

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Medicines, Poisons and Therapeutic Goods Bill 2007

Contents

	Page
Chapter 1	
Preliminary	
1 Name of Act	2
2 Commencement	2
3 Dictionary	2
4 Notes	3
5 Offences against Act—application of Criminal Code etc	3

	Page
Chapter 2	Operation of Act
6	Objects 4
7	Appropriate prescription and supply of medicines 5
8	Obligations under other territory laws 5
9	Inconsistency between Act and medicines and poisons standard 5
Chapter 3	Important concepts
Part 3.1	Substances to which Act applies
10	Meaning of <i>regulated substance</i> —Act 6
11	Medicine-related definitions 6
12	Poison-related definitions 7
13	Meaning of <i>appendix C substance</i> and <i>prohibited substance</i> —Act 8
Part 3.2	Therapeutic goods to which Act applies
14	Meaning of <i>regulated therapeutic good</i> —Act 9
Part 3.3	Medicines and poisons standard
15	Meaning of <i>medicines and poisons standard</i> —Act 10
16	Interpretation provisions in medicines and poisons standard— application to Act 11
17	When medicines and poisons standard <i>applies</i> to substances 11
18	Inspection of medicines and poisons standard 12
Part 3.4	Other important concepts
19	Meaning of <i>deals</i> with a regulated substance—Act 13
20	When <i>authorised</i> to deal with regulated substances 14
21	Meaning of <i>deals</i> with a regulated therapeutic good—Act 17
22	When <i>authorised</i> to deal with regulated therapeutic goods 17
23	Meaning of <i>supply authority</i> —Act 18
24	Meaning of <i>possess, sell</i> and <i>supply</i> —Act 19

		Page
Chapter 4	Offences relating to regulated substances	
Part 4.1	Dealings with regulated substances— offences	
Division 4.1.1	Preliminary	
25	Meaning of <i>declared substance</i> —pt 4.1	20
Division 4.1.2	Declared substances—supply	
26	Supplying declared substances	20
27	Supplying declared substances on invalid supply authorities—strict liability offences	21
28	Supplying declared substances on invalid supply authorities—recklessness	23
29	Supplying declared substances on invalid supply authorities—other offences	23
30	Cancellation etc of invalid supply authorities for declared substances	24
31	Supply of certain declared substances—information for chief health officer	25
32	Information about invalid supply authorities for chief health officer	26
Division 4.1.3	Regulated substances—other dealings	
33	Manufacturing regulated substances	29
34	Discarding declared etc substances	29
35	Obtaining certain declared substances	31
36	Possessing certain declared substances	32
37	Administering certain declared substances	32
38	Issuing purchase orders for declared substances	33
39	Reporting loss and theft of certain regulated substances	34
40	Prescribing medicines	35
41	Issuing requisitions for medicines	36
42	Issuing standing orders for medicines	36
43	Medicines for animals not to be prescribed etc for human use	36
Division 4.1.4	Dealings—other offences	
44	Contravening authorisation conditions for regulated substances	38
45	Pretending to be authorised to deal with regulated substance	39

	Page
Part 4.2	Records for regulated substances—offences
Division 4.2.1	Record-keeping generally
46	Accessibility of records 40
47	Keeping cancelled invalid supply authorities 40
Division 4.2.2	Registers for regulated substances
48	Meaning of <i>must keep</i> register—div 4.2.2 41
49	Registers—not keeping 41
50	Registers—where to be kept 42
51	Registers—duty to ensure entries made 43
52	Registers—signing entries 43
53	Registers—witnessing administration of medicines 43
54	Registers—witnessing discarding 44
55	Registers—changes etc to entries 45
56	Registers—period to be kept 45
57	Registers—damage or loss 45
58	Transferring responsibility for community pharmacies—stocktake etc of controlled medicines 47
Part 4.3	Regulated substances—other offences
Division 4.3.1	Packaging and labelling—offences
59	Packaging of supplied regulated substances 50
60	Labelling of supplied regulated substances 51
Division 4.3.2	Storage—offence
61	Storing declared substances 52
Division 4.3.3	Containers—offences
62	Permanently named containers—use for other regulated substances 52
63	Certain containers not to be used for human use substances 52
Division 4.3.4	Representations and advertisements—offences
64	False statements to obtain certain regulated substances etc 53
65	Falsely representing substance is regulated 55
66	Advertising controlled medicines and prohibited substances 56

