

2004

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Attorney-General)

Criminal Code (Serious Drug Offences) Amendment Bill 2004

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Criminal Code (Serious Drug Offences) Amendment Bill 2004

A Bill for

An Act to amend the *Criminal Code 2002*, and for other purposes

The Legislative Assembly for the Australian Capital Territory enacts as follows:

1 **1 Name of Act**

2 This Act is the *Criminal Code (Serious Drug Offences) Amendment*
3 *Act 2004*.

4 **2 Commencement**

5 This Act commences on a date fixed by the Minister by written
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be
10 fixed, for the commencement of different provisions (see Legislation
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the
13 notification day, it automatically commences on the first day after that
14 period (see Legislation Act, s 79).

15 **3 Legislation amended**

16 This Act amends the *Criminal Code 2002*.

17 *Note* This Act also amends other legislation (see sch 1).

18 **4 New chapter 6**

19 *insert*

20 **Chapter 6 Serious drug offences**

21 **Part 6.1 Interpretation for ch 6**

22 **600 Definitions for ch 6**

23 In this chapter:

- 1 ***cannabis*** means a substance consisting of or containing—
- 2 (a) the fresh or dried parts of a cannabis plant, other than goods
- 3 that consist completely or mainly of cannabis fibre; or
- 4 (b) tetrahydrocannabinol.
- 5 ***cannabis plant*** means a plant of the genus *Cannabis*.
- 6 ***commercial quantity***—see section 601.
- 7 ***conceal*** a thing includes conceal or disguise—
- 8 (a) the nature, source or location of the thing; or
- 9 (b) any movement of the thing; or
- 10 (c) someone’s rights in relation to the thing; or
- 11 (d) the identity of any owner of the thing.
- 12 ***controlled drug*** means a substance prescribed under the regulations
- 13 as a controlled drug, but does not include a growing plant.
- 14 ***controlled plant*** means a growing plant prescribed under the
- 15 regulations as a controlled plant, and includes a seedling of the
- 16 plant.
- 17 ***controlled precursor*** means a substance prescribed under the
- 18 regulations as a controlled precursor.
- 19 ***cultivates***—see section 615.
- 20 ***cultivation***—see section 615.
- 21 ***large commercial quantity***—see section 601.
- 22 ***manufacture***—see section 606.
- 23 ***manufactures***—see section 606.

- 1 **possession** of a thing includes the following:
- 2 (a) receiving or obtaining possession of the thing;
- 3 (b) having control over the disposition of the thing (whether or not
- 4 having custody of the thing);
- 5 (c) having joint possession of the thing.
- 6 **prepare** a drug for supply includes pack the drug or separate the
- 7 drug into discrete units.
- 8 **sell** includes—
- 9 (a) barter or exchange; and
- 10 (b) give to someone in the belief that the person will provide
- 11 property or services in return at a later time, whether by
- 12 agreement or otherwise; and
- 13 (c) agree to sell.
- 14 **supply** includes—
- 15 (a) supply by way of sale or otherwise; and
- 16 (b) agree to supply.
- 17 **traffic** in a controlled drug—see section 602.
- 18 **trafficable quantity**—see section 601.
- 19 **transport** includes deliver.
- 20 **601 Meaning of *trafficable quantity*, *commercial quantity* and**
- 21 ***large commercial quantity***
- 22 (1) In this chapter:
- 23 ***commercial quantity*** means—

- 1 (a) for a controlled drug—a quantity of the drug that is not less
2 than the quantity prescribed under the regulations as a
3 commercial quantity of the drug; and
- 4 (b) for a controlled plant—a quantity of the plant that is not less
5 than the quantity prescribed under the regulations as a
6 commercial quantity of the plant; and
- 7 (c) for a controlled precursor—a quantity of the precursor that is
8 not less than the quantity prescribed under the regulations as a
9 commercial quantity of the precursor.

10 ***large commercial quantity*** means—

- 11 (a) for a controlled drug—a quantity of the drug that is not less
12 than the quantity prescribed under the regulations as a large
13 commercial quantity of the drug; and
- 14 (b) for a controlled plant—a quantity of the plant that is not less
15 than the quantity prescribed under the regulations as a large
16 commercial quantity of the plant; and
- 17 (c) for a controlled precursor—a quantity of the precursor that is
18 not less than the quantity prescribed under the regulations as a
19 large commercial quantity of the precursor.

20 ***trafficable quantity*** means—

- 21 (a) for a controlled drug—a quantity of the drug that is not less
22 than the quantity prescribed under the regulations as a
23 trafficable quantity of the drug; and
- 24 (b) for a controlled plant—a quantity of the plant that is not less
25 than the quantity prescribed under the regulations as a
26 trafficable quantity of the plant.
- 27 (2) For this chapter, a trafficable, commercial or large commercial
28 quantity of a controlled drug in a mixture of substances is, subject to
29 the regulations—

- 1 (a) if the prosecution elects to establish the quantity of the drug in
2 the mixture—the relevant quantity of the drug worked out by
3 reference to the quantity (if any) prescribed under the
4 regulations for the pure form of the drug; and
- 5 (b) if the prosecution elects to establish the quantity of the mixture
6 instead of the quantity of the drug in the mixture—the relevant
7 quantity of the mixture worked out by reference to the quantity
8 (if any) prescribed under the regulations for a mixture
9 containing the drug.

10 **Part 6.2** **Trafficking in controlled drugs**

11 **602** **Meaning of *trafficking***

12 For this chapter, a person *traffics* in a controlled drug if the
13 person—

- 14 (a) sells the drug; or
- 15 (b) prepares the drug for supply—
- 16 (i) with the intention of selling any of it; or
- 17 (ii) believing that someone else intends to sell any of it; or
- 18 (c) transports the drug—
- 19 (i) with the intention of selling any of it; or
- 20 (ii) believing that someone else intends to sell any of it; or
- 21 (d) guards or conceals the drug with the intention of—
- 22 (i) selling any of it; or
- 23 (ii) helping someone else to sell any of it; or
- 24 (e) possesses the drug with the intention of selling any of it.

- 1 **603 Trafficking in controlled drug**
- 2 (1) A person commits an offence if the person traffics in a large
3 commercial quantity of a controlled drug.
- 4 Maximum penalty: imprisonment for life.
- 5 (2) Absolute liability applies to the circumstance that the quantity
6 trafficked in was a large commercial quantity.
- 7 (3) A person commits an offence if the person traffics in a commercial
8 quantity of a controlled drug.
- 9 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
10 or both.
- 11 (4) Absolute liability applies to the circumstance that the quantity
12 trafficked in was a commercial quantity.
- 13 (5) A person commits an offence if the person traffics in a trafficable
14 quantity of cannabis.
- 15 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
16 or both.
- 17 (6) Absolute liability applies to the circumstance that the quantity
18 trafficked in was a trafficable quantity.
- 19 (7) A person commits an offence if the person traffics in a controlled
20 drug other than cannabis.
- 21 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
22 or both.
- 23 (8) A person commits an offence if the person traffics in cannabis.
- 24 Maximum penalty: 300 penalty units, imprisonment for 3 years or
25 both.

