesaler’s licence; or
 - (ii) a person who is authorised under part 4 or section 196; or
 - (iii) a dentist or veterinary surgeon.

order means an order referred to in section 53.

- (2) A person shall not forge or alter a prescription, requisition or order
for the supply of a drug of dependence.
- (3) A person shall not present, or cause to be presented, to a pharmacist
a prescription, requisition or order for the supply of a drug of
dependence, being a prescription, requisition or order that, to the
knowledge of the person, is signed by a person who is not an
authorised person.
- (4) A person shall not present, or cause to be presented, to a pharmacist
a prescription, requisition or order for the supply of a drug of
dependence, being a prescription, requisition or order that, to the
knowledge of the person, has been altered in a material particular
without the authority of the person who signed the prescription,
requisition or order, as the case may be.
- (5) A person shall not knowingly make a false representation to a
medical practitioner, intern or veterinary surgeon for the purpose of
obtaining from that medical practitioner, intern or veterinary
surgeon a prescription for the supply of a drug of dependence.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

168 False representation as to drug or substance

A person shall not, knowing that a substance is not a drug of dependence or prohibited substance, sell or supply that substance to another person as a drug of dependence or prohibited substance.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

169 Possession and administration of drugs

- (1) A person shall not possess a drug of dependence.
- (2) A person shall not administer, or cause or permit to be administered, to himself or herself a drug of dependence.
- (3) A medical practitioner, intern or dentist shall not—
 - (a) in the case of a medical practitioner or intern—prescribe; or
 - (b) in the case of a dentist—direct the supply of;a drug of dependence for administration to himself or herself.
- (4) A person shall not administer, or cause to be administered, a drug of dependence to another person.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

170 Possession and administration of drugs—exemptions

- (1) Section 169 (1) does not apply to—
 - (a) an exempt person in respect of the quantity of a drug of dependence in relation to which that person is exempted; or
 - (aa) a medical practitioner, pharmacist or nurse employed within a class 1 institution or a class 2 institution acting in the course of his or her employment; or
 - (b) a person for the treatment of whom, or for the treatment of an animal in whose custody, the quantity of the relevant drug has been lawfully prescribed or supplied; or

- (c) the duly authorised agent of a person referred to in paragraph (b), in relation to the quantity of the drug referred to in that paragraph.
- (2) Section 169 (2) does not apply to a person for the treatment of whom the quantity administered of the relevant drug has been lawfully prescribed or supplied.
- (3) Section 169 (4) does not apply to—
 - (a) a medical practitioner, or an intern, acting in the course of his or her professional practice; or
 - (b) a dentist, where—
 - (i) the relevant drug is cocaine, pethidine, or pentazocine; and
 - (ii) he or she is acting in the course of his or her professional practice; or
 - (c) a nurse or the duly authorised agent of a person to whom the relevant drug is administered where—
 - (i) the drug is administered in accordance with the prescription of a medical practitioner, or the direction of a dentist; and
 - (ii) the person administering the drug is acting in the course of his or her employment or training; or
 - (d) a person authorised under division 4.1 to administer the quantity in question of the relevant drug; or
 - (e) a person authorised under division 4.2 to have control of a first-aid kit containing the relevant drug, where he or she believes that the administration of the drug to the other person is necessary for the emergency treatment of a mental or physical condition being suffered by that other person; or
 - (f) a pharmacist who administers methadone or buprenorphine, in accordance with a doctor's prescription, to a drug dependent

person for the treatment of the person's drug dependency at an opioid dependency treatment centre approved under section 150 (1).

(4) In this section, a reference to a *duly authorised agent* of a person shall, in relation to a person who is—

- (a) a minor; or
- (b) a person who has a guardian;

be read as a reference to a parent or guardian of that person.

171 Prohibited substances—possession, administration and disposal

(1) A person shall not possess a prohibited substance.

Maximum penalty:

- (a) where the offence relates to a quantity of cannabis not exceeding 25g in mass—\$100; or
- (b) in any other case—\$5 000, imprisonment for 2 years or both.

(2) A person shall not administer, or cause or permit to be administered, to himself or herself a prohibited substance.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

(3) A person shall not administer, or cause to be administered, a prohibited substance to another person.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

(4) Subsection (1) does not apply to—

- (a) a person who is authorised under division 4.1 to possess the quantity in question of the relevant substance; or
- (b) a drug inspector, in respect of samples of a prohibited substance taken under section 178; or
- (c) a police officer, analyst, or officer of a court acting in the course of his or her official duties; or

- (ca) a medical practitioner, pharmacist or nurse employed within a class 1 institution or a class 2 institution acting in the course of his or her employment; or
 - (d) a person authorised under section 200 to possess a quantity of the relevant substance; or
 - (e) a person otherwise authorised under any law in force in the Territory to possess the quantity in question of the relevant substance.
- (5) Where a person referred to in subsection (4) (ca) is in possession of a quantity of a prohibited substance, section 120 applies as if a reference in that section to a drug of dependence were a reference to a prohibited substance.

171A Offence notices

- (1) Where a police officer reasonably believes that a person has committed a simple cannabis offence, he or she may serve an offence notice on that person.
- (2) Where an offence notice is served on a child and the police officer serving the notice reasonably believes that the child is residing with a person who stands in loco parentis to that child, the police officer shall serve, or cause to be served, a copy of the notice on that person.
- (3) An offence notice shall—
 - (a) specify the nature of the alleged simple cannabis offence; and
 - (b) specify the date on which and the time and place at which the simple cannabis offence is alleged to have been committed; and
 - (c) contain a statement to the effect that, if the alleged offender pays the prescribed penalty for the alleged offence within 60 days after the date of service of the notice, no further action will be taken in respect of that offence; and

- (d) specify the amount of the prescribed penalty; and
 - (e) specify the place at which, and the manner in which, the prescribed penalty may be paid; and
 - (f) state that—
 - (i) unless a court orders otherwise, the government analyst may, under section 193C (Destruction of cannabis without court order), destroy seized cannabis without a court order; and
 - (ii) the alleged offender may apply to the Magistrates Court, under section 193D (Order for preservation of cannabis), for an order for the preservation of cannabis to which the offence relates; and
 - (g) contain any other particulars prescribed under the regulations.
- (4) If the prescribed penalty is paid in accordance with the offence notice—
- (a) any liability of the person in respect of the alleged simple cannabis offence shall be deemed to be discharged; and
 - (b) no further proceedings shall be taken in respect of the alleged simple cannabis offence; and
 - (c) the person shall not be regarded as having been convicted of the alleged simple cannabis offence.
- (5) Any substance, equipment or object seized under any Act in connection with the alleged simple cannabis offence that would have been liable to forfeiture in the event of a conviction shall, on payment of the prescribed penalty in accordance with the offence notice, be forfeited to the Territory.
- (6) Subject to subsection (4), nothing in this section shall be construed as affecting the institution or prosecution of proceedings for a simple cannabis offence.

(7) In this section:

child means a person who is under the age of 18 years on the date of the alleged offence.

simple cannabis offence means—

- (a) an offence under section 162 (2) of cultivating, or participating in the cultivation of, not more than 5 cannabis plants; or
 - (b) an offence under section 171 (1) of possessing not more than 25g of cannabis; or
 - (c) an offence under section 171 (2) of administering, or causing or permitting to be administered, to oneself cannabis.
- (8) In relation to a simple cannabis offence, the prescribed penalty is \$100.

171B Cannabis offences—notification of right to apply for preservation order

- (1) This section applies if a police officer seizes cannabis under this Act.
- (2) As soon as practicable after seizing the cannabis, the police officer must give to each relevant person a written statement to the following effect:

‘You have been arrested for/charged with/may be charged with* an offence/offences* against the *Drugs of Dependence Act 1989* relating to seized cannabis. Unless a court orders otherwise, the government analyst may destroy seized cannabis without a court order. You have the right, under section 193D of that Act, to apply to the Magistrates Court for an order for the preservation of the seized cannabis. If you do not make an application within 24 hours, the cannabis may be destroyed and only a sample preserved.’

** Omit any alternative that is not relevant*

(3) In this section:

relevant person means—

- (a) a person arrested for, or charged with, an offence against this Act in relation to the seized cannabis; or
- (b) a person who, to the knowledge or in the belief of the police officer, is likely to be charged with an offence against this Act in relation to the seized cannabis.

172 Liability of corporations

- (1) In this section:

offence means an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) Where, in proceedings for an offence in respect of any conduct engaged in by a corporation, it is necessary to establish the state of mind of the corporation, it is sufficient to show that a director, servant or agent of the corporation, being a director, servant or agent by whom the conduct was engaged in within the scope of his or her actual or apparent authority, had that state of mind.
- (3) Any conduct engaged in on behalf of a corporation—
- (a) by a director, servant or agent of the corporation within the scope of his or her actual or apparent authority; or
 - (b) by any other person at the direction or with the consent or agreement (whether express or implied) of a director, servant or agent of the corporation, where the giving of such direction, consent or agreement is within the scope of the actual or apparent authority of the director, servant or agent;

shall be deemed, for the purposes of this Act, to have also been engaged in by the corporation.