		Page
Division 4.3.5	Vending machines—offences	
67	Meaning of <i>vending machine</i> —div 4.3.5	57
68	Vending machines—use for supply of regulated substances	57
69	Vending machines—use for supply of unscheduled medicines	58
Division 4.3.6	Paints—offences	
70	Manufacture, supply and use of paints containing white lead	59
71	Manufacture, supply and use of paints for certain purposes	60
72	Manufacture, supply and use of paints for toys	61
73	Manufacture, supply and use of paints containing pesticides	61
Chapter 5	Offences relating to regulated therapeutic goods	
74	Supplying regulated therapeutic goods	62
75	Contravening authorisation conditions for regulated therapeutic goods	62
76	Pretending to be authorised to deal with regulated therapeutic goods	63
77	Falsely representing thing is regulated	63
Chapter 6	Licences for regulated substances and regulated therapeutic goods	
Part 6.1	Licences generally	
78	Meaning of <i>licence</i> etc—ch 6	65
79	Meaning of <i>close associate</i> —ch 6	65
80	Meaning of <i>influential person</i> for corporation—ch 6	67
81	Suitability of individuals for licences	67
82	Suitability of corporations for licences	69
83	Power to ask for information etc from applicants and others	70
Part 6.2	Licences—issue and amendment	
84	Applications for licences	73
85	Decision on applications for licences	73
86	Term of licences	74
87	Licences not transferable	74

Contents

	Page	
88	Form of licences	74
89	Statutory licence conditions	75
90	Other licence conditions	76
91	Amending licence on chief health officer's initiative	76
92	Amending licence on application by licence-holder	77
93	Changes affecting suitability to hold licence	78
94	Returning licences for amendment	79
95	Replacing licences	79
Part 6.3	Licences—other provisions	
96	Contravening licence conditions	81
97	Surrendering licences	81
Chapter 7	Enforcement	
Part 7.1	Inspection and seizure powers	
Division 7.1.1	Preliminary	
98	Definitions—pt 7.1	82
99	Meaning of <i>medicines and poisons inspector</i> —Act	82
Division 7.1.2	Medicines and poisons inspectors	
100	Appointment of medicines and poisons inspectors	83
101	Identity cards	83
Division 7.1.3	Powers of medicines and poisons inspectors	
102	Power to enter premises	84
103	Production of identity card	85
104	Consent to entry	85
105	General powers on entry to premises	86
106	Power to seize things	87
107	Power to destroy unsafe things	89
108	Power to require name and address	90
Division 7.1.4	Search warrants	
109	Warrants generally	91

	Page
110	92
111	94
112	94
113	95
114	95
115	96
116	97
117	99
118	100
Division 7.1.5 Return and forfeiture of things seized	
119	101
120	101
121	102
122	103
123	104
124	104
125	105
126	105
127	106
Division 7.1.6 Medicines and poisons inspectors—other provisions	
128	106
129	107
130	107
Part 7.2 Taking and analysis of samples of substances	
131	109
132	109
133	109
134	110
135	110
136	111
137	111

	Page
Chapter 8	Restrictions on dealing with regulated substances and regulated therapeutic goods
Part 8.1	Authorisations—disciplinary action
138	Application—pt 8.1 113
139	Definitions—pt 8.1 113
140	Grounds for disciplinary action against authorisation holders 114
141	Disciplinary action against authorisation holders 116
142	Taking disciplinary action against authorisation holders 118
143	Immediate suspension of authorisations 119
144	Effect of suspension of authorisations 120
145	Return of certain licences and approvals 121
146	Action by chief health officer in relation to certain licences and approvals 121
Part 8.2	Controlled medicines and prohibited substances—disqualification by courts
147	Definitions—pt 8.2 123
148	Drug offences—disqualification from dealing 123
149	Notice of disqualification from dealing 124
150	Effect of disqualification from dealing 124
Part 8.3	Surrender of prescribed authorisations
151	Application—pt 8.3 125
152	Surrender of authorisation under regulation 125
153	Effect of surrender of authorisation under regulation 126
Chapter 9	Review of decisions
154	Chief health officer decisions reviewable by AAT 127
155	Notice of reviewable decisions 127