- 1 **604 Trafficking offence—presumption if trafficable quantity**
2 **possessed etc**
- 3 (1) If, in a prosecution for an offence against section 603, it is proved
4 that the defendant—
- 5 (a) prepared a trafficable quantity of a controlled drug for supply;
6 or
- 7 (b) transported a trafficable quantity of a controlled drug; or
- 8 (c) guarded or concealed a trafficable quantity of a controlled
9 drug; or
- 10 (d) possessed a trafficable quantity of a controlled drug;
- 11 it is presumed, unless the contrary is proved, that the defendant had
12 the intention or belief about the sale of the drug required for the
13 offence.
- 14 *Note* A defendant bears a legal burden of proving that the defendant did not
15 have the intention or belief mentioned in this subsection (see s 59 (c)).
- 16 (2) This section does not apply to a single charge under section 629
17 (Single offence for trafficking etc on different occasions) if the
18 conduct on each occasion to which the charge relates did not involve
19 a trafficable quantity of the controlled drug.
- 20 **605 Complicity, incitement and conspiracy offences do not**
21 **apply to buyers of drugs**
- 22 A person does not commit any of the following offences only
23 because the person bought or intended to buy a controlled drug from
24 someone else:
- 25 (a) an offence under section 45 (Complicity and common
26 purpose);
- 27 (b) an offence against section 47 (Incitement);

1 (c) an offence against section 48 (Conspiracy).

2 *Note* For additional offences relating to possessing controlled drugs, see the
3 *Drugs of Dependence Act 1989*, pt 10.

4 **Part 6.3** **Manufacturing controlled drugs** 5 **and precursors**

6 **606** **Meaning of *manufacture***

7 In this chapter:

8 *manufacture*—the *manufacture* of a substance is any process by
9 which the substance is produced (other than the cultivation of a
10 plant), and includes the process of—

- 11 (a) extracting or refining it; or
12 (b) transforming it into a different substance.

13 *manufactures*—a person *manufactures* a substance if the person—

- 14 (a) engages in its manufacture; or
15 (b) exercises control or direction over its manufacture; or
16 (c) provides or arranges finance for its manufacture.

17 **607** **Manufacturing controlled drug for selling**

18 (1) A person commits an offence if the person manufactures a large
19 commercial quantity of a controlled drug—

- 20 (a) with the intention of selling any of it; or
21 (b) believing that someone else intends to sell any of it.

22 Maximum penalty: imprisonment for life.

23 (2) Absolute liability applies to the circumstance that the quantity
24 manufactured was a large commercial quantity.

- 1 (3) A person commits an offence if the person manufactures a
2 commercial quantity of a controlled drug—
3 (a) with the intention of selling any of it; or
4 (b) believing that someone else intends to sell any of it.
5 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
6 or both.
- 7 (4) Absolute liability applies to the circumstance that the quantity
8 manufactured was a commercial quantity.
- 9 (5) A person commits an offence if the person manufactures a
10 controlled drug—
11 (a) with the intention of selling any of it; or
12 (b) believing that someone else intends to sell any of it.
13 Maximum penalty: 1 500 penalty units, imprisonment for 15 years
14 or both.

15 **608 Manufacturing offence—presumption if trafficable**
16 **quantity manufactured**

17 If, in a prosecution for an offence against section 607
18 (Manufacturing controlled drug for selling), it is proved that the
19 defendant manufactured a trafficable quantity of a controlled drug, it
20 is presumed, unless the contrary is proved, that the defendant had
21 the intention or belief about the sale of the drug required for the
22 offence.

1 **609 Manufacturing controlled drug**

2 A person commits an offence if the person manufactures a
3 controlled drug.

4 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
5 or both.

6 **610 Selling controlled precursor for manufacture of**
7 **controlled drug**

8 (1) A person commits an offence if the person sells a large commercial
9 quantity of a controlled precursor believing that the person to whom
10 it is sold, or someone else, intends to use any of it to manufacture a
11 controlled drug.

12 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
13 or both.

14 (2) Absolute liability applies to the circumstance that the quantity sold
15 was a large commercial quantity.

16 (3) A person commits an offence if the person sells a commercial
17 quantity of a controlled precursor believing that the person to whom
18 it is sold, or someone else, intends to use any of it to manufacture a
19 controlled drug.

20 Maximum penalty: 1 500 penalty units, imprisonment for 15 years
21 or both.

22 (4) Absolute liability applies to the circumstance that the quantity sold
23 was a commercial quantity.

1 (5) A person commits an offence if the person sells a controlled
2 precursor believing that the person to whom it is sold, or someone
3 else, intends to use any of it to manufacture a controlled drug.

4 Maximum penalty: 700 penalty units, imprisonment for 7 years or
5 both.

6 **611 Manufacturing controlled precursor for manufacture of**
7 **controlled drug**

8 (1) A person commits an offence if the person manufactures a large
9 commercial quantity of a controlled precursor—

- 10 (a) with the intention of manufacturing a controlled drug; and
11 (b) with the intention of selling any of the manufactured drug or
12 believing that someone else intends to sell any of the
13 manufactured drug.

14 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
15 or both.

16 (2) Absolute liability applies to the circumstance that the quantity
17 manufactured was a large commercial quantity.

18 (3) A person commits an offence if the person manufactures a large
19 commercial quantity of a controlled precursor—

- 20 (a) with the intention of selling any of it to someone else; and
21 (b) believing that the other person intends to use it to manufacture
22 a controlled drug.

23 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
24 or both.

25 (4) Absolute liability applies to the circumstance that the quantity
26 manufactured was a large commercial quantity.

- 1 (5) A person commits an offence if the person manufactures a
2 commercial quantity of a controlled precursor—
- 3 (a) with the intention of manufacturing a controlled drug; and
- 4 (b) with the intention of selling any of the manufactured drug or
5 believing that someone else intends to sell any of the
6 manufactured drug.
- 7 Maximum penalty: 1 500 penalty units, imprisonment for 15 years
8 or both.
- 9 (6) Absolute liability applies to the circumstance that the quantity
10 manufactured was a commercial quantity.
- 11 (7) A person commits an offence if the person manufactures a
12 commercial quantity of a controlled precursor—
- 13 (a) with the intention of selling any of it to someone else; and
- 14 (b) believing that the other person intends to use it to manufacture
15 a controlled drug.
- 16 Maximum penalty: 1 500 penalty units, imprisonment for 15 years
17 or both.
- 18 (8) Absolute liability applies to the circumstance that the quantity
19 manufactured was a commercial quantity.
- 20 (9) A person commits an offence if the person manufactures a
21 controlled precursor—
- 22 (a) with the intention of manufacturing a controlled drug; and
- 23 (b) with the intention of selling any of the manufactured drug or
24 believing that someone else intends to sell any of the
25 manufactured drug.
- 26 Maximum penalty: 700 penalty units, imprisonment for 7 years or
27 both.

1 (10) A person commits an offence if the person manufactures a
2 controlled precursor—

3 (a) with the intention of selling any of it to someone else; and

4 (b) believing that the other person intends to use it to manufacture
5 a controlled drug.

6 Maximum penalty: 700 penalty units imprisonment for 7 years or
7 both.

8 **612 Possessing controlled precursor**

9 (1) A person commits an offence if the person possesses a large
10 commercial quantity of a controlled precursor—

11 (a) with the intention of using any of it to manufacture a controlled
12 drug; and

13 (b) with the intention of selling any of the manufactured drug or
14 believing that someone else intends to sell any of the
15 manufactured drug.

16 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
17 or both.

18 (2) Absolute liability applies to the circumstance that the quantity
19 possessed was a large commercial quantity.

20 (3) A person commits an offence if the person possesses a commercial
21 quantity of a controlled precursor—

22 (a) with the intention of using any of it to manufacture a controlled
23 drug; and

24 (b) with the intention of selling any of the manufactured drug or
25 believing that someone else intends to sell any of the
26 manufactured drug.