- (4) A reference in subsection (2) to the *state of a mind* of a person includes a reference to the knowledge, intention, opinion, belief or

purpose of the person and the person's reasons for his or her intention, opinion, belief or purpose.

173 Surrender and revocation of exemptions

(1) In this section:

exempt person does not include a person referred to in the definition of *exempt person*, paragraph (a), (g), (h), (i) or (k) in subsection 160 (1).

(2) An exempt person may, by notice in writing given to the Minister, declare that he or she does not wish to be exempt from the application of the provisions of this part specified in the declaration, for the period specified in the declaration.

(3) Where an exempt person is convicted of an offence against this part, the court by which the person is convicted may, if it is satisfied that it would be in the interests of the person or of the public to do so, direct that the person shall not, during the period specified in the direction, sell, supply, prescribe, requisition, order, dispense, possess or administer (as the court sees fit) any drug of dependence or prohibited substance.

(4) A person who has made a declaration under subsection (2) may revoke the declaration by giving 7 days written notice to the Minister.

(5) Where a court makes a direction under subsection (3), the proper officer of the court, within the meaning of part 9, shall cause the direction to be written down, and shall cause a copy to be given to the offender and to the Minister.

(6) On receiving a notice under subsection (2) or (4) from a person, or a copy of a direction under subsection (3) in respect of a person, the Minister shall notify accordingly—

(a) the person's employer (if any); and

(b) where the person is a medical practitioner, intern, dentist, veterinary surgeon, pharmacist or nurse—the board or body

that has responsibility under an Act for the registration of members of the person's profession.

- (7) Where a person has made a declaration under subsection (2), or a direction has been given under subsection (3) in respect of a person, that person shall not be taken to be exempted from the application of the provisions of this part specified in the declaration or direction, as the case may be, during the period specified in the relevant declaration or direction.
- (8) The *Magistrates Court Act 1930*, section 208 applies in relation to a direction given by the Magistrates Court under subsection (3) as if the direction were a penalty imposed by that court in respect of the conviction of a person of an offence.

173A Evidentiary certificate

- (1) In proceedings for an offence against this part, a certificate signed by a drug inspector stating that at a specified time a specified substance was included in the regulations, schedule 1 is evidence of the matters stated.
- (2) For the purposes of subsection (1), a certificate that purports to be signed by a drug inspector shall, unless the contrary is proved, be taken to have been so signed.

Part 11 Enforcement

Division 11.1 Preliminary

174 Interpretation for pt 11

- (1) In this part:

offence means an offence against this Act.

Note A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) For the purposes of this part, a thing is *connected* with a particular offence if—
- (a) the offence has been committed with respect to it; or
 - (b) it will afford evidence of the commission of the offence; or
 - (c) it was used, or it is intended to be used, for the purpose of committing the offence; or
 - (d) after the commission of the offence, it was used for the purpose of taking steps to avoid the detection of the offence or the apprehension of the offender; or
 - (e) it was in the possession or under the control of the offender at the time of his or her apprehension in circumstances which make it likely that it was—
 - (i) used for the purpose of committing the offence; or
 - (ii) after the commission of the offence, used or intended to be used for the purpose of taking steps to avoid the detection of the offence or the apprehension of the offender.

- (3) A reference in this part to an *offence* shall be read as including a reference to an offence that there are reasonable grounds for believing has been, or will be, committed.
- (4) Where a person is authorised under this part to enter premises or a place, and enters those premises or that place, a reference to the occupier of such premises or such a place shall include a reference to a person reasonably believed by the authorised person to be the occupier, or to be in charge, of those premises or that place.

Division 11.2 Inspection

175 Drug inspectors—appointment

- (1) The chief health officer may, in writing signed by the chief health officer, appoint persons to be drug inspectors for the purposes of this Act.
- (2) A drug inspector shall perform such duties for the purposes of this Act as the chief health officer directs.
- (3) The chief health officer shall cause to be issued to a drug inspector an identity card which specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.
- (4) Upon ceasing to be a drug inspector, a person shall not fail, without reasonable excuse, to return his or her identity card to the chief health officer.

Maximum penalty (subsection (4)): \$100.

176 Treatment centre inspectors—appointment

- (1) The Minister may, in writing signed by the Minister, appoint persons to be treatment centre inspectors for the purposes of this Act.
- (2) The Minister shall only appoint as a treatment centre inspector a person who, in the opinion of the Minister, has extensive knowledge of—

- (a) the physical, psychological and social problems connected with the abuse of drugs of dependence and prohibited substances; or
 - (b) the treatment of persons suffering from such problems; or
 - (c) health education in relation to such problems.
- (3) The Minister shall cause to be issued to a treatment centre inspector an identity card which specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.
- (4) Upon ceasing to be a treatment centre inspector, a person shall not fail, without reasonable excuse, to return his or her identity card to the Minister.

Maximum penalty (subsection (4)): \$100.

177 Inspection—manufacturers and wholesalers

A holder of a manufacturer's or wholesaler's licence shall, when required to do so either orally or in writing by a drug inspector, provide the inspector with a statement in writing, signed and dated by the licensee, accounting for each quantity of the drug of dependence in relation to which the licence was granted in the possession of the licensee, and for each quantity of the drug that has been in the possession of the licensee at any time during—

- (a) the period since the date of commencement of this Act; or
- (b) the period of 2 years immediately preceding the date of the statement;

whichever is shorter.

Maximum penalty: \$10 000.

178 Inspection—prescribed premises

- (1) In this section:

prescribed premises means—

- (a) premises specified in a manufacturer's or wholesaler's licence;
or
 - (b) the premises at which a community pharmacy is situated; or
 - (c) the premises of an institution; or
 - (d) the premises at which the surgery of a medical practitioner, dentist or veterinary surgeon is situated; or
 - (e) the premises at which a program of research or education is being conducted in accordance with an authorisation under division 4.1; or
 - (f) the premises at which a first-aid kit is kept in accordance with an authorisation under division 4.2.
- (2) A drug inspector may, with such assistance and by such force as is necessary and reasonable, enter prescribed premises for the purpose of ensuring that the provisions of this Act are being complied with—
- (a) in the case of premises specified in a manufacturer's or wholesaler's licence—at any hour of the day or night when the relevant business is being conducted at those premises; or
 - (b) in any other case—at any time during normal business hours.
- (3) Where a drug inspector enters prescribed premises in accordance with subsection (1), the inspector may—
- (a) inspect the premises and any drug of dependence or prohibited substance on the premises; and
 - (b) inspect any plant, equipment or manufacturing process on the premises; and
 - (c) inspect any receptacle or place on the premises used for containing a drug of dependence or prohibited substance, and test any lock and security device or measure used in connection with the safekeeping of such a drug or substance; and

- (d) require the occupier of the premises to produce for inspection the quantity of any drug of dependence that is, according to a relevant register, on the premises; and
- (e) take samples of any drug of dependence or prohibited substance on the premises; and
- (f) inspect any book, record or document kept on the premises pursuant to this Act; and
- (g) make copies of, or take extracts from, any book, record or document referred to in paragraph (f); and
- (h) require the occupier of the premises to produce any specified book, record or document, or to give to the inspector any information in his or her possession, relating to drugs of dependence or prohibited substances; and
- (i) seize any thing which the inspector believes on reasonable grounds to be connected with an offence against this Act that is found on the premises; and
- (j) require the occupier of the premises to supply the occupier's name and address.

179 Inspection—premises of approved treatment centres

- (1) In this section:

approved treatment centre—see section 121.

treatment means treatment of persons for drug dependence.

- (2) A treatment centre inspector may, at any reasonable hour of the day or night, with such assistance and by such force as is necessary and reasonable, enter the premises of an approved treatment centre, and may—
- (a) inspect the premises and any facilities provided at, or equipment used at, the premises for, or in connection with, the provision of treatment or accommodation at the centre; or

- (b) inspect any prescribed book, record, or document kept on the premises relating to such treatment or accommodation, or otherwise relating to the conduct of the centre in relation to patients referred to the centre pursuant to division 9.3; or
- (c) require the occupier of the premises to produce any prescribed book, record or document, or to give to the inspector any prescribed information in his or her possession relating to such treatment or accommodation or otherwise relating to the conduct of the centre in relation to such patients;

for the purpose of ensuring that there are no grounds for cancellation, under section 154 or 155, of the centre's approval.

180 Production of inspectors' identity cards

- (1) A drug inspector or treatment centre inspector who enters premises in accordance with section 178 (2) or 179 (2), as the case may be, is not authorised to remain on the premises if, on request by or on behalf of the occupier of the premises, the inspector does not produce the identity card issued to him or her under section 175 (3) or 176 (3), as the case may be.
- (2) Where—
 - (a) a drug inspector or a treatment centre inspector makes a requirement of a person in the exercise of the power referred to in section 178 (3) (d) or (h), or section 179 (2) (c), as the case may be; and
 - (b) the person requests the inspector to produce the identity card issued to the inspector under section 175 (3) or 176 (3), as the case may be; and
 - (c) the inspector fails to do so;

the person is not obliged to comply with that requirement.