		Page
Chapter 10	Incorporation of Commonwealth therapeutic goods laws	
Part 10.1	Preliminary	
156	Definitions—ch 10	128
Part 10.2	Application in ACT of Commonwealth therapeutic goods laws	
Division 10.2.1	The applied provisions	
157	Application of Commonwealth therapeutic goods laws to ACT	130
158	Interpretation of Commonwealth therapeutic goods laws	130
Division 10.2.2	Functions under applied provisions	
159	Functions of Commonwealth Minister	131
160	Functions of Commonwealth Secretary	131
161	Functions of other people	131
162	Delegations by Commonwealth Minister or Secretary	131
163	Appointments under Commonwealth therapeutic goods laws	132
Division 10.2.3	Applied provisions—administrative law matters	
164	Application of Commonwealth administrative laws to applied provisions	132
165	Functions given to Commonwealth officers and authorities	133
Division 10.2.4	Applied provisions—offences	
166	Object—div 10.2.4	133
167	Application of Commonwealth criminal laws to offences against applied provisions	134
168	Functions of Commonwealth officers and authorities relating to offences	135
169	No double jeopardy for offences against applied provisions	135
Division 10.2.5	Applied provisions—other provisions	
170	Commonwealth may keep fees paid to Commonwealth Secretary	136

	Page
Chapter 11	Procedural and evidentiary provisions
Part 11.1	General provisions about offences against Act
171	Acts and omissions of representatives of individuals 137
172	Criminal liability of corporation officers 139
173	No defence to claim deterioration of sample 141
174	Remedial orders by court for offences 141
175	Court may order costs and expenses 142
176	Court may order forfeiture 142
177	Notices of noncompliance by territory entities 142
Part 11.2	Evidentiary provisions
178	Evidence—authorisations under Commonwealth and State laws 144
179	Presumptions 144
180	Certificate evidence etc 145
181	Admissibility of analysis of samples taken by inspectors 146
182	Power of court to order further analysis 146
Chapter 12	Regulations about regulated substances and regulated therapeutic goods
183	Meaning of <i>regulated thing</i> —ch 12 148
184	Regulation-making power 148
185	Regulations—regulated things 148
186	Regulations—authorisations 149
187	Regulations—records kept electronically 151
188	Regulations—medicines advisory committee 151
189	Regulations—application etc of instruments 152
190	Regulations—exemption of people, dealings etc 152
Chapter 13	Miscellaneous
191	Directions about dealings with regulated substances and therapeutic goods 154

	Page
192	Guidelines about dealings with regulated substances and therapeutic goods 154
193	Approval of non-standard packaging and labelling 155
194	Establishment of medicines advisory committee 155
195	Secrecy 155
196	Protection of officials from liability 157
197	Determination of fees 157
198	Approved forms 158
Chapter 14	Transitional
Part 14.1	Transitional—general
500	Definitions—ch 14 159
501	Transitional regulations 159
502	Transitional effect—Legislation Act, s 88 159
503	Expiry—ch 14 159
Part 14.2	Consequential and other amendments and repeals
510	Legislation amended—sch 2 160
511	Legislation repealed 160
Part 14.3	Transitional—licences and authorisations
520	Transitional—existing licences 162
521	Transitional—uncompleted licence applications 163
522	Transitional—existing authorisations 163
523	Transitional—uncompleted authorisation applications 165
524	Transitional—uncompleted applications for AAT review 165
Part 14.4	Transitional—approvals to prescribe drugs of dependence
530	Transitional—meaning of <i>drugs advisory committee</i> —pt 14.4 167
531	Transitional—existing approvals to prescribe drugs of dependence 167
532	Transitional—uncompleted applications to prescribe drugs of dependence 168