27 Maximum penalty: 1 500 penalty units, imprisonment for 15 years
28 or both.

- 1 (4) Absolute liability applies to the circumstance that the quantity
2 possessed was a commercial quantity.
- 3 (5) A person commits an offence if the person possesses a controlled
4 precursor—
- 5 (a) with the intention of using any of it to manufacture a controlled
6 drug; and
- 7 (b) with the intention of selling any of the manufactured drug or
8 believing that someone else intends to sell any of the
9 manufactured drug.
- 10 Maximum penalty: 700 penalty units, imprisonment for 7 years or
11 both.

12 **613 Supplying substance, equipment or instructions for**
13 **manufacturing controlled drug**

- 14 (1) A person commits an offence if the person supplies to someone else
15 any substance, any equipment, or any document containing
16 instructions for manufacturing a controlled drug—
- 17 (a) believing that the other person intends to use it to manufacture
18 a controlled drug; and
- 19 (b) with the intention of selling any of the manufactured drug or
20 believing that the other person or someone else intends to sell
21 any of the manufactured drug.
- 22 Maximum penalty: 700 penalty units, imprisonment for 7 years or
23 both.
- 24 (2) A person commits an offence if the person possesses any substance,
25 any equipment, or any document containing instructions for
26 manufacturing a controlled drug—
- 27 (a) with the intention of supplying it to someone else; and

- 1 (b) believing that the other person intends to use it to manufacture
2 a controlled drug; and
- 3 (c) with the intention of selling any of the manufactured drug or
4 believing that the other person or someone else intends to sell
5 any of the manufactured drug.
- 6 Maximum penalty: 700 penalty units, imprisonment for 7 years or
7 both.

8 **614 Possessing substance, equipment or instructions for**
9 **manufacturing controlled drug**

10 A person commits an offence if the person possesses any substance,
11 any equipment, or any document containing instructions for
12 manufacturing a controlled drug—

- 13 (a) with the intention of using it to manufacture a controlled drug;
14 and
- 15 (b) with the intention of selling any of the manufactured drug or
16 believing that someone else intends to sell any of the
17 manufactured drug.

18 Maximum penalty: 500 penalty units, imprisonment for 5 years or
19 both.

20 *Note* For additional offences relating to possessing controlled drugs, see the
21 *Drugs of Dependence Act 1989*, pt 10.

22 **Part 6.4 Cultivating controlled plants**

23 **615 Meaning of *cultivate***

24 In this chapter:

25 *cultivates*—a person *cultivates* a plant if the person—

- 26 (a) engages in its cultivation; or

- 1 (b) exercises control or direction over its cultivation; or
2 (c) provides or arranges finance for its cultivation.
3 ***cultivation***, of a plant, includes—
4 (a) planting a seed, seedling or cutting of the plant or transplanting
5 the plant; or
6 (b) nurturing, tending or growing the plant; or
7 (c) guarding or concealing the plant (including against interference
8 or discovery by humans or natural predators); or
9 (d) harvesting the plant (including picking any part of the plant or
10 separating any resin or other substance from the plant).

- 11 ***product***, of a plant, includes—
12 (a) a seed of the plant; and
13 (b) a part of the plant (whether live or dead); and
14 (c) a substance separated from the plant.

15 **616 Cultivating controlled plant for selling**

- 16 (1) A person commits an offence if the person cultivates a large
17 commercial quantity of a controlled plant—
18 (a) with the intention of selling any of the plants or their products;
19 or
20 (b) believing that someone else intends to sell any of the plants or
21 their products.

22 Maximum penalty: imprisonment for life.

- 23 (2) Absolute liability applies to the circumstance that the quantity
24 cultivated was a large commercial quantity.

- 1 (3) A person commits an offence if the person cultivates a commercial
2 quantity of a controlled plant—
- 3 (a) with the intention of selling any of the plants or their products;
4 or
- 5 (b) believing that someone else intends to sell any of the plants or
6 their products.
- 7 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
8 or both.
- 9 (4) Absolute liability applies to the circumstance that the quantity
10 cultivated was a commercial quantity.
- 11 (5) A person commits an offence if the person cultivates a trafficable
12 quantity of cannabis plants—
- 13 (a) with the intention of selling any of the plants or their products;
14 or
- 15 (b) believing that someone else intends to sell any of the plants or
16 their products.
- 17 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
18 or both.
- 19 (6) Absolute liability applies to the circumstance that the quantity
20 cultivated was a trafficable quantity.
- 21 (7) A person commits an offence if the person cultivates a controlled
22 plant (other than a cannabis plant)—
- 23 (a) with the intention of selling it or any of its products; or
- 24 (b) believing that someone else intends to sell it or any of its
25 products.
- 26 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
27 or both.

- 1 (8) A person commits an offence if the person cultivates a cannabis
2 plant—
3 (a) with the intention of selling it or any of its products; or
4 (b) believing that someone else intends to sell it or any of its
5 products.
6 Maximum penalty: 300 penalty units, imprisonment for 3 years or
7 both.

8 **617 Cultivating offence—presumption if trafficable quantity**
9 **cultivated**

10 If, in a prosecution for an offence against section 616 (Cultivating
11 controlled plant for selling), it is proved that the defendant
12 cultivated a trafficable quantity of a controlled plant, it is presumed,
13 unless the contrary is proved, that the defendant had the intention or
14 belief about the sale of the plant or its products required for the
15 offence.

16 **618 Cultivating controlled plant**

- 17 (1) A person commits an offence if the person cultivates a controlled
18 plant other than a cannabis plant.
19 Maximum penalty: 200 penalty units, imprisonment for 2 years or
20 both.
21 (2) A person commits an offence if the person—
22 (a) cultivates (artificially or otherwise) 3 or more cannabis plants;
23 or
24 (b) artificially cultivates 1 or 2 cannabis plants.
25 Maximum penalty: 200 penalty units, imprisonment for 2 years or
26 both.

27 *Note* Non-artificial cultivation of 1 or 2 cannabis plants is a summary offence
28 under the *Drugs of Dependence Act 1989*, s 162.

- 1 (3) In this section:
2 *artificially cultivate* means—
3 (a) hydroponically cultivate; or
4 (b) cultivate with the application of an artificial source of light or
5 heat.

6 **619 Selling controlled plant**

- 7 (1) A person commits an offence if the person sells a large commercial
8 quantity of a controlled plant.
9 Maximum penalty: imprisonment for life.
- 10 (2) Absolute liability applies to the circumstance that the quantity sold
11 was a large commercial quantity.
- 12 (3) A person commits an offence if the person sells a commercial
13 quantity of a controlled plant.
14 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
15 or both.
- 16 (4) Absolute liability applies to the circumstance that the quantity sold
17 was a commercial quantity.
- 18 (5) A person commits an offence if the person sells a trafficable
19 quantity of cannabis plants.
20 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
21 or both.
- 22 (6) Absolute liability applies to the circumstance that the quantity sold
23 was a trafficable quantity.

1 (7) A person commits an offence if the person sells a controlled plant
2 other than a cannabis plant.

3 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
4 or both.

5 (8) A person commits an offence if the person sells a cannabis plant.

6 Maximum penalty: 300 penalty units, imprisonment for 3 years or
7 both.

8 **620 Supplying plant material, equipment or instructions for**
9 **cultivating controlled plant**

10 (1) A person commits an offence if the person supplies to someone else
11 any controlled plant, any product of a controlled plant, any
12 equipment, or any document containing instructions for cultivating a
13 controlled plant—

14 (a) believing that the other person intends to use it to cultivate a
15 controlled plant; and

16 (b) with the intention of selling any of the cultivated plant or
17 believing that the other person or someone else intends to sell
18 any of the cultivated plant.