181 Obstruction of inspectors

A person shall not, without reasonable excuse—

- (a) obstruct or hinder a drug inspector or a treatment centre inspector in the exercise of the powers or the performance of the duties of the inspector under this Act; or
- (b) subject to section 180, fail to comply with a reasonable requirement of such an inspector who has entered any premises in accordance with this Act.

Maximum penalty: \$1 000, imprisonment for 6 months or both.

Division 11.3 Search, seizure and analysis

182 Definitions for div 11.3

In this division:

place includes vacant land, premises, a vehicle, a vessel or an aircraft.

183 Analysts

The chief health officer may, in writing signed by the chief health officer, appoint suitably qualified persons to be analysts for the purposes of this Act.

183A Government analyst

- (1) There may be a Government Analyst.
- (2) The chief executive shall create and maintain an office in the public service the duties of which include performing the functions of the government analyst.
- (4) The government analyst shall be the public servant for the time being performing the duties of the public service office referred to in subsection (2).

184 Search and seizure

- (1) A police officer may search a person or the clothing that is being worn by, or property in the immediate control of, a person and may

seize any thing that he or she believes on reasonable grounds to be connected with an offence that is found in the course of the search, if, and only if, the search and seizure is made by the police officer—

- (a) after obtaining the consent of the person to the search in accordance with section 185; or
 - (b) in accordance with section 186 upon taking the person into lawful custody in respect of an offence; or
 - (c) pursuant to a warrant issued under section 187; or
 - (d) in circumstances of seriousness and urgency, in accordance with section 188; or
 - (e) pursuant to an order made by a court; or
 - (f) otherwise under a provision of a law in force in the Territory.
- (2) A police officer may enter any place, and may search for and seize any thing that he or she believes on reasonable grounds to be connected with an offence that is found on or in the place if, and only if, the search and seizure is made by the police officer—
- (a) after obtaining the consent of the occupier of the place to the entry in accordance with section 185; or
 - (b) pursuant to a warrant issued under section 187; or
 - (c) in circumstances of seriousness and urgency, in accordance with section 188; or
 - (d) pursuant to an order made by a court; or
 - (e) otherwise under a provision of a law in force in the Territory.

185 Consent to search

- (1) Before obtaining the consent of a person for the purposes of section 184 a police officer shall inform the person that he or she may refuse to give his or her consent.

- (2) A police officer who obtains the consent of a person for the purposes of section 184 shall ask the person to sign an acknowledgment—
 - (a) that the person has been informed that he or she may refuse to give his or her consent; and
 - (b) that the person has given his or her consent; and
 - (c) of the date on which, and the time at which, the person gave his or her consent.
- (3) Where it is material, in any proceedings, for a court to be satisfied of the consent of a person for the purposes of section 184 and an acknowledgment in accordance with subsection (2) has not been produced in evidence, the court shall presume, unless the contrary is proved, that the person did not give such consent, but that presumption is rebuttable.

186 Searches of arrested persons

- (1) A police officer may, upon lawfully taking a person into custody in respect of an offence, search the person or the clothing that he or she is wearing and any property under his or her immediate control, if the police officer believes on reasonable grounds that it is necessary to do so—
 - (a) for the purpose of ascertaining whether there is on the person or in his or her clothing or in that property a thing connected with the offence; or
 - (b) for the purpose of preventing the concealment, loss or destruction of evidence of, or relating to, the offence.
- (2) A police officer may seize any thing that he or she believes on reasonable grounds is a thing connected with an offence found as a result of a search in accordance with subsection (1).

187 Search warrants

- (1) In this section:

private place does not include a place ordinarily private, which is for the time being—

- (a) used for a public purpose; or
 - (b) a place of common resort; or
 - (c) open to the public, on the payment of money or otherwise.
- (2) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that, on the day on which, or a day within 28 days after the date on which, the information is laid, there is or will be a thing or things of a particular kind connected with a particular offence on, or in the clothing that is being worn by, or in any property in the apparent control of, a particular person and the information sets out those grounds, the magistrate may issue a search warrant authorising each police officer named in the warrant, with such assistance, and by such force, as is necessary and reasonable—
- (a) to enter any place which the police officer believes on reasonable grounds to be occupied by the person; and
 - (b) to search the person, or the clothing that is being worn by, or property in the apparent control of, the person; and
 - (c) to seize any such clothing or property that the police officer believes on reasonable grounds to be connected with the offence.
- (3) Where an information on oath is laid before a magistrate alleging that there are reasonable grounds for suspecting that, on the day on which, or a day within 28 days after the date on which, the information is laid, there is or will be at or in any place a thing or things of a particular kind connected with a particular offence, and the information sets out those grounds, the magistrate may issue a search warrant authorising each police officer named in the warrant, with such assistance, and by such force, as is necessary and reasonable to—
- (a) enter any place named or described in the warrant; and

- (b) search the place for things of that kind; and
 - (c) if the place is a private place—to search any person found at or in the place, or any person whom he or she reasonably believes to be about to enter or to have recently left the place, and the clothing that the person is wearing, or property in the apparent control of the person, if the police officer believes there are reasonable grounds for suspecting that things of that kind may be on the person or in the clothing that the person is wearing or in property in the apparent control of the person; and
 - (d) to seize any thing of that kind found as a result of any entry or search referred to in paragraph (a), (b) or (c) that he or she believes on reasonable grounds to be connected with that offence.
- (4) A magistrate shall not issue a warrant under this section unless—
- (a) the informant or some other person has given to the magistrate, either orally or by affidavit, such further information (if any) as the magistrate requires concerning the grounds on which the issue of the warrant is being sought; and
 - (b) the magistrate is satisfied that there are reasonable grounds for issuing the warrant.
- (5) A magistrate may issue a warrant under subsection (2) or (3) subject to conditions limiting the powers set out in the relevant subsection.
- (6) A warrant issued under this section shall state or set out—
- (a) the purpose for which the warrant is issued, including a reference to the nature of the offence in relation to which the entry and search are authorised; and
 - (b) whether the entry or search is authorised to be made at any time of the day or night or during specified hours of the day or night; and
 - (c) a description of the kind of things authorised to be seized; and
 - (d) any conditions to which the warrant is subject; and

- (e) if the warrant is issued under subsection (2)—a means of identifying each person specified in the warrant by—
 - (i) name; or
 - (ii) description; or
 - (iii) a photograph of the person attached to the warrant; and
 - (f) a date, not being later than 28 days after the date of issue of the warrant, upon which the warrant will cease to have effect.
- (7) If, in the course of searching in accordance with a warrant issued under this section for things connected with a particular offence, being things of a kind specified in the warrant, a police officer finds any thing that he or she believes on reasonable grounds to be connected with the offence although not of a kind specified in the warrant, or to be connected with any other offence, and he or she believes on reasonable grounds that it is necessary to seize that thing in order to prevent its concealment, loss, destruction or use in committing, continuing or repeating either offence the warrant shall be deemed to authorise him or her to seize that thing.

188 Searches in emergencies

- (1) A police officer may only exercise a power under this section if the police officer believes, on reasonable grounds—
 - (a) that it is necessary to do so in order to prevent the concealment, loss or destruction of any thing connected with an offence; and
 - (b) that the circumstances are of such seriousness and urgency as to require the immediate exercise of the power without the authority of a warrant issued under section 187 or of an order of a court.
- (2) A police officer may—
 - (a) search a person or the clothing that is being worn by, and property in the apparent control of, a person suspected by the

police officer to be carrying any thing connected with an offence; or

- (b) enter any place at or in which the police officer believes on reasonable grounds that any thing connected with an offence is situated; and
 - (c) seize any such thing that he or she finds in the course of that search, or at or in the place.
- (3) A police officer who believes on reasonable grounds that a person is, without lawful authority or reasonable excuse, carrying any thing connected with an offence may, for the purposes of this section, detain that person.
- (4) A police officer who believes on reasonable grounds that any thing connected with an offence is upon or in a vehicle, vessel or aircraft may, for the purposes of this section, stop that vehicle, vessel or aircraft.

189 Clothing and body searches

- (1) Where a police officer is authorised under this division to search the clothing that a person is wearing, the police officer may remove, or require the person to remove, any clothing that the person is wearing.
- (2) A person shall not be searched under this division except by a police officer of the same sex.
- (3) Nothing in this division authorises a police officer to conduct an internal body search.

190 Forfeiture of drugs and substances

- (1) Where a police officer or drug inspector believes, on reasonable grounds, that a substance seized under this division is, or contains, a drug of dependence or prohibited substance in relation to which an offence has been committed, the substance seized is forfeited to the Territory.

- (2) Where a police officer or drug inspector believes, on reasonable grounds, that a substance seized under this division, not being a substance referred to in subsection (1), is, or contains, a drug of dependence or prohibited substance, that substance is forfeited to the Territory at the expiration of 30 days from the date of its seizure.
- (3) Subsection (2) does not apply where—
 - (a) within 30 days after the date of the seizure the commissioner of police has received written notice from a person that the person claims the relevant substance; and
 - (b) the commissioner of police is satisfied that the claimant is entitled to the lawful possession of that substance.
- (4) Where subsection (2) applies, the chief health officer shall cause the substance referred to in that subsection to be disposed of as soon as possible after the expiration of 30 days from the date of its seizure.