Contents

	Page
533 Transitional—uncompleted applications for drugs advisory committee review	169
Part 14.5 Transitional—supply authorities	
540 Transitional—prescriptions generally	170
541 Transitional—requisitions generally	170
542 Transitional—purchase orders generally	170
543 Transitional—standing orders	170
Part 14.6 Transitional—other	
550 Transitional—registers	171
551 Transitional—drugs advisory committee members	171
Schedule 1 Chief health officer—reviewable decisions	173
Schedule 2 Consequential and other amendments	175
Part 2.1 Animal Diseases Act 2005	175
Part 2.2 Bail Act 1992	175
Part 2.3 Children and Young People Act 1999	176
Part 2.4 Crimes Act 1900	177
Part 2.5 Crimes (Sentence Administration) Regulation 2006	179
Part 2.6 Criminal Code 2002	180
Part 2.7 Criminal Code Regulation 2005	180
Part 2.8 Dangerous Substances Act 2004	181
Part 2.9 Drugs of Dependence Act 1989	181
Part 2.10 Environment Protection Act 1997	195
Part 2.11 Food Act 2001	195
Part 2.12 Health Act 1993	196
Part 2.13 Health Professionals Act 2004	197
Part 2.14 Health Professionals Regulation 2004	198

		Page
Part 2.15	Health Professionals (Special Events Exemptions) Act 2000	207
Part 2.16	Hemp Fibre Industry Facilitation Act 2004	212
Part 2.17	Intoxicated People (Care and Protection) Act 1994	213
Part 2.18	Listening Devices Act 1992	214
Part 2.19	Prostitution Act 1992	214
Part 2.20	Public Health Act 1997	215
Part 2.21	Public Health Regulation 2000	230
Part 2.22	Supervised Injecting Place Trial Act 1999	231
Part 2.23	Victims of Crime (Financial Assistance) Act 1983	233
Dictionary		234

2007

THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Minister for Health)

Medicines, Poisons and Therapeutic Goods Bill 2007

A Bill for

An Act to consolidate and reform the law relating to regulated substances and regulated therapeutic goods, to give effect to the medicines and poisons standard, and for other purposes

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

J2005-67

Authorised by the ACT Parliamentary Counsel—also accessible at www.legislation.act.gov.au

1 **Chapter 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Medicines, Poisons and Therapeutic Goods*
4 *Act 2007*.

5 **2 Commencement**

6 This Act commences on a day fixed by the Minister by written
7 notice.

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

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

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

16 **3 Dictionary**

17 The dictionary at the end of this Act is part of this Act.

18 *Note 1* The dictionary at the end of this Act defines certain terms used in this
19 Act, and includes references (*signpost definitions*) to other terms
20 defined elsewhere.

21 For example, the signpost definition '*health professional*—see the
22 *Health Professionals Act 2004*, section 14.' means that the term 'health
23 professional' is defined in that section and the definition applies to this
24 Act.

25 *Note 2* A definition in the dictionary (including a signpost definition) applies to
26 the entire Act unless the definition, or another provision of the Act,
27 provides otherwise or the contrary intention otherwise appears (see
28 Legislation Act, s 155 and s 156 (1)).

1 **4** **Notes**

2 A note included in this Act is explanatory and is not part of this Act.

3 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
4 notes.

5 **5** **Offences against Act—application of Criminal Code etc**

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

7 *Note 1* *Criminal Code*

8 The Criminal Code, ch 2 applies to all offences against this Act (see
9 Code, pt 2.1).

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

14 *Note 2* *Penalty units*

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

1 **Chapter 2 Operation of Act**

2 **6 Objects**

- 3 (1) The main object of this Act is to promote and protect public health
4 and safety by minimising—
- 5 (a) accidental and deliberate poisonings by regulated substances;
6 and
- 7 (b) medicinal misadventures related to regulated substances; and
- 8 (c) the diversion of regulated substances for abuse; and
- 9 (d) the manufacture of regulated substances that are subject to
10 abuse; and
- 11 (e) harm from regulated therapeutic goods.
- 12 (2) The objects of this Act also include ensuring that—
- 13 (a) consumers of prescription medicines have adequate
14 information and the understanding necessary to allow them to
15 use the medicines safely and effectively; and
- 16 (b) consumers of non-prescription medicines have adequate
17 information and the understanding to allow them to select the
18 most appropriate medicines for their condition and to use the
19 medicines safely and effectively, taking into account the
20 condition of their health.
- 21 (3) In regulating the dealings of health professionals with regulated
22 substances, the chief health officer may, but need not, choose to take
23 disciplinary action rather than pursuing prosecutions under this Act
24 if the chief health officer believes it would be in the public interest
25 to do so.