19 Maximum penalty: 700 penalty units, imprisonment for 7 years or
20 both.

21 (2) A person commits an offence if the person possesses any controlled
22 plant, any product of a controlled plant, any equipment, or any
23 document containing instructions for cultivating a controlled plant—

24 (a) with the intention of supplying it to someone else; and

25 (b) believing that the other person intends to use it to cultivate a
26 controlled plant; and

- 1 (c) with the intention of selling any of the cultivated plant or
2 believing that the other person or someone else intends to sell
3 any of the cultivated plant.

4 Maximum penalty: 700 penalty units, imprisonment for 7 years or
5 both.

6 **621 Possessing plant material, equipment or instructions for**
7 **cultivating controlled plant**

8 A person commits an offence if the person possesses any controlled
9 plant, any product of a controlled plant, any equipment, or any
10 document containing instructions for cultivating a controlled plant—

- 11 (a) with the intention of using it to cultivate controlled plants; and
12 (b) with the intention of selling any of the cultivated plants or their
13 products or believing that someone else intends to sell any of
14 the cultivated plants or their products.

15 Maximum penalty: 500 penalty units, imprisonment for 5 years or
16 both.

17 **Part 6.5 Drug offences involving children**

18 **622 Supplying controlled drug to child for selling**

- 19 (1) A person commits an offence if—
20 (a) the person—
21 (i) supplies a commercial quantity of a controlled drug to a
22 child; or
23 (ii) possesses a commercial quantity of a controlled drug
24 with the intention of supplying any of the drug to a child;
25 and

- 1 (b) the person does so believing that the child intends to sell any of
2 the drug.
- 3 Maximum penalty: imprisonment for life.
- 4 (2) Absolute liability applies to—
- 5 (a) the circumstance that the quantity supplied or possessed was a
6 commercial quantity; and
- 7 (b) the circumstance that the person to whom the controlled drug
8 was supplied or intended to be supplied was a child.
- 9 (3) A person commits an offence if—
- 10 (a) the person—
- 11 (i) supplies a controlled drug to a child; or
- 12 (ii) possesses a controlled drug with the intention of
13 supplying any of the drug to a child; and
- 14 (b) the person does so believing that the child intends to sell any of
15 the drug.
- 16 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
17 or both.
- 18 (4) Absolute liability applies to the circumstance that the person to
19 whom the controlled drug was supplied or intended to be supplied
20 was a child.
- 21 (5) It is a defence to a prosecution for an offence against this section if
22 the defendant proves that the defendant—
- 23 (a) considered whether or not the person to whom the controlled
24 drug was supplied or intended to be supplied was a child; and

1 (b) had no reasonable grounds for believing that the person was a
2 child.

3 *Note* A reference to an offence against a Territory law includes a reference to
4 a related ancillary offence (see Legislation Act, s 189).

5 **623 Supplying offence—presumption if trafficable quantity**
6 **supplied etc**

7 (1) If, in a prosecution for an offence against section 622 (Supplying
8 controlled drug to child for selling), it is proved that the defendant—

9 (a) supplied a trafficable quantity of a controlled drug to a child;
10 or

11 (b) possessed a trafficable quantity of a controlled drug with the
12 intention of supplying any of it to a child;

13 it is presumed, unless the contrary is proved, that the defendant had
14 the belief about the sale of the drug by the child required for the
15 offence.

16 (2) This section does not apply to a single charge under section 629
17 (Single offence for trafficking etc on different occasions) if the
18 conduct on each occasion to which the charge relates did not involve
19 a trafficable quantity of the controlled drug.

20 **624 Procuring child to traffic in controlled drug**

21 (1) A person commits an offence if the person procures a child to traffic
22 in a commercial quantity of a controlled drug.

23 Maximum penalty: imprisonment for life.

24 (2) Absolute liability applies to—

25 (a) the circumstance that the person procured was a child; and

26 (b) the circumstance that the quantity the child was procured to
27 traffic in was a commercial quantity.

- 1 (3) Subsection (1) applies whether the child was procured to traffic in a
2 commercial quantity of a controlled drug on a single occasion or
3 over a period.
- 4 (4) A person commits an offence if the person procures a child to traffic
5 in a controlled drug.
- 6 Maximum penalty: 2 500 penalty units, imprisonment for 25 years
7 or both.
- 8 (5) Absolute liability applies to the circumstance that the person
9 procured was a child.
- 10 (6) It is a defence to a prosecution for an offence against this section if
11 the defendant proves that the defendant—
- 12 (a) considered whether or not the person procured was a child; and
13 (b) had no reasonable grounds for believing that the person was a
14 child.
- 15 (7) In this section:
- 16 *procures* a child to traffic in a controlled drug—a person *procures* a
17 child to traffic in a controlled drug if—
- 18 (a) the person procures the child to sell the drug; or
19 (b) the person, with the intention of selling any of the drug or
20 believing that someone else intends to sell any of the drug,
21 procures the child to prepare the drug for supply or to transport
22 the drug; or
23 (c) the person, with the intention of selling any of the drug or
24 assisting someone else to sell any of the drug, procures the
25 child to guard or conceal the drug.

- 1 **625 Supplying controlled drug to child**
- 2 (1) A person commits an offence if the person—
- 3 (a) supplies a controlled drug other than cannabis to a child; or
- 4 (b) possesses a controlled drug other than cannabis with the
- 5 intention of supplying it to a child.
- 6 Maximum penalty: 2 000 penalty units, imprisonment for 20 years
- 7 or both.
- 8 (2) A person commits an offence if the person—
- 9 (a) supplies a trafficable quantity of cannabis to a child; or
- 10 (b) possesses a trafficable quantity of cannabis with the intention
- 11 of supplying it to a child.
- 12 Maximum penalty: 1 000 penalty units, imprisonment for 10 years
- 13 or both.
- 14 (3) Absolute liability applies to the circumstance that the quantity
- 15 supplied or possessed was a trafficable quantity.
- 16 (4) A person commits an offence if the person—
- 17 (a) supplies cannabis to a child; or
- 18 (b) possesses cannabis with the intention of supplying it to a child.
- 19 Maximum penalty: 500 penalty units, imprisonment for 5 years or
- 20 both.
- 21 (5) For this section, absolute liability applies to the circumstance that
- 22 the person to whom the drug was supplied, or intended to be
- 23 supplied, was a child.

- 1 (6) It is a defence to a prosecution for an offence against this section if
2 the defendant proves that the defendant—
- 3 (a) considered whether or not the person to whom the controlled
4 drug was supplied or intended to be supplied was a child; and
- 5 (b) had no reasonable grounds for believing that the person was a
6 child.

7 **626 Children not criminally responsible for offences against**
8 **pt 6.5**

9 A child is not criminally responsible for an offence against this part.

10 *Note* A reference to an offence against a Territory law includes a reference to
11 a related ancillary offence (see Legislation Act, s 189).

12 **Part 6.6 General provisions for drug**
13 **offences**

14 **627 Application of pt 6.6**

15 This part applies to offences against this chapter other than part 6.7
16 (Offences relating to property derived from drug offences).