191 Analysis

Where a substance is forfeited to the Territory under section 190 (1), the person who seized the substance shall cause it to be given to an analyst.

192 Analysts' certificates

- (1) In proceedings for an offence, a certificate signed by an analyst stating, in relation to a substance referred to in section 191—
 - (a) that the analyst signing the certificate is appointed as such under section 183; and
 - (b) when and from whom the substance was received; and
 - (c) what (if any) labels, or other means of identifying the substance accompanied it when it was received; and
 - (d) what container or containers the substance was contained in when it was received; and
 - (e) a description, and the weight, of the substance received; and

- (f) if the substance, or any portion of it, is analysed—
 - (i) the name of the method of analysis; and
 - (ii) the results of the analysis; and
 - (g) how the substance was dealt with after handling by the analyst, including details of—
 - (i) the quantity retained; and
 - (ii) the name of the person (if any) to whom any retained quantity was given; and
 - (iii) measures taken to secure any retained quantity;
- is evidence of the matters stated in the certificate.
- (2) For the purposes of subsection (1), a certificate that purports to be signed by an analyst shall, unless the contrary is proved, be taken to have been so signed.
 - (3) Subsection (1) only applies if a copy of the certificate was served on the defendant in the proceedings, or on the defendant's legal practitioner on the record of those proceedings, not later than 14 days, or such shorter period as the court may order, before the commencement of the hearing of the proceedings.
 - (4) Where an analyst issues a certificate under this section, he or she shall give a copy of the certificate to the commissioner of police.

193 Notification by defendants—analyst's evidence

After service of a copy of a certificate referred to in section 192 (1) on a defendant in proceedings for an offence, the defendant may, within 5 days, notify the director of public prosecutions in writing whether the defendant intends to call the analyst who issued the certificate to give evidence in the proceeding.

Division 11.4 Disposal of seized substances, compensation and recovery

193A Definitions for div 11.4

In this division:

protocol means the seized cannabis plants protocol or the seized cannabis product protocol.

seized substance means a substance seized under division 11.3.

seized cannabis plant means a cannabis plant that is a seized substance.

seized cannabis plants protocol means the protocol determined under section 193B (1) (a) (Protocols for destruction etc of cannabis).

seized cannabis product means cannabis, other than in the form of a cannabis plant, that is a seized substance.

seized cannabis product protocol means the protocol determined under section 193B (1) (b) (Protocols for destruction etc of cannabis).

seized substance means a substance seized under division 11.3.

193B Protocols for destruction etc of cannabis

- (1) The government analyst may, in writing, determine the following protocols:
 - (a) a protocol that sets out methods and procedures for—
 - (i) the handling and destruction of seized cannabis plants;
and
 - (ii) the preservation of samples of seized cannabis plants;
 - (b) a protocol that sets out methods and procedures for—

- (i) the handling and destruction of seized cannabis product;
and
 - (ii) the preservation of samples of seized cannabis product.
- (2) The government analyst may determine a protocol only if the protocol has been approved, in writing, by the chief health officer and the director of public prosecutions.
- (3) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

193C Destruction of cannabis without court order

- (1) The government analyst may, without a court order, destroy seized cannabis plants in accordance with the seized cannabis plants protocol.
- (2) Before destroying seized cannabis plants under subsection (1), the government analyst must preserve samples of the plants in accordance with seized cannabis plants protocol.
- (3) The government analyst may, without a court order, destroy seized cannabis product in accordance with the seized cannabis product protocol.
- (4) Before destroying seized cannabis product under subsection (3), the government analyst must preserve a sample of the product in accordance with the seized cannabis product protocol.
- (5) The government analyst must not destroy seized cannabis plants or seized cannabis product within 24 hours after the plants or product are given to the analyst under section 191 (Analysis).
- (6) The government analyst must not destroy seized cannabis plants or seized cannabis product—
- (a) contrary to a protocol; or
 - (b) contrary to a court order of which the analyst has notice; or

- (c) if the analyst has notice of an application under section 193D in relation to the plants or product—until the application is finally decided.
- (7) The government analyst must not destroy a sample preserved under subsection (2) or (4)—
 - (a) without the written consent of the director of public prosecutions; or
 - (b) contrary to a court order of which the analyst has notice.

193D Order for preservation of cannabis

- (1) A person may apply to the Magistrates Court for an order for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) if the person—
 - (a) has been charged with an offence against this Act in relation to the seized cannabis; or
 - (b) believes, on reasonable grounds, that he or she is likely to be charged with an offence against this Act in relation to the seized cannabis.
- (2) The applicant must give notice of the application to the director of public prosecutions and the government analyst.
- (3) Without limiting the ways in which notice of the application may be given, the applicant may give notice by telephone or fax.
- (4) If the Magistrates Court considers that a temporary order should be made to prevent the imminent destruction of the seized cannabis, the court may make an order for the preservation of the seized cannabis for a stated period.
- (5) The Magistrates Court may make an order under subsection (4) even if notice of the application has not been given to the director of public prosecutions or the government analyst.
- (6) The Magistrates Court may make an order for the preservation of the seized cannabis, or a part or quantity of the seized cannabis.

193E Amendment and revocation of cannabis preservation

- (1) This section applies if the Magistrates Court has made an order under section 193D for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) or a part or quantity of the seized cannabis.
- (2) The director of public prosecutions or the government analyst may apply to the Magistrates Court for the amendment or revocation of the order.
- (3) The applicant must, if practicable, give written notice of the application to—
 - (a) each person who has been charged with an offence against this Act relating to the seized cannabis; and
 - (b) each person who, to the knowledge or in the belief of the applicant, is likely to be charged with an offence against this Act relating to the seized cannabis.
- (4) For subsection (3), a notice may be given to a person by giving it to a solicitor acting for the person in a proceeding, or expected proceeding, relating to the seized cannabis.
- (5) The Magistrates Court may amend the order on application under subsection (2) if satisfied that the amendment—
 - (a) is in the public interest; and
 - (b) would not prejudice the proper interests of anyone mentioned in subsection (3) (a) or (b).
- (6) The Magistrates Court must revoke the order on application under subsection (2) if satisfied that—
 - (a) all proceedings begun for offences against this Act in relation to the seized cannabis have been finalised; and
 - (b) no other proceedings for offences against this Act in relation to the seized cannabis are likely to be brought.

- (7) However, the Magistrates Court must not revoke the order under subsection (6) if it appears to the court that the public interest requires the order to remain in effect.
- (8) The director of public prosecutions or the government analyst may make more than 1 application under this section in relation to an order under section 193D.

193F Making of orders about preservation of cannabis

- (1) This section applies to the making of an order under section 193D (Order for preservation of cannabis), or an order under that section as amended under section 193E (Amendment and revocation of cannabis preservation), for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) or a part or quantity of the seized cannabis.
- (2) The order must not affect a requirement for the preservation of—
 - (a) if the order relates to seized cannabis plants—a sample of the plants required under the seized cannabis plants protocol; or
 - (b) if the order relates to seized cannabis product—a sample of the product required under the seized cannabis product protocol.
- (3) In deciding whether the order should require, or continue to require, the preservation of the seized cannabis to a greater extent than required by the relevant protocol, the Magistrates Court must take account of the following matters:
 - (a) the matters mentioned in any certificate under section 192 (Analysts' certificates) in relation to the seized cannabis;
 - (b) how long the seized cannabis is likely to be kept;
 - (c) the extent (if any) to which facilities are available for the secure keeping of the seized cannabis during that period;
 - (d) the health and safety of people working in or near the place where the seized cannabis is, or will be, kept;

- (e) the number of people (if any) charged with offences against this Act in relation to the seized cannabis;
- (f) the likelihood that anyone else will be charged with offences against this Act in relation to the seized cannabis;
- (g) when the hearing of any charge for an offence against this Act in relation to the seized cannabis is likely to take place;
- (h) any other relevant matter (including, in particular, the interests of justice).

194 Disposal of seized substances other than cannabis on order of magistrate

- (1) This section does not apply to cannabis.
- (2) On receiving a notification from an analyst about a seized substance that the analyst has identified as being or containing a drug of dependence or prohibited substance, the director of public prosecutions may apply to a magistrate in accordance with section 194A for an order that a specified quantity of the substance be disposed of.
- (3) The director of public prosecutions shall only specify a quantity under subsection (2) which would leave a quantity of the seized substance remaining at least sufficient to enable the substance to be analysed twice.
- (4) The director of public prosecutions shall give a copy of an application to—
 - (a) the person from whom the substance was seized, if that person is identifiable; and
 - (b) any person who the director of public prosecutions believes on reasonable grounds to have had an interest in the substance immediately before its seizure; and

- (c) each defendant in proceedings for an offence in relation to the substance, or the defendant's legal practitioner on the record in the proceedings.
- (5) Upon an application in accordance with this section, where a magistrate is satisfied—
 - (a) that each person referred to in subsection (4) has been given a reasonable opportunity to be heard; and
 - (b) that no person notified of the application disputes the total weight of the seized substance as stated in the application; and
 - (c) that no person who has not been notified of the application is likely to be charged with an offence in relation to that substance;

the magistrate shall order the government analyst to cause to be disposed of the quantity of the seized substance specified in the application.