- 1 (4) In this section:
- 2 *non-prescription medicine* means a medicine other than a
- 3 prescription medicine.
- 4 *prescription medicine* means a prescription only medicine or
- 5 controlled medicine.

6 **7 Appropriate prescription and supply of medicines**

- 7 (1) A health professional who prescribes or supplies a medicine must
- 8 ensure that the prescription or supply of the medicine is for a
- 9 quantity and purpose that is consistent with the recognised
- 10 therapeutic standard of what is appropriate in the circumstances.
- 11 (2) Subsection (1) does not apply to wholesale supply.

12 **8 Obligations under other territory laws**

13 The obligations under this Act are additional to the obligations

14 under any other territory law unless this Act, or the other law,

15 provides otherwise.

16 **Example**

17 If there is an obligation under the *Dangerous Substances Act 2004* and under this

18 Act in relation to a particular substance, both obligations must be complied with

19 in relation to the substance unless either Act provides otherwise.

20 *Note* An example is part of the Act, is not exhaustive and may extend, but

21 does not limit, the meaning of the provision in which it appears (see

22 Legislation Act, s 126 and s 132).

23 **9 Inconsistency between Act and medicines and poisons**

24 **standard**

25 This Act prevails if there is an inconsistency between this Act and

26 the medicines and poisons standard.

27 *Note* A reference to an Act includes a reference to the statutory instruments

28 made or in force under the Act, including any regulation (see

29 Legislation Act, s 104).

1 **Chapter 3 Important concepts**

2 **Part 3.1 Substances to which Act applies**

3 **10 Meaning of *regulated substance*—Act**

4 In this Act:

5 *regulated substance* means a medicine, poison, prohibited substance
6 or appendix C substance.

7 **11 Medicine-related definitions**

8 (1) In this Act:

9 *medicine* means—

- 10 (a) a pharmacy medicine; or
11 (b) a pharmacist only medicine; or
12 (c) a prescription only medicine; or
13 (d) a controlled medicine.

14 (2) In this Act:

15 *controlled medicine* means a substance to which the medicines and
16 poisons standard, schedule 8 applies.

17 *Note* Schedule 8 medicines are prescription medicines that have additional
18 restrictions to reduce misuse or dependence. The schedule includes
19 some derivatives of the scheduled medicines (see s 16 (2)).

20 *pharmacist only medicine* means a substance to which the
21 medicines and poisons standard, schedule 3 applies.

22 *Note* Schedule 3 medicines are medicines that require advice from a
23 pharmacist to be used safely. The schedule includes some derivatives
24 of the scheduled medicines (see s 16 (2)).

1 ***pharmacy medicine*** means a substance to which the medicines and
2 poisons standard, schedule 2 applies.

3 *Note* Schedule 2 medicines are medicines that may require advice from a
4 pharmacist to be used safely. The schedule includes some derivatives
5 of the scheduled medicines (see s 16 (2)).

6 ***prescription only medicine*** means a substance to which the
7 medicines and poisons standard, schedule 4 applies.

8 *Note* Schedule 4 medicines are medicines (including prescription animal
9 remedies) that are available from a pharmacy on prescription. The
10 schedule includes some derivatives of the scheduled medicines
11 (see s 16 (2)).

12 **12 Poison-related definitions**

13 (1) In this Act:

14 ***poison*** means—

- 15 (a) a low harm poison; or
16 (b) a moderate harm poison; or
17 (c) a dangerous poison.

18 (2) In this Act:

19 ***dangerous poison*** means a substance to which the medicines and
20 poisons standard, schedule 7 applies.

21 *Note* Schedule 7 applies to substances with a high potential for causing harm.
22 The schedule includes some derivatives of the scheduled substances
23 (see s 16 (2)).

24 ***low harm poison*** means a substance to which the medicines and
25 poisons standard, schedule 5 applies.

26 *Note* Schedule 5 applies to substances with a low potential for causing harm.
27 The schedule includes some derivatives of the scheduled substances
28 (see s 16 (2)).

1 ***moderate harm poison*** means a substance to which the medicines
2 and poisons standard, schedule 6 applies.