17 **628 Carrying on business of trafficking**

- 18 (1) This section applies to an offence against—
- 19 (a) section 603 (1) (which is about trafficking in a large
20 commercial quantity of a controlled drug); or
- 21 (b) section 603 (3) (which is about trafficking in a commercial
22 quantity of a controlled drug); or
- 23 (c) section 603 (5) (which is about trafficking in a trafficable
24 quantity of cannabis); or

- 1 (d) section 622 (1) (which is about supplying a commercial
2 quantity of a controlled drug to a child for selling).
- 3 (2) For the application of this section to an offence against
4 section 622 (1), a reference to trafficking in drugs is a reference to
5 supplying drugs.
- 6 (3) In a prosecution for an offence, the prosecution may establish that
7 the defendant trafficked in the quantity of a controlled drug required
8 for the offence (the *required quantity*), without proof of trafficking
9 in the required quantity on a particular occasion, by establishing
10 that—
- 11 (a) the person carried on a business of trafficking in controlled
12 drugs; and
- 13 (b) the required quantity of the controlled drug (or a combination
14 of controlled drugs) was trafficked over repeated transactions
15 in the course of the business.
- 16 (4) For a person's conduct to be the carrying on of a business, the trier
17 of fact must be satisfied that the conduct establishes that the person
18 was engaged in an organised commercial activity involving repeated
19 transactions.
- 20 (5) In a prosecution in which this section is relied on—
- 21 (a) it is not necessary for the prosecution to state or prove the
22 exact date of each transaction or the exact quantity trafficked in
23 each transaction; and
- 24 (b) the prosecution may not rely on a transaction if the defendant
25 has already been tried and found guilty or acquitted of an
26 offence against this chapter in relation to the transaction; and
- 27 (c) section 604 (Trafficking offence—presumption if trafficable
28 quantity possessed etc) and section 623 (Supplying offence—
29 presumption if trafficable quantity supplied etc) do not apply.

- 1 (6) If the prosecution intends to rely on this section—
2 (a) that fact must be stated in the charge; and
3 (b) a description of the conduct that establishes, under this section,
4 that the defendant trafficked in the required quantity of a
5 controlled drug must be stated in the charge or given to the
6 defendant within a reasonable time before the trial.
- 7 (7) If a person has been tried and found guilty or acquitted of an offence
8 in a prosecution in which this section was relied on, the person may
9 not be charged with another offence against this chapter that is
10 claimed to have been committed in connection with any of the
11 transactions on which the prosecution relied in that prosecution.
- 12 (8) Except as mentioned in subsection (5) (b) or (7), this section does
13 not prevent a person being charged with separate offences in
14 relation to conduct on different occasions.

15 **629 Single offence for trafficking etc on different occasions**

- 16 (1) This section applies to an offence against this chapter that
17 involves—
18 (a) trafficking in controlled drugs on different occasions; or
19 (b) supplying controlled drugs to a child on different occasions;
20 whether they are the same or different kinds of drugs.
- 21 (2) A person may be charged with a single offence in relation to
22 trafficking in or supplying controlled drugs on different occasions if
23 each occasion was not longer than 7 days apart from another of the
24 occasions.
- 25 (3) For the single offence, the quantity of controlled drugs trafficked or
26 supplied is the total of the quantities of the controlled drugs
27 trafficked or supplied on the occasions stated in the charge.

- 1 (4) However, the same parcel of controlled drugs cannot be counted
2 more than once.

3 **Example**

4 A person possesses a parcel of a controlled drug for sale (the 1st occasion) and
5 later sells the parcel to someone else (the 2nd occasion) who in turn sells it to
6 another person (the 3rd occasion). The same parcel of controlled drugs has been
7 trafficked on 3 occasions but the quantity of drugs in the parcel can only be
8 counted once under this section.

9 *Note* An example is part of the Act, is not exhaustive and may extend, but
10 does not limit, the meaning of the provision in which it appears (see
11 Legislation Act, s 126 and s 132).

- 12 (5) If the prosecution intends to rely on this section, particulars of each
13 occasion must be stated in the charge.

- 14 (6) This section does not prevent a person being charged with separate
15 offences in relation to conduct on different occasions.

16 **630 Single offence for different parcels trafficked etc on the**
17 **same occasion**

- 18 (1) This section applies to an offence against this chapter that
19 involves—

20 (a) trafficking in different parcels of controlled drugs on the same
21 occasion; or

22 (b) manufacturing different parcels of controlled drugs on the
23 same occasion; or

24 (c) selling different parcels of controlled precursors on the same
25 occasion; or

26 (d) manufacturing different parcels of controlled precursors on the
27 same occasion; or

28 (e) possessing different parcels of controlled precursors on the
29 same occasion; or

- 1 (f) cultivating different parcels of controlled plants on the same
2 occasion; or
- 3 (g) selling different parcels of controlled plants on the same
4 occasion; or
- 5 (h) supplying different parcels of controlled drugs to a child on the
6 same occasion;
- 7 whether they are the same or different kinds of drug, precursor or
8 plant.
- 9 (2) A person may be charged with a single offence in relation to 2 or
10 more of the different parcels of controlled drugs, precursors or
11 plants.
- 12 (3) For the single offence, the quantity of controlled drugs, precursors
13 or plants trafficked in, manufactured, sold, possessed, cultivated or
14 supplied is the total of the quantities of the controlled drugs,
15 precursors or plants in the different parcels.
- 16 (4) However, if there are different kinds of controlled drugs, precursors
17 or plants in the parcels, this section is subject to section 631.
- 18 (5) If the prosecution intends to rely on this section, particulars of each
19 parcel of controlled drugs, precursors or plants must be stated in the
20 charge.
- 21 (6) This section does not prevent a person being charged with separate
22 offences in relation to different parcels of controlled drugs,
23 precursors or plants.
- 24 **631 Single offence—working out quantities if different kinds**
25 **of controlled drug etc involved**
- 26 (1) This section applies if a person is charged with a single offence
27 against this chapter that involves—
- 28 (a) trafficking in 2 or more kinds of controlled drug; or

- 1 (b) manufacturing 2 or more kinds of controlled drug; or
2 (c) selling 2 or more kinds of controlled precursor; or
3 (d) manufacturing 2 or more kinds of controlled precursor; or
4 (e) possessing 2 or more kinds of controlled precursor; or
5 (f) cultivating 2 or more kinds of controlled plant; or
6 (g) selling 2 or more kinds of controlled plant; or
7 (h) supplying 2 or more kinds of controlled drug to a child.
- 8 (2) In a prosecution for the single offence—
- 9 (a) the quantity of drugs or plants is a trafficable quantity if the
10 total of the required fractions of the trafficable quantity of each
11 of the drugs or plants is 1 or more; or
- 12 (b) the quantity of drugs, precursors or plants is a commercial
13 quantity if the total of the required fractions of the commercial
14 quantity of each of the drugs, precursors or plants is 1 or more;
15 or
- 16 (c) the quantity of drugs, precursors or plants is a large
17 commercial quantity if the total of the required fractions of the
18 large commercial quantity of each of the drugs, precursors or
19 plants is 1 or more.
- 20 (2) In this section, the *required fraction* of—
- 21 (a) a trafficable quantity of a drug or plant is the actual quantity of
22 the drug or plant divided by the smallest trafficable quantity of
23 the drug or plant; and
- 24 (b) a commercial quantity of a controlled drug, precursor or plant
25 is the actual quantity of the drug, precursor or plant divided by
26 the smallest commercial quantity of the drug, precursor or
27 plant; and

- 1 (c) a large commercial quantity of a controlled drug, precursor or
2 plant is the actual quantity of the drug, precursor or plant
3 divided by the smallest large commercial quantity of the drug,
4 precursor or plant.
- 5 (3) For a trafficable, commercial or large commercial quantity of a
6 controlled drug—
- 7 (a) the required fraction must be worked out on the basis of
8 quantities of the drug in pure form; and
- 9 (b) the required fraction is zero if—
- 10 (i) the regulations do not prescribe a trafficable, commercial
11 or large commercial quantity of the controlled drug; or
- 12 (ii) the regulations prescribe a trafficable, commercial or
13 large commercial quantity for a mixture of substances
14 containing the controlled drug but not for the drug in pure
15 form; or
- 16 (iii) the regulations prescribe different forms of the controlled
17 drug by reference to the percentage of a particular
18 substance in the drug.