- (6) The government analyst shall comply with an order of the magistrate under subsection (5).
- (7) Where a magistrate has refused to make an order, the director of public prosecutions may make a further application in accordance with this section.

194A Applications under s 194

An application under section 194 (2) in relation to a seized substance shall—

- (a) state the circumstances in which the substance was seized; and
- (b) specify the quantity of the substance to be retained or disposed of, as the case requires; and
- (c) in the case of an application under section 194 (2)—specify the quantity of the substance sufficient to enable it to be analysed twice; and

- (d) include any further information relevant to the application, including information about facilities for the secure retention of the substance; and
- (e) be accompanied by a certificate under section 192 in relation to the substance.

195 Final disposal of seized substances

Where an analyst has identified a seized substance as being or containing a drug of dependence or a prohibited substance, the government analyst shall cause any remaining quantity of the substance to be disposed of—

- (a) if, within 3 months of the seizure, proceedings are instituted for an offence in relation to the substance—after those proceedings are completed; or
- (b) in any other case—at the expiration of 3 months after the date of the seizure.

196 Compensation for seizure

Where, after the relevant period referred to in section 195—

- (a) a seized substance referred to in that section has been completely disposed of; and
- (b) no offence in relation to the substance has been found proved;

the Territory shall pay to the person who was entitled to the immediate, lawful possession of the substance immediately before its seizure an amount equal to the value of the substance at the time of payment.

197 Seized property

- (1) Where property has been seized under division 11.3, the person who possessed that property immediately before its seizure may recover the property—

- (a) if, within 3 months of the seizure, proceedings are instituted for an offence in relation to which the property could, in the opinion of the commissioner of police or the director of public prosecutions, provide evidence—after those proceedings are completed; or
 - (b) in any other case—at the expiration of 3 months after the date of seizure.
- (2) This section does not apply in relation to a substance which an analyst has identified as being, or containing, a drug of dependence or prohibited substance.

Part 12 Administrative review

198 Notice of decisions

- (1) Where the Minister makes a decision—
- (a) refusing to grant a manufacturer's licence; or
 - (b) granting a manufacturer's licence subject to conditions, or varying a condition specified in a manufacturer's licence; or
 - (c) under section 9 (5) refusing to amend a manufacturer's licence; or
 - (d) cancelling a manufacturer's licence; or
 - (e) refusing to grant a wholesaler's licence; or
 - (f) granting a wholesaler's licence subject to conditions, or varying a condition specified in a wholesaler's licence; or
 - (g) under section 23 (4) refusing to amend a wholesaler's licence; or
 - (h) cancelling a wholesaler's licence; or
 - (i) refusing to grant an authorisation under division 4.1 or 4.2; or
 - (j) granting an authorisation under division 4.1 or 4.2 subject to conditions; or
 - (k) varying a term or a condition specified in an authorisation under division 4.1 or 4.2; or
 - (m) cancelling an authorisation under division 4.1 or 4.2; or
 - (n) renewing an authorisation under division 4.1 or 4.2 for a shorter period than that specified in the application for renewal; or

- (o) refusing to authorise the sale of a drug of dependence to the owner, or the agent of the owner, of a ship, or the delivery of the drug of dependence to the master of a ship; or
- (p) refusing to grant an approval to supply syringes; or
- (q) granting an approval to supply syringes subject to a condition; or
- (r) cancelling an approval to supply syringes; or
- (s) refusing to grant an approval to conduct a treatment centre; or
- (t) granting an approval to conduct a treatment centre subject to conditions; or
- (u) varying or revoking, or refusing to vary or revoke, a condition to which an approval to conduct a treatment centre is subject; or
- (v) under section 154, cancelling an approval to conduct a treatment centre; or
- (w) refusing to restore an approval to conduct a treatment centre;

the Minister shall cause notice in writing of the decision to be given to the person whose interests are affected by the decision.

- (2) A notice under subsection (1) shall be in accordance with the requirements of the code of practice in force under the *Administrative Appeals Tribunal Act 1989*, section 25B (1).

199 Review by administrative appeals tribunal

Application may be made to the administrative appeals tribunal for a review of a decision referred to in section 198 (1).

Part 13 **Miscellaneous**

200 Possession by officials

The Minister may, by instrument, authorise a public employee to possess specified drugs of dependence or specified prohibited substances in the course of his or her duties.

201 Secrecy

(1) This section applies to a drug inspector, a treatment centre inspector, an analyst or any other person who is, or has been, engaged in exercising powers or performing duties under this Act.

(2) A person to whom this section applies shall not, either directly or indirectly, except in the exercise of a power or performance of a duty under this Act—

(a) make a record of, or divulge or communicate to any person, any information acquired by the firstmentioned person concerning a manufacturing or trade process or the affairs of another person; or

(b) produce to a person a document produced to, or otherwise acquired by, the firstmentioned person;

by reason of the exercise of those powers or the performance of those duties.

Maximum penalty: \$5 000, imprisonment for 2 years or both.

(3) Nothing in this section applies in relation to the giving of information—

(a) to a treatment assessment panel established under division 9.3; or

(b) about a person where the giving of the information is necessary to remove a threat to the life or health of the person; or

- (c) to a police officer in answer to a lawful request by the police officer while acting in the course of his or her duty; or
- (d) to a court, by way of the production of a document or otherwise, in accordance with a subpoena; or
- (e) to a person, relating to the personal affairs of the person requesting the information.

203 Delegation of powers

The chief health officer may by writing delegate any of his or her powers or functions under this Act.

204 Determination of fees

- (1) The Minister may, in writing, determine fees for this Act.

Note The *Legislation Act 2001* contains provisions about the making of determinations and regulations relating to fees (see pt 6.3).

- (2) A determination is a disallowable instrument.

Note A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

205 Approved forms

- (1) The Minister may, in writing, approve forms for this Act.
- (2) If the Minister approves a form for a particular purpose, the approved form must be used for that purpose.
- (3) An approved form is a notifiable instrument.

Note A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) For subsection (2), if a note in an approved form suggests or requires the insertion of information in a blank space, the form is properly completed only if the information is inserted as suggested or required.
- (5) A form in schedule 4 immediately before the commencement of this section is, after the commencement, taken to be an approved form.

- (6) However, the form need not be notified under the *Legislation Act 2001*.
- (7) Subsections (5) and (6) are laws to which the *Legislation Act 2001*, section 88 (Repeal does not end transitional or validating effect etc) applies.
- (8) Subsections (5) to (7) and this subsection expire 1 year after this section commences.

206 Regulation-making power

The Executive may make regulations for this Act.

Note Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

Part 14 **Transitional provisions**

207 **Provisions for Drugs of Dependence Amendment Act 2001**

- (1) The provisions of section 171B and division 11.4, as amended by the *Drugs of Dependence Amendment Act 2001* apply in relation to cannabis seized under division 11.3, before the commencement of those amendments.
- (2) However—
 - (a) section 171B applies as if the reference in subsection (2) to as soon as practicable after seizing the cannabis were a reference to as soon as practicable after the commencement of that section; and
 - (b) any court order under division 11.4 that was in force immediately before the commencement remains in force until it ends or is amended or revoked.
- (3) For the amendment or revocation of an order mentioned in subsection (2) (b), the relevant provisions of division 11.4, as amended by the *Drugs of Dependence Amendment Act 2001* apply with all necessary changes.
- (4) This section expires 3 years after it commences.

Schedule 5 Prohibited plants

(see s 162)

- 1 *Peganum harmala*
- 2 *Amanita cothurnata*
- 3 *Amanita gemmata*
- 4 *Amanita muscaria*
- 5 *Amanita pantherina* and other
- 6 *Amanita* spp
- 7 *Banisteria caapi*
- 8 *Banisteriopsis inebrians*
- 9 *Cannabis*
- 10 *Catha edulis*
- 11 *Conocybe* spp
- 12 *Erythroxyton* spp
- 13 *Gymnopilus* spp
- 14 *Haemadictyon amazonicum*
- 15 *Lophophora williamsii*
- 16 *Papaver oriental* (*Papaver bracteatum*)
- 17 *Papaver somniferum*
- 18 *Piptadenia peregrina*
- 19 *Piptadenia macrocarpa*
- 20 *Prestonia amazonica*
- 21 *Psilocybin*
- 22 *Stropharia cubensis*

Endnotes

1 About the endnotes

Amending and modifying laws are annotated in the legislation history and the amendment history. Current modifications are not included in the republished law but are set out in the endnotes.

Not all editorial amendments made under the *Legislation Act 2001*, part 11.3 are annotated in the amendment history. Full details of any amendments can be obtained from the Parliamentary Counsel's Office.

Uncommenced amending laws are listed in the legislation history and the amendment history. These details are underlined. Uncommenced provisions and amendments are not included in the republished law but are set out in the last endnotes.