3 *Note* Schedule 6 applies to substances with a moderate potential for causing
4 harm. The schedule includes some derivatives of the scheduled
5 substances (see s 16 (2)).

6 **13 Meaning of *appendix C substance* and *prohibited***
7 ***substance—Act***

8 In this Act:

9 ***appendix C substance*** means a substance to which the medicines
10 and poisons standard, appendix C applies.

11 *Note* Appendix C substances are substances, other than those in sch 9, the
12 sale, supply and use of which is prohibited because of the degree of
13 danger to health they represent. The appendix includes some
14 derivatives of the substances to which the appendix applies
15 (see s 16 (2)).

16 ***prohibited substance*** means a substance to which the medicines and
17 poisons standard, schedule 9 applies.

18 *Note* Schedule 9 substances are generally illegal substances that are subject to
19 abuse. They include some derivatives of the scheduled substances
20 (see s 16 (2)).

1 **Part 3.2** **Therapeutic goods to which Act**
2 **applies**

3 **14** **Meaning of *regulated therapeutic good*—Act**

4 In this Act:

5 *regulated therapeutic good* means—

6 (a) any of the following within the meaning of the *Therapeutic*
7 *Goods Act 1989* (Cwlth) as prescribed by regulation:

8 (i) a therapeutic good (other than a regulated substance);

9 (ii) a medical device;

10 (iii) a therapeutic device; or

11 (b) anything else (other than a regulated substance) prescribed by
12 regulation.

1 **Part 3.3 Medicines and poisons standard**

2 **15 Meaning of *medicines and poisons standard*—Act**

3 (1) In this Act:

4 *medicines and poisons standard* means the poisons standard, as in
5 force from time to time and as modified by regulation (if any).

6 *Note* For the public availability and inspection of a copy of the medicines and
7 poisons standard, see s 18.

8 (2) For subsection (1), but subject to any modification prescribed by
9 regulation—

10 (a) an amendment of a current poisons standard takes effect on the
11 date notified under the *Therapeutic Goods Act 1989* (Cwlth),
12 section 52D (4) (b); and

13 (b) a new poisons standard takes effect on the date of effect
14 notified under the *Therapeutic Goods Act 1989* (Cwlth),
15 section 52D (3) (b).

16 (3) In this section:

17 *current poisons standard*—see the *Therapeutic Goods Act 1989*
18 (Cwlth), section 52A, definition of *current Poisons Standard*.

19 *new poisons standard* means a document prepared under the
20 *Therapeutic Goods Act 1989* (Cwlth), section 52D (2) (b).

21 *poisons standard* means a document made under the *Therapeutic*
22 *Goods Act 1989* (Cwlth), section 52D (2).

- 1 **16 Interpretation provisions in medicines and poisons**
2 **standard—application to Act**
- 3 (1) A term defined in the medicines and poisons standard (other than
4 the definition of *poison*) has the same meaning in this Act.
- 5 *Note* The medicines and poisons standard uses the term ‘poison’ for any
6 substance or preparation (whether it is a medicine, poison or prohibited
7 substance) included in a schedule to the standard (see medicines and
8 poisons standard, pt 1, def *poison*).
- 9 (2) A provision of the medicines and poisons standard relating to the
10 interpretation of the standard applies in the interpretation of this Act.
- 11 **Example**
- 12 If the medicines and poisons standard provides that, subject to stated exceptions, a
13 reference to a substance in a schedule or appendix to the standard includes every
14 salt, active principle or derivative of the substance, then a reference to the
15 substance in this Act includes, subject to the exceptions, a reference to each salt,
16 active principle or derivative of the substance.
- 17 *Note 1* A reference to an Act includes a reference to the statutory instruments
18 made or in force under the Act, including any regulation (see
19 Legislation Act, s 104).
- 20 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
21 does not limit, the meaning of the provision in which it appears (see
22 Legislation Act, s 126 and s 132).
- 23 **17 When medicines and poisons standard *applies* to**
24 **substances**
- 25 For this Act, a schedule or appendix of the medicines and poisons
26 standard *applies* to a substance in a circumstance if—
- 27 (a) the substance is included in the schedule or appendix; and
28 (b) either—
- 29 (i) an exclusion in the standard does not, in the circumstance,
30 exclude the substance from the operation of the schedule
31 or appendix; or

1 (ii) if a restriction is mentioned in the standard for the
2 substance—the restriction applies in relation to the
3 substance in the circumstance.