19 **632 Knowledge or recklessness about identity of controlled**
20 **drugs, plants and precursors**

- 21 In a prosecution for an offence against this chapter that involves
22 conduct relating to a controlled drug, plant or precursor, the
23 prosecution—
- 24 (a) must establish that the defendant knew or was reckless about
25 whether the substance or plant was a controlled drug, plant or
26 precursor; but
- 27 (b) need not establish that the defendant knew or was reckless
28 about the identity of the controlled drug, plant or precursor.

- 1 **633 Alternative verdicts—mistaken belief about identity of**
2 **controlled drug, precursor or plant**
- 3 (1) This section applies if, in a prosecution for an offence against this
4 chapter that involves conduct relating to a trafficable, commercial or
5 large commercial quantity of a controlled drug, precursor or plant,
6 the trier of fact is satisfied that—
- 7 (a) at the time of the conduct, the defendant had considered, and
8 was under a mistaken belief about, the identity of the
9 controlled drug, precursor or plant; and
- 10 (b) if the mistaken belief had been correct, the defendant would
11 have committed an offence against this chapter or the *Drugs of*
12 *Dependence Act 1989*, part 10 for which the maximum penalty
13 is the same as or less than the maximum penalty for the offence
14 charged (the *alternative offence*).
- 15 (2) The trier of fact may find the defendant not guilty of the offence
16 charged but guilty of the alternative offence, but only if the
17 defendant has been given procedural fairness in relation to that
18 finding of guilt.
- 19 (3) A defendant who claims to have considered, and been under a
20 mistaken belief about, the identity of a drug, precursor or plant must
21 prove that he or she was under that mistaken belief.
- 22 **634 Alternative verdicts—mistaken belief about quantity of**
23 **controlled drug, precursor or plant**
- 24 (1) This section applies if, in a prosecution for an offence against this
25 chapter that involves trafficking, manufacturing or cultivating a
26 trafficable, commercial or large commercial quantity of a controlled
27 drug, precursor or plant, the trier of fact is satisfied that—
- 28 (a) at the time of the conduct, the defendant had considered, and
29 was under a mistaken belief about, the quantity of the

- 1 controlled drug, precursor or plant trafficked, manufactured or
2 cultivated; and
- 3 (b) if the mistaken belief had been correct, the defendant would
4 have committed an offence against this chapter or the *Drugs of*
5 *Dependence Act 1989*, part 10 for which the maximum penalty
6 is the same as or less than the maximum penalty for the offence
7 charged (the *alternative offence*).
- 8 (2) The trier of fact may find the defendant not guilty of the offence
9 charged but guilty of the alternative offence, but only if the
10 defendant has been given procedural fairness in relation to that
11 finding of guilt.
- 12 (3) A defendant who claims to have considered, and been under a
13 mistaken belief about, the quantity of a drug or plant must prove that
14 he or she was under that mistaken belief.
- 15 **635 Alternative verdicts—different quantities**
- 16 (1) This section applies if, in a prosecution for an offence against this
17 chapter that involves conduct relating to a trafficable, commercial or
18 large commercial quantity of a controlled drug, precursor or plant,
19 the trier of fact—
- 20 (a) is not satisfied that the defendant committed the offence
21 charged; but
- 22 (b) is satisfied beyond reasonable doubt that the defendant
23 committed an offence against this chapter or the *Drugs of*
24 *Dependence Act 1989*, part 10 involving a lesser quantity of a
25 controlled drug, precursor or plant than the quantity required to
26 establish the offence charged (a *lesser offence*).
- 27 (2) The trier of fact may find the defendant not guilty of the offence
28 charged but guilty of the lesser offence, but only if the defendant has
29 been given procedural fairness in relation to that finding of guilt.

- 1 **636 Alternative verdicts—trafficking and obtaining property**
2 **by deception**
- 3 (1) This section applies if, in a prosecution for an offence against
4 section 603 (Trafficking in controlled drug)—
- 5 (a) the trier of fact is satisfied beyond reasonable doubt that the
6 defendant committed the offence charged or an offence against
7 section 326 (Obtaining property by deception) but cannot
8 decide which of the offences the defendant committed; or
- 9 (b) the trier of fact is not satisfied beyond reasonable doubt that
10 the defendant committed the offence charged but is satisfied
11 beyond reasonable doubt that the defendant committed an
12 offence against section 326.
- 13 *Note* A reference to an offence against a Territory law includes a reference to
14 a related ancillary offence (see Legislation Act, s 189).
- 15 (2) The trier of fact must find the defendant guilty of the offence against
16 section 326, but only if the defendant has been given procedural
17 fairness in relation to that finding of guilt.

18 **Part 6.7 Offences relating to property**
19 **derived from drug offences**

- 20 **637 Meaning of *drug offence***
- 21 In this part:
- 22 *drug offence* means—
- 23 (a) an offence against this chapter (other than this part); or
- 24 (b) conduct in another jurisdiction that is an offence in that
25 jurisdiction and would be an offence against this chapter (other
26 than this part) if the conduct happened in the ACT; or

- 1 (c) conduct before the commencement of this chapter that would
2 be an offence against this chapter (other than this part) if the
3 conduct happened after the commencement of this chapter.
- 4 **638 Property directly or indirectly derived from drug offence**
- 5 (1) For this part, property is *directly derived* from a drug offence if the
6 property—
- 7 (a) is all or part of the proceeds of a drug offence; or
- 8 (b) is completely or partly acquired by disposing of, or using, the
9 proceeds of a drug offence.
- 10 (2) The *proceeds* of a drug offence include the proceeds of any sale
11 involved in committing the offence or any remuneration or other
12 reward for committing the offence.
- 13 (3) For this part, property is *indirectly derived* from a drug offence if
14 the property—
- 15 (a) is completely or partly acquired by disposing of, or using,
16 property directly derived from a drug offence; or
- 17 (b) is completely or partly acquired by disposing of, or using,
18 property indirectly derived from a drug offence (including
19 property indirectly derived because of a previous operation of
20 paragraph (a))
- 21 (4) Property *directly derived* or *indirectly derived* from a drug offence
22 does not include a controlled drug, plant or precursor.
- 23 (5) Property *directly derived* or *indirectly derived* from a drug offence
24 does not lose its identity as such only because it is deposited with a
25 financial institution or other entity for credit to an account or for
26 investment.

1 **639 Concealing etc property derived from drug offence**

2 A person commits an offence if—

3 (a) the person—

4 (i) conceals property; or

5 (ii) transfers property to someone else; or

6 (iii) converts property; or

7 (iv) removes property from the ACT;

8 knowing that the property is directly or indirectly derived from
9 a drug offence; and

10 (b) the person does so with the intention of evading or assisting
11 someone else to evade—

12 (i) prosecution for a drug offence; or

13 (ii) the imposition or enforcement of a pecuniary penalty for
14 a drug offence; or

15 (iii) the making or enforcement of an order for the
16 confiscation or forfeiture of property or any part of it.

17 Maximum penalty: imprisonment for 20 years, 2 000 penalty units
18 or both.

19 **640 Receiving property directly derived from drug offence**

20 (1) A person commits an offence if the person receives property—

21 (a) knowing that the property is directly derived from a drug
22 offence committed by someone else; and

23 (b) without any legal entitlement to the property.