If all the provisions of the law have been renumbered, a table of renumbered provisions gives details of previous and current numbering.

The endnotes also include a table of earlier republications.

If the republished law includes penalties, current information about penalty unit values appears on the republication inside front cover.

2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	p = page
cl = clause	par = paragraph
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	prov = provision
exp = expires/expired	pt = part
Gaz = Gazette	r = rule/subrule
hdg = heading	reg = regulation/subregulation
ins = inserted/added	renum = renumbered
LA = Legislation Act 2001	reloc = relocated
LR = legislation register	R[X] = Republication No
LRA = Legislation (Republication) Act 1996	s = section/subsection
mod = modified / modification	sch = schedule
No = number	sdiv = subdivision
o = order	sub = substituted
om = omitted/repealed	SL = Subordinate Law
	<u>underlining</u> = whole or part not commenced

Endnotes

3 Legislation history

3 Legislation history

The *Drugs of Dependence Act 1989* was originally the *Drugs of Dependence Ordinance 1989*. It became an ACT Act on self-government (11 May 1989).

Legislation before self-government

Drugs of Dependence Act 1989 No 11

notified 15 March 1989

commenced 1 April 1989 (s 2 and Gaz 1989 No S109)

as amended by

Self-Government (Consequential Amendments) Act 1989 No 38 sch 1

notified 10 May 1989

s 1, s 2 commenced 10 May 1989 (s 2 (1))

sch 1 commenced 11 May 1989 (s 2 (2) and Gaz 1989 No S164)

Legislation after self-government

Health Services (Consequential Provisions) Act 1990 No 63 sch 1

notified 28 December 1990 (Gaz 1990 No S102)

s 1, s 2 commenced 28 December 1990 (s 2 (1))

sch 1 commenced 1 January 1991 (s 2 (2) and Gaz 1991 No S4)

Drugs of Dependence (Amendment) Act 1991 No 5

notified 1 March 1991 (Gaz 1991 No S7)

ss 1-3 commenced 1 March 1991 (s 2 (1))

remainder commenced 15 March 1991 (s 2 (2) and Gaz 1991 No S16)

Magistrates and Coroner's Courts (Registrar) Act 1991 No 44 s 7 (2) and sch 1

notified 20 September 1991 (Gaz 1991 No S95)

s 1, s 2 commenced 20 September 1991 (s 2 (1))

s 7 (2) and sch 1 commenced 25 September 1991 (s 2 (2) and Gaz 1991 No S103)

Drugs of Dependence (Amendment) Act 1992 No 52

notified 18 September 1992 (Gaz 1992 No S158)

commenced 18 September 1992

Drugs of Dependence (Amendment) Act (No. 2) 1992 No 61

notified 30 October 1992 (Gaz 1992 No S183)
commenced 30 October 1992

Drugs of Dependence (Amendment) Act (No. 3) 1992 No 62

notified 30 October 1992 (Gaz 1992 No S183)
commenced 30 October 1992

Statute Law Revision (Miscellaneous Provisions) Act 1993 No 1 sch 1

notified 1 March 1993 (Gaz 1993 No S23)
sch 1 commenced 1 March 1993

Drugs of Dependence (Amendment) Act 1993 No 7

notified 25 February 1993 (Gaz 1993 No S22)
ss 1-3 commenced 25 February 1993 (s 2 (1))
remainder commenced 3 March 1993 (s 2 (2) and Gaz 1993 No S33)

Drugs of Dependence (Amendment) Act (No. 2) 1993 No 10

notified 1 March 1993 (Gaz 1993 No S23)
ss 1-3 commenced 1 March 1993 (s 2 (1))
remainder commenced 31 March 1993 (s 2(2) and Gaz 1993 No S53)

Health (Consequential Provisions) Act 1993 No 14 sch 1

notified 1 March 1993 (Gaz 1993 No S23)
sch 1 commenced 1 March 1993 (s 2)

Drugs of Dependence (Amendment) Act (No. 3) 1993 No 45

notified 27 August 1993 (Gaz 1993 No S165)
s 1, s 2 commenced 27 August 1993 (s 2 (1))
remainder commenced 20 September 1993 (s 2 (2) and Gaz 1993 No S190)

Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 29

notified 30 June 1994 (Gaz 1994 No S121)
s 1, s 2 commenced 30 June 1994 (s 2 (1))
sch 1 pt 29 commenced 1 July 1994 (s 2 (2) and Gaz 1994 S142)

Endnotes

3 Legislation history

Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1

notified 11 October 1994 (Gaz 1994 No S197)
s 1, s 2 commenced 11 October 1994 (s 2 (1))
remainder commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

Drugs of Dependence (Amendment) Act 1994 No 74

notified 1 November 1994 (Gaz 1994 No S229)
commenced 1 November 1994 (s 2)

Drugs of Dependence (Amendment) Act (No. 2) 1994 No 90

notified 15 December 1994 (Gaz 1994 No S280)
commenced 15 December 1994 (s 2)

Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch

notified 15 December 1994 (Gaz 1994 No S280)
s 1, s 2 commenced 15 December 1994 (s 2 (1))
sch commenced 15 December 1994 (s 2 (2) and Gaz 1994 No S293)

Drugs of Dependence (Amendment) Act 1995 No 31

notified 3 October 1995 (Gaz 1995 No S243)
commenced 3 October 1995 (s 2)

Statute Law Revision Act 1995 No 46 sch

notified 18 December 1995 (Gaz 1995 No S306)
sch commenced 18 December 1995 (s 2)

Health and Community Care Services (Consequential Provisions) Act 1996 No 35 sch

notified 1 July 1996 (Gaz 1996 No S130)
sch commenced 1 July 1996 (s 2)

Drugs of Dependence (Amendment) Act 1997 No 75

notified 25 November 1997 (Gaz 1997 No S360)
commenced 25 November 1997 (s 2)

Public Health (Miscellaneous Provisions) Act 1997 No 70 sch 1

notified 9 October 1997 (Gaz 1997 No S300)
ss 1-3 commenced 9 October 1997 (s 2 (1))
sch 1 commenced 13 August 1998 (s 2 (2) and Gaz 1998 No S185)

Statute Law Amendment Act 2001 No 11 sch 1

notified 29 March 2001 (Gaz 2001 No 13)
commenced 29 March 2001 (s 2)

Legislation (Consequential Amendments) Act 2001 No 44 pt 113

notified 26 July 2001 (Gaz 2001 No 30)
s 1, s 2 commenced 26 July 2001 (IA s 10B)
pt 113 commenced 12 September 2001 (s 2 and Gaz 2001 No S65)

Drugs of Dependence Amendment Act 2001 No 48

notified 12 July 2001 (Gaz 2001 No 28)
s 1, s 2 commenced 12 July 2001 (IA s 10B)
remainder (ss 3-21) commenced 23 October 2001 (s 2 and CN 2001 No 5)

Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.17

notified 5 September 2001 (Gaz 2001 No S65)
commenced 5 September 2001 (s 2 (1))

4 Amendment history**Commencement**

s 2 om 2001 No 44 amdt 1.1187

Interpretation for Act

s 3 am 1993 No 1 sch 1; 1993 No 10 s 4; 2001 No 44 amdt 1.1190;
2001 No 48 amdt 1.3
def **Board** ins 1990 No 63 sch 1
om 1993 No 14 sch 1
def **Chief Executive** ins 1993 No 63 sch 1
om 1993 No 14 sch 1
def **chief health officer** ins 1997 No 70 sch 1
om R6 LA
def **determined fee** om 2001 No 44 amdt 1.1188
def **Director** ins 1994 No 74 s 4
am 1996 No 35 sch
def **drug of dependence** sub 1993 No 10 s 4
def **General Manager** om 1993 No 63 sch 1
def **government analyst** ins 1993 No 7 s 4
sub 1994 No 97 sch
def **intern** sub 2001 No 11 amdt 1.1
def **Medical Officer of Health** om 1997 No 70 sch 1
def **methadone program treatment centre** am 1990 No 63
sch 1
sub 1992 No 61 s 3
am 1993 No 14 sch 1

Endnotes

4 Amendment history

sub 1993 No 45 s 4
om 2001 No 48 amdt 1.1
def **opioid dependency treatment centre** ins 2001 No 48 s 4
def **prohibited substance** sub 1993 No 10 s 4
def **reconciliation amount** ins 2001 No 44 amdt 1.1189
om 1989 No 11 s 209
ins 2001 No 48 s 4
def **Service** om 1993 No 63 sch 1
def **treatment** ins 1995 No 31 s 5
am 2001 No 48 s 5
def **treatment centre** ins 1992 No 62 s 3
am 1993 No 14 sch 1; 1996 No 35 sch
def **Tribunal** am 1989 No 38 sch 1
om 1994 No 60 sch 1
def **ward** am 2001 No 48 amdt 1.2