4 **Example—par (b) (ii)**

5 Substance X is included in sch 4 (Prescription only medicine) of the
6 medicines and poisons standard. Its listing is followed by the
7 restriction ‘for human therapeutic use’. Substance X is not included
8 in another schedule or an appendix of the standard. The standard
9 applies to substance X only for human therapeutic use.

10 *Note 1* See also s 9 (Inconsistency between Act and medicines and
11 poisons standard).

12 *Note 2* An example is part of the Act, is not exhaustive and may
13 extend, but does not limit, the meaning of the provision in
14 which it appears (see Legislation Act, s 126 and s 132).

15 **18 Inspection of medicines and poisons standard**

16 The chief health officer must ensure that a copy of the medicines
17 and poisons standard (including any amendments of the standard) is
18 made available for inspection free of charge to the public on
19 business days at reasonable times at an office administered by the
20 chief health officer.

1 **Part 3.4** **Other important concepts**

2 **19** **Meaning of *deals* with a regulated substance—Act**

3 (1) For this Act, a person *deals* with a regulated substance if the person
4 does 1 or more of the following:

5 (a) manufactures the substance;

6 (b) obtains the substance;

7 (c) possesses the substance;

8 (d) supplies the substance;

9 (e) administers the substance;

10 (f) discards the substance;

11 (g) issues a purchase order for the substance;

12 (h) if the substance is a medicine—

13 (i) prescribes the medicine; or

14 (ii) issues a requisition or standing order for the medicine;

15 (i) if the substance is a dangerous poison, prohibited substance or
16 appendix C substance—gives a written or oral direction to—

17 (i) supply the poison or substance for administration to a
18 person; or

19 (ii) administer the poison or substance to a person.

- 1 (2) For this Act, a person also *deals* with a regulated substance if the
2 regulated substance otherwise comes into, or goes out of, the
3 person's possession, including, for example, if the person loses or
4 finds the regulated substance or the substance is stolen from the
5 person.

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

9 **20 When *authorised* to deal with regulated substances**

- 10 (1) For this Act, a person is *authorised* to deal with a medicine, low
11 harm poison or moderate harm poison if—

- 12 (a) the person has a licence or permit under a Commonwealth Act,
13 this Act or another territory law that authorises the dealing; or

14 *Note* A reference to an Act includes a reference to statutory
15 instruments made or in force under the Act, including any
16 regulation and any law or instrument applied, adopted or
17 incorporated by the Act (see Legislation Act, s 104).

- 18 (b) the person may or must deal with the medicine or poison under
19 a Commonwealth Act, this Act or another territory law; or

- 20 (c) the chief health officer approves the dealing under a regulation;
21 or

- 22 (d) the dealing is otherwise authorised by regulation.

23 **Examples of Commonwealth Acts—pars (a) and (b)**

24 *Customs (Prohibited Imports) Regulations 1956, Narcotic Drugs Act 1967 and*
25 *Therapeutic Goods Act 1989*

26 **Examples of when person may or must deal with medicines—par (b)**

- 27 1 the person is a dentist and a regulation allows dentists to administer the
28 medicine

- 1 2 the person is authorised under the *Health Professionals (Special Events*
2 *Exemptions) Act 2000*, s 10 (1) to issue a written prescription for the
3 medicine
- 4 *Note 1* For the supply of a regulated substance by wholesale, see s (4).
- 5 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
6 does not limit, the meaning of the provision in which it appears (see
7 Legislation Act, s 126 and s 132).
- 8 (2) For this Act, a person is ***authorised*** to deal with a dangerous poison,
9 prohibited substance or appendix C substance if—
- 10 (a) the person may or must deal with the poison or substance
11 under a Commonwealth Act, this Act or another territory law;
12 or
- 13 (b) the person has a licence under this Act that authorises the
14 dealing.
- 15 (3) However, for subsection (2), a person is ***authorised*** for an
16 administration-related dealing with a dangerous poison