24 Maximum penalty: imprisonment for 7 years, 700 penalty units or
25 both.

- 1 (2) For this section, property to which a person is *legally entitled*—
2 (a) includes property received under a will or as a reasonable
3 payment for the legal supply of goods and services received or
4 in repayment of a lawful debt; but
5 (b) does not include property received completely or partly as a
6 gift.

7 **5 Dictionary, new definitions**

- 8 *insert*
9 *cannabis*—see section 600.
10 *cannabis plant*—see section 600.
11 *commercial quantity*, for chapter 6 (Serious drug offences)—see
12 section 601.
13 *conceal* a thing, for chapter 6 (Serious drug offences)—see
14 section 600.
15 *controlled drug*—see section 600.
16 *controlled plant*—see section 600.
17 *controlled precursor*—see section 600.
18 *cultivation*, for chapter 6 (Serious drug offences)—see section 615.
19 *cultivates*, for chapter 6 (Serious drug offences)—see section 615.
20 *directly derived*, for part 6.7 (Offences relating to property derived
21 from drug offences)—see section 638.
22 *drug offence*, for part 6.7 (Offences relating to property derived
23 from drug offences)—see section 637.
24 *indirectly derived*, for part 6.7 (Offences relating to property derived
25 from drug offences)—see section 638.

- 1 **large commercial quantity**, for chapter 6 (Serious drug offences)—
2 see section 601.
- 3 **manufacture**, for chapter 6 (Serious drug offences)—see
4 section 606.
- 5 **manufactures**, for chapter 6 (Serious drug offences)—see
6 section 606.
- 7 **possession** of a thing, for chapter 6 (Serious drug offences)—see
8 section 600.
- 9 **prepare** a drug for supply, for chapter 6 (Serious drug offences)—
10 see section 600.
- 11 **proceeds** of a drug offence for part 6.7 (Offences relating to
12 property derived from drug offences)—see section 638.
- 13 **product**, of a plant, for chapter 6 (Serious drug offences)—see
14 section 615.
- 15 **sell**, for chapter 6 (Serious drug offences)—see section 600.
- 16 **supply**, for chapter 6 (Serious drug offences)—see section 600.
- 17 **traffic** in a controlled drug—see section 602.
- 18 **trafficable quantity**, for chapter 6 (Serious drug offences)—see
19 section 601.
- 20 **transport**, for chapter 6 (Serious drug offences)—see section 600.

1 **Schedule 1** **Consequential amendments**

2 (see s 3)

3 **Part 1.1** **Bail Act 1992**

4 **[1.1] Section 9C heading**

5 *substitute*

6 **9C Bail for murder and certain serious drug offences**

7 **[1.2] Section 9C (1)**

8 *substitute*

9 (1) This section applies to a person accused of—

10 (a) murder; or

11 (b) an offence against any of the following provisions of the
12 Criminal Code, chapter 6 (Serious drug offences):

13 (i) section 603 (1) (which is about trafficking in a large
14 commercial quantity of a controlled drug);

15 (ii) section 607 (1) (which is about manufacturing a large
16 commercial quantity of a controlled drug for selling);

17 (iii) section 616 (1) (which is about cultivating a large
18 commercial quantity of a controlled plant for selling);

19 (iv) section 619 (1) (which is about selling a large
20 commercial quantity of a controlled plant);

21 (v) section 622 (1) (which is about supplying etc a
22 commercial quantity of a controlled drug to a child for
23 selling);

1 (vi) section 624 (1) (which is about procuring a child to
2 traffic in a commercial quantity of a controlled drug).

3 *Note* A reference to an offence against a Territory law includes a reference to
4 a related ancillary offence, eg attempt (see Legislation Act, s 189).

5 **[1.3] Schedule 1, part 1.2, new items 3 to 19**

6 *insert*

- | | | |
|----|---------|--|
| 3 | 603 (3) | trafficking in commercial quantity of controlled drug |
| 4 | 603 (5) | trafficking in trafficable quantity of cannabis |
| 5 | 603 (7) | trafficking in controlled drug other than cannabis |
| 6 | 607 (3) | manufacturing commercial quantity of controlled drug for selling |
| 7 | 607 (5) | manufacturing controlled drug for selling |
| 8 | 610 (1) | selling large commercial quantity of controlled precursor for manufacture of controlled drug |
| 9 | 610 (3) | selling commercial quantity of controlled precursor for manufacture of controlled drug |
| 10 | 611 (1) | manufacturing large commercial quantity of controlled precursor for manufacture of controlled drug |
| 11 | 611 (3) | manufacturing large commercial quantity of controlled precursor for selling |
| 12 | 611 (5) | manufacturing commercial quantity of controlled precursor for manufacture of controlled drug |

13	611 (7)	manufacturing commercial quantity of controlled precursor for selling
14	612 (1)	possessing large commercial quantity of controlled precursor
15	612 (3)	possessing commercial quantity of controlled precursor
16	616 (3)	cultivating commercial quantity of controlled plant
17	619 (3)	selling commercial quantity of controlled plant
18	622 (3)	supplying etc controlled drug to child for selling
19	624 (4)	procuring child to traffic in controlled drug
20	625 (1)	supplying etc controlled drug (other than cannabis) to child
21	639	concealing etc property derived from drug offence

1 **[1.4] Schedule 1, part 1.3, items 2 and 3**

2 *omit*

3 **Part 1.2 Children and Young People Act**
4 **1999**

5 **[1.5] Section 47 (2) (a) (ii)**

6 *after*

7 dependence

8 *insert*

9 or controlled drug

1 **[1.6] Section 332 (1) (a) (ii)**

2 *after*

3 dependence

4 *insert*

5 or controlled drug

6 **[1.7] Section 333 (1) (c)**

7 *after*

8 dependence

9 *insert*

10 or controlled drug

11 **[1.8] Dictionary, new definition of *controlled drug***

12 *insert*

13 *controlled drug*—see the Criminal Code, section 600.

14 **Part 1.3 Drugs of Dependence Act 1989**

15 **[1.9] New section 3AA**

16 *after section 3, insert*

17 **3AA Offences against Act—application of Criminal Code etc**

18 Other legislation applies in relation to offences against this Act.

19 *Note 1 Criminal Code*

20 The Criminal Code, ch 2 applies to the following offence against this
21 Act (see Code, pt 2.1):

- 22
- s 162 (Cultivation of 1 or 2 cannabis plants)

1 The chapter sets out the general principles of criminal responsibility
2 (including burdens of proof and general defences), and defines terms
3 used for offences to which the Code applies (eg *conduct*, *intention*,
4 *recklessness* and *strict liability*).

5 *Note 2 Penalty units*

6 The Legislation Act, s 133 deals with the meaning of offence penalties
7 that are expressed in penalty units.

8 **[1.10] Section 160 (1), definitions of *commercial quantity* and**
9 ***trafficable quantity***

10 *omit*

11 **[1.11] Section 161 (1) and (2), penalty**

12 *substitute*

13 Maximum penalty: 500 penalty units, imprisonment for 5 years or
14 both.

15 **[1.12] Section 161 (4)**

16 *omit*

17 **[1.13] Section 162**

18 *substitute*

19 **162 Cultivation of 1 or 2 cannabis plants**

20 (1) A person commits an offence if the person cultivates 1 or 2 cannabis
21 plants.

22 Maximum penalty: 1 penalty unit.

23 (2) In this section:

24 *artificially cultivate* means—

25 (a) hydroponically cultivate; or

1 (b) cultivate with the application of an artificial source of light or
2 heat.

3 *cultivates* has the meaning given in the Criminal Code, section 615
4 but does not include artificially cultivate.