Director

s 3A ins 1994 No 74
am 1996 No 35

Definitions for pt 2

s 4 def **drug of dependence** sub 1993 No 10

Manufacturer's licence—application

s 5 am 1990 No 63; 1993 No 14; 2001 No 44 amdt 1.1191

Manufacturer's licence—grant

s 6 am 1990 No 63; 1993 No 14

Manufacturer's licence—variation of conditions

s 8 am 1990 No 63; 1993 No 14; 1997 No 70

Manufacturer's licence—amendment

s 9 am 1990 No 63; 1993 No 14; 1997 No 70

Manufacturer's licence—surrender

s 10 am 1990 No 63; 1997 No 70

Manufacturer's licence—cancellation

s 11 am 1990 No 63; 1993 No 14

Reports of dealings—manufacturers

s 12 am 1990 No 63; 1997 No 70

Manufacturer's licence—renewal

s 14 am 1990 No 63; 1993 No 14; 2001 No 44 amdt 1.1192

Disposal of by-products

s 16 am 1990 No 63; 1997 No 70

Return of licence to chief health officer

s 17 am 1990 No 63; 1997 No 70

Wholesaler's licence—application

s 19 am 1990 No 63; 1993 No 14; 2001 No 44 amdt 1.1193

Wholesaler's licence—grant

s 20 am 1990 No 63; 1993 No 14

Wholesaler's licence—variation of conditions

s 22 am 1990 No 63; 1993 No 14; 1997 No 70

Wholesaler's licence—change of address

s 23 am 1990 No 63; 1997 No 70

Wholesaler's licence—surrender

s 24 am 1990 No 63; 1997 No 70

Wholesaler's licence—cancellation

s 25 am 1990 No 63; 1993 No 1; 1993 No 14

Reports of dealings—wholesalers

s 26 am 1990 No 63; 1997 No 70

Wholesaler's licence—renewal

s 28 am 1990 No 63; 1993 No 14; 2001 No 44 amdt 1.1194

Return of licence to chief health officer

s 30 am 1990 No 63; 1997 No 70

Authorisation for research or education

div 4.1 hdg (prev pt 4 div 1 hdg) renum R6 LA

Definitions for div 4.1

s 31 am 1990 No 63; 1993 No 14

Authorisation (research or education)—application

s 32 am 1990 No 63; 1997 No 70; 2001 No 44 amdts 1.1195-1.1197

Authorisation (research or education)—grant

s 33 am 1990 No 63; 1997 No 70

Authorisation (research or education)—variation of conditions

s 35 am 1990 No 63; 1993 No 14; 1997 No 70

Authorisation (research or education)—surrender

s 36 am 1990 No 63; 1997 No 70

Authorisation (research or education)—cancellation

s 37 am 1990 No 63; 1993 No 14; 1997 No 70

Authorisation (research or education)—renewal

s 39 am 1990 No 63; 1993 No 14; 2001 No 44 amdt 1.1198

Return of authorisation to chief health officer

s 40 am 1990 No 63; 1997 No 70

First-aid kits

div 4.2 hdg (prev pt 4 div 2 hdg) renum R6 LA

Endnotes

4 Amendment history

Authorisation (first-aid)—application

s 42 am 1990 No 63; 1997 No 70; 2001 No 44 amdts 1.1199-1.1201

Authorisation (first-aid)—grant

s 43 am 1990 No 63; 1997 No 70

Authorisation (first-aid)—variation of conditions

s 45 am 1990 No 63; 1997 No 70

Authorisation (first-aid)—change of address

s 46 am 1990 No 63; 1997 No 70

Authorisation (first-aid)—surrender

s 47 am 1990 No 63; 1997 No 70

Authorisation (first-aid)—cancellation

s 48 am 1990 No 63; 1997 No 70

Authorisation (first-aid)—renewal

s 50 am 1990 No 63; 1997 No 70; 2001 No 44 amdts 1.1202-1.1204

Return of authorisation to chief health officer

s 51 am 1990 No 63; 1997 No 70

Written orders

s 53 am 1990 No 63; 1997 No 70

Delivery

s 54 am 1990 No 63; 1997 No 70

Interpretation

div 6.1 hdg (prev pt 6 div 1 hdg) renum R6 LA

Prescriptions

div 6.2 hdg (prev pt 6 div 2 hdg) renum R6 LA

Issue of prescriptions

s 57 am 1993 No 1

Drugs of dependence

s 58 am 1997 No 70; 1999 No 23; 2001 No 48 amdt 1.4

Methadone or buprenorphine

s 59 hdg sub 2001 No 48 amdt 1.5

s 59 am 1997 No 70; 2001 No 48 amdts 1.6-1.8

Morphine

s 59A ins 1999 No 23

Written prescriptions

s 60 am 1997 No 70

Requisitions

div 6.3 hdg (prev pt 6 div 3 hdg) renum R6 LA

Requisitions generally

s 62 am 1997 No 75

Requisitions issued orally

s 64 am 1990 No 63; 1997 No 70

Approval of prescriptions

div 6.4 hdg (prev pt 6 div 4 hdg) renum R6 LA

Termination of appointment

s 67 am 1990 No 63; 1993 No 14

Application for approval

s 68 am 1997 No 70

Powers of chief health officer

s 69 am 1997 No 70

Powers of committee

s 70 am 1997 No 70

Variation and revocation of approvals

s 71 am 1997 No 70

Review of decisions of chief health officer

s 72 am 1997 No 70

Form of approvals

s 73 am 1997 No 70

Date of effect of approvals

s 74 am 1997 No 70

Transitional

s 75 am 1997 No 70

Supply

div 6.5 hdg (prev pt 6 div 5 hdg) renum R6 LA

Supply on order

s 78 am 2001 No 48 amdt 1.9

Supply on requisition

s 79 am 1997 No 75

Supply on prescription

s 80 am 1993 No 45; 1996 No 35; 2001 No 48 amdt 1.10

Forged prescriptions, requisitions and orders

s 82 am 1990 No 63; 1997 No 70

Administration

div 6.6 hdg (prev pt 6 div 6 hdg) renum R6 LA

Endnotes

4 Amendment history

Administration—witnesses

s 84 am 1990 No 63; 1993 No 14; 1993 No 45; 1996 No 35; 2001 No 48 amdt 1.11

Definitions for pt 7

s 85 am 1990 No 63; 1993 No 14

Distribution of syringes—approval

s 86 am 1990 No 63; 1997 No 70

Approval—surrender

s 87 am 1990 No 63; 1997 No 70

Approval—cancellation

s 88 am 1990 No 63; 1997 No 70

Approval—renewal

s 90 am 1990 No 60; 1997 No 70

Offences under Crimes Act 1900

s 93 am 1993 No 1

Return of approval to chief health officer

s 94 am 1990 No 63; 1997 No 70

Records of drugs of dependence

div 8.1 hdg (prev pt 8 div 1 hdg) renum R6 LA

Definitions for div 8.1

s 95 am 1992 No 61; 2001 No 48 amdt 1.12

Supply of information to chief health officer

s 98 am 1990 No 63; 1997 No 70

Drug registers

s 99 am 2001 No 44 amdt 1.1205

Ward registers

s 101 sub 1993 No 45; 2001 No 44 amdt 1.1206, amdt 1.1207; 2001 No 48 amdt 1.13, amdt 1.14; 2001 No 48 s 6; R6 LA (see 2001 No 48 s 7)

Entries in ward drugs of dependence registers

s 102 am 1993 No 45; 1997 No 75

Entries in ward methadone registers

s 102A ins 1993 No 45; 2001 No 44 amdt 1.1208

Entries in ward buprenorphine registers

s 102B ins 2001 No 48 s 8

First-aid registers

s 103 am 1993 No 1; 2001 No 44 amdt 1.1209

Registers—general provisions

s 106 am 1990 No 63; 1993 No 14; 1997 No 70; 1997 No 75; 2001 No 44 amdt 1.1210

Patients' records

s 108 am 1992 No 61; 2001 No 48 amdt 1.15

Transfer of control of pharmacies

s 109 am 2001 No 44 amdt 1.1211

Safekeeping of drugs of dependence

div 8.2 hdg (prev pt 8 div 2 hdg) renum R6 LA

Safekeeping by manufacturers and wholesalers

s 111 am 1990 No 63; 1997 No 70

Safekeeping by chief pharmacists

s 112 am 1990 No 63; 1997 No 70

Safekeeping by medical practitioners, dentists and veterinary surgeons

s 113 am 1993 No 1

Safekeeping by other persons

s 114 am 1990 No 63; 1997 No 70; 2001 No 48 amdt 1.16

Access to combinations and keys of drug receptacles

s 117 am 1997 No 75; 2001 No 48 amdt 1.17

Safekeeping—general

s 118 am 1997 No 75

Inspection—class 1 institutions

div 8.3 hdg (prev pt 8 div 3 hdg) renum R6 LA

Disposal of drugs of dependence

div 8.4 hdg (prev pt 8 div 4 hdg) renum R6 LA

Procedure for disposal

s 120 am 1990 No 63; 1993 No 1; 1993 No 14; 1997 No 70; 1997 No 75

Preliminary

div 9.1 hdg (prev pt 9 div 1 hdg) renum R6 LA

Definitions for pt 9

s 121 am 1990 No 63; 1991 No 44; 1992 No 62; 1993 No 14; 1994 No 97; 1995 No 31; 1996 No 35; 1999 No 64 s 4 sch 2