5 **[1.14] Section 163**

6 *omit*

7 **[1.15] Section 164 (2) and (3), penalty**

8 *substitute*

9 Maximum penalty: 500 penalty units, imprisonment for 5 years or
10 both.

11 **[1.16] Section 164 (6) to (9)**

12 *omit*

13 **[1.17] Section 165**

14 *omit*

15 **[1.18] Section 167 heading**

16 *substitute*

17 **167 False representation to obtain prescription**

18 **[1.19] Section 167 (1) to (4)**

19 *omit*

20 **[1.20] Section 167**

21 *renumber subsections when Act next republished under Legislation*
22 *Act*

- 1 **[1.21] Section 171A (7), definition of *simple cannabis offence*,**
2 **paragraph (a)**
- 3 *substitute*
- 4 (a) an offence against section 162 (Cultivation of 1 or 2 cannabis
5 plants); or
- 6 *Note* Section 162 does not cover artificial cultivation of cannabis
7 plants.
- 8 **[1.22] Section 171B (1)**
- 9 *after*
- 10 Act
- 11 *insert*
- 12 or another Territory law
- 13 **[1.23] Section 171B (2)**
- 14 *after*
- 15 *Drugs of Dependence Act 1989*
- 16 *insert*
- 17 /Criminal Code, chapter 6 (Serious drug offences)*
- 18 **[1.24] Section 171B (2)**
- 19 *omit*
- 20 that Act
- 21 *substitute*
- 22 the *Drugs of Dependence Act 1989*

1 **[1.25] Section 171B (3), definition of *relevant person***

2 *after*

3 this Act

4 *insert*

5 or the Criminal Code, chapter 6 (Serious drug offences)

6 **[1.26] Section 174 (1), definition of *offence***

7 *after*

8 this Act

9 *insert*

10 or the Criminal Code, chapter 6 (Serious drug offences)

11 **[1.27] Section 182, new definition of *chapter 6 substance***

12 *insert*

13 *chapter 6 substance* means any of the following within the meaning
14 of the Criminal Code, chapter 6:

15 (a) a controlled drug;

16 (b) a controlled plant;

17 (c) a controlled precursor.

18 **[1.28] Section 183**

19 *after*

20 this Act

21 *insert*

22 and the Criminal Code, chapter 6 (Serious drug offences)

1 **[1.29] Section 184 (1) and (2)**

2 *omit*

3 believes

4 *substitute*

5 suspects

6 **[1.30] Section 186 (1) and (2)**

7 *omit*

8 believes

9 *substitute*

10 suspects

11 **[1.31] Section 187 (1), new definition of *issuing officer***

12 *insert*

13 ***issuing officer*** means—

14 (a) a judge, the registrar or a deputy registrar of the Supreme
15 Court; or

16 (b) a magistrate; or

17 (c) the registrar, or a deputy registrar, of the Magistrates Court
18 authorised, in writing, by the Chief Magistrate to be an issuing
19 officer for this section.

20 **[1.32] Section 187 (2)**

21 *omit*

22 a magistrate

23 *substitute*

24 an issuing officer

1 **[1.33] Section 187 (2)**
2 *omit*
3 the magistrate
4 *substitute*
5 the issuing officer

6 **[1.34] Section 187 (3)**
7 *omit*
8 a magistrate
9 *substitute*
10 an issuing officer

11 **[1.35] Section 187 (3)**
12 *omit*
13 the magistrate
14 *substitute*
15 the issuing officer

16 **[1.36] Section 187 (4)**
17 *omit*
18 A magistrate
19 *substitute*
20 An issuing officer

1 **[1.37] Section 187 (4)**

2 *omit*

3 the magistrate

4 *substitute*

5 the issuing officer

6 **[1.38] Section 187 (5)**

7 *omit*

8 A magistrate

9 *substitute*

10 An issuing officer

11 **[1.39] Section 190 (1) and (2)**

12 *omit*

13 a drug of dependence or prohibited substance

14 *substitute*

15 a drug of dependence, prohibited substance or chapter 6 substance

16 **[1.40] Section 193A, new definition of *chapter 6 substance***

17 *insert*

18 ***chapter 6 substance*** means any of the following within the meaning
19 of the Criminal Code, chapter 6:

20 (a) a controlled drug;

21 (b) a controlled plant;

22 (c) a controlled precursor.

- 1 **[1.41] Section 193A, definition of *seized substance***
2 *substitute*
3 *seized substance* means a substance seized under division 11.3 or
4 another Territory law.
- 5 **[1.42] Section 193D (1)**
6 *omit*
7 against this Act
- 8 **[1.43] Section 193E (3) and (6)**
9 *omit*
10 against this Act
- 11 **[1.44] Section 193F (3) (e), (f) and (g)**
12 *omit*
13 against this Act
- 14 **[1.45] Section 194 (2)**
15 *omit*
16 a drug of dependence or prohibited substance
17 *substitute*
18 a drug of dependence, prohibited substance or chapter 6 substance
- 19 **[1.46] Section 195**
20 *omit*
21 a drug of dependence or a prohibited substance
22 *substitute*
23 a drug of dependence, prohibited substance or chapter 6 substance
-

1 **[1.47] Section 197 (2)**

2 *omit*

3 a drug of dependence or prohibited substance

4 *substitute*

5 a drug of dependence, prohibited substance or chapter 6 substance

6 **Part 1.4 Listening Devices Act 1992**

7 **[1.48] Section 2, definition of *defined offence*, paragraph (b)**

8 *substitute*

9 (b) an offence against any of the following provisions of the
10 Criminal Code:

11 (i) section 603 (8) (which is about trafficking in cannabis);

12 (ii) section 610 (5) (Selling controlled precursor for
13 manufacture of controlled drug);

14 (iii) section 611 (9) or (10) (Manufacturing controlled
15 precursor for manufacture of controlled drug);

16 (iv) section 613 (Supplying substance, equipment or
17 instructions for manufacturing controlled drug);

18 (v) section 620 (Supplying plant material, equipment or
19 instructions for cultivating controlled plant);

20 (vi) section 625 (4) (Supplying controlled drug to child);

21 (vii) section 640 (Receiving property directly derived from
22 drug offence); or

23 (c) an offence against the *Drugs of Dependence Act 1989*,
24 section 164 (Sale or supply).

1 **Part 1.5 Prostitution Act 1992**

2 **[1.49] Section 6 (1), definition of *disqualifying offence*,**
3 **paragraph (a) (iv) and (v)**

4 *substitute*

5 (iv) the Criminal Code, chapter 6 (Serious drug offences); or

6 **Part 1.6 Rehabilitation of Offenders**
7 **(Interim) Act 2001**

8 **[1.50] Section 9 (2) (j) to (m)**

9 *substitute*

10 (j) an offence against the Criminal Code, chapter 6 (Serious drug
11 offences) other than the following provisions:

12 (i) section 603 (8) (which is about trafficking in cannabis);

13 (ii) section 616 (8) (which is about cultivating a cannabis
14 plant for selling);

15 (iii) section 618 (Cultivating controlled plant);

16 (iv) section 619 (8) (which is about selling a cannabis plant);

17 **[1.51] Section 9 (2)**

18 *renumber paragraphs when Act next republished under Legislation*
19 *Act*

1 **Part 1.7** **Victims of Crime (Financial**
2 **Assistance) Act 1983**

3 **[1.52] Section 2, definition of *serious crime*, paragraph (c)**

4 *substitute*

5 (c) an offence against the Criminal Code, chapter 6 (Serious drug
6 offences) other than section 618 (Cultivating controlled plant);

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2004.

2 Notification

Notified under the Legislation Act on 2004.

3 Republications of amended laws

For the latest republication of amended laws, see www.legislation.act.gov.au.