Assessment orders and treatment orders

div 9.2 hdg (prev pt 9 div 2 hdg) renum R6 LA

Assessment orders

s 122 am 1990 No 63; 1994 No 74; 2001 No 44 amdt 1.1212

Endnotes

4 Amendment history

Treatment orders

s 123 am 1990 No 63; 1993 No 1; 1993 No 14; 1994 No 74; 2001 No 44 amdt 1.1213

Offences—treatment orders

s 124 am 1990 No 63; 1993 No 14; 1994 No 74

Revocation and variation of periods of orders

s 129 am 1990 No 63; 1993 No 14; 1994 No 74

Treatment assessment panels

div 9.3 hdg (prev pt 9 div 3 hdg) renum R6 LA

Establishment

s 130 am 1990 No 63; 1993 No 1; 1993 No 14; 1995 No 46; 1997 No 96

Appointment of members

s 131 am 1990 No 63; 1993 No 14

Presiding member

s 133 am 1990 No 63; 1993 No 14

Acting appointments

s 134 am 1990 No 63; 1993 No 14

Remuneration and allowances

s 135 om 1997 No 41

Resignation

s 136 am 1990 No 63; 1993 No 14

Suspension

s 137 am 1990 No 63; 1993 No 14

Termination of appointment

s 138 am 1990 No 63; 1993 No 14

Referral for initial assessment

s 141 am 1990 No 63; 1993 No 14; 1994 No 74; 2001 No 44 amdt 1.1214, amdt 1.1215

Referral for the variation of treatment

s 142 am 1990 No 63; 1993 No 14; 1994 No 74

Referral for periodic review of treatment

s 143 am 1990 No 63; 1993 No 14; 1994 No 74

Referral for other purposes

s 144 am 1990 No 63; 1993 No 14; 1994 No 74

Assessment by treatment centres

s 145 am 1990 No 63; 1993 No 14; 1994 No 74; 2001 No 44 amdt 1.1216

Attendance for assessment before panels and at treatment centres

s 146 am 1994 No 74

Treatment centre reports

s 147 am 1993 No 1

Approval of treatment centre

div 9.4 hdg (prev pt 9 div 4 hdg) renum R6 LA

Approval—application

s 149 am 1990 No 63; 1992 No 62; 1993 No 14; 1995 No 31; 2001 No 44 amdt 1.1217-1.1219; 2001 No 48 amdt 1.18

Approval—grant

s 150 am 1990 No 63; 1992 No 61; 1993 No 14; 1995 No 31; 1996 No 35

Approval—conditions

s 151 am 1990 No 63; 1993 No 14; 1995 No 31; 2001 No 48 amdt 1.19

Approval—variation and revocation of conditions

s 152 am 1990 No 63; 1993 No 14

Approval—surrender

s 153 am 1990 No 63; 1993 No 14

Approval—cancellation

s 154 am 1990 No 63; 1993 No 14

Approval—emergency cancellation

s 155 am 1990 No 63; 1993 No 14

Alternative arrangements on cancellation

s 156 am 1990 No 63; 1993 No 14; 1994 No 74

Approval—renewal

s 158 am 1990 No 63; 1993 No 14

Return of approval to Minister

s 159 am 1990 No 63; 1993 No 14

Interpretation for pt 10

s 160 am 1990 No 63; 1993 No 1; 1993 No 10; 1993 No 14

Sale or supply

s 164 am 1995 No 31; 1996 No 35; 2001 No 48 s 9; 2001 No 48 amdt 1.20; R6 LA (see 2001 No 48 s 10, amdt 1.21)

Possession and administration of drugs—exemptions

s 170 am 1993 No 45; 1997 No 75; 2001 No 48 amdt 1.22

Prohibited substances—possession, administration and disposal

s 171 am 1997 No 75

Endnotes

4 Amendment history

Offence notices

s 171A ins 1992 No. 52
am 1994 No 90; 2001 No 48 s 11

Cannabis offences—notification of right to apply for preservation order

s 171B ins 2001 No 48 s 12

Liability of corporations

s 172 am 2001 No 44 amdt 1.1220; am 2001 No 56 amdt 3.251

Surrender and revocation of exemptions

s 173 am 1990 No 63; 1993 No 14

Evidentiary certificate

s 173A ins 1993 No 10

Preliminary

div 11.1 hdg (prev pt 11 div 1 hdg) renum R6 LA

Interpretation for pt 11

s 174 am 2001 No 44 amdt 1.1221

Inspection

div 11.2 hdg (prev pt 11 div 2 hdg) renum R6 LA

Drug inspectors—appointment

s 175 am 1990 No 63; 1997 No 70

Treatment centre inspectors—appointment

s 176 am 1990 No 63; 1993 No 14

Inspection—premises of approved treatment centres

s 179 am 1995 No 31

Search, seizure and analysis

div 11.3 hdg (prev pt 11 div 3 hdg) renum R6 LA

Analysts

s 183 am 1990 No 63; 1997 No 70

Government analyst

s 183A ins 1993 No 7
sub 1994 No 97
am 1997 No 127

Analysts

s 183B ins 1993 No 7
om 1994 No 97

Forfeiture of drugs and substances

s 190 am 1989 No 38; 1990 No 63; 1997 No 70

Analysis

s 191 am 1989 No 38

Analysts' certificates

s 192 am 1997 No 96

Disposal of seized substances, compensation and recovery

div 11.4 hdg (prev pt 11 div 4 hdg) ins 1993 No 7
renum R6 LA

Definitions for div 11.4

s 193A ins 1993 No 7
def **protocol** ins 2001 No 48 s 13
def **seized cannabis** om 2001 No 48 s 14
def **seized cannabis plant** ins 2001 No 48 s 13
def **seized cannabis plants protocol** ins 2001 No 48 s 13
def **seized cannabis product** ins 2001 No 48 s 13
def **seized cannabis product protocol** ins 2001 No 48 s 13
def **trafficable quantity** om 2001 No 48 s 14

Protocols for destruction etc of cannabis

s 193B ins 1993 No 7
sub 2001 No 48 s 15

Destruction of cannabis without court order

s 193C ins 1993 No 7
sub 2001 No 48 s 15

Order for preservation of cannabis

s 193D ins 1993 No 7
sub 2001 No 48 s 15

Amendment and revocation of cannabis preservation

s 193E ins 1993 No 7
sub 2001 No 48 s 15

Making of orders about preservation of cannabis

s 193F ins 2001 No 48 s 15

Disposal of seized substances other than cannabis on order of magistrate

s 194 am 1990 No 63; 1993 No 7; 1997 No 96; 2001 No 48 s 16, s 17;
R6 LA (see 2001 No 48 s 18)

Applications under s 194

s 194A hdg sub 2001 No 48 s 19
s 194A ins 1993 No 7
am 2001 No 48 s 20

Final disposal of seized substances

s 195 am 1990 No 63; 1993 No 7

Compensation for seizure

s 196 am 1989 No 38; 1993 No 7

Seized property

s 197 am 1993 No 7

Endnotes

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Notice of decisions

s 198 am 1989 No 38; 1990 No 63; 1993 No 14; 1994 No 60

Review by administrative appeals tribunal

s 199 am 1994 No 60

Possession by officials

s 200 am 1989 No 38; 1990 No 63;
sub 1993 No 14
am 1994 No 38

Annual report

s 202 am 1989 No 38; 1990 No 63
om 1993 No 14

Delegation of powers

s 203 am 1990 No 63; 1993 No 14; 1997 No 70

Determination of fees

s 204 sub 2001 No 44 amdt 1.222

Approved forms

s 205 ins 2001 No 44 amdt 1.1222

Regulation-making power

s 206 am 1989 No 38
sub 2001 No 44 amdt 1.1222

Transitional provisions

pt 14 hdg ins 2001 No 48 s 21

Provisions for Drugs of Dependence Amendment Act 2001

s 207 ins 2001 No 48 s 21
exp 23 October 2004 (s 207 (4))

Transitional provisions about approved forms

s 208 ins 2001 No 48 s 21
exp 23 October 2001 (s 208 (5))

Transitional provisions about *reconciliation amount*

s 209 ins 2001 No 48 s 21
exp 24 October 2001 (s 209 (3))

Drugs of dependence—general

sch 1 am 1991 No 5
om 1993 No 10

Prohibited substances

sch 2 am 1991 No 5
om 1993 No 10

Drugs of dependence—manufacturing

sch 3 om 1993 No 10

Forms

sch 4

am 1990 No 63; 1993 No 1; 1993 No 14; 1993 No 45; 1994 No 74; 1997 No 70; 1997 No 75
om 2001 No 44 amdt 1.1223

Endnotes

5 Earlier republications

5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Republication No	Amendments to	Republication date
1	Act 1992 No 62	31 July 1993
2	Act 1994 No 90	31 January 1995
3	Act 1994 No 97	30 June 1995
4	Act 1996 No 31	30 November 1996
5	Act 1996 No 35	31 January 1999

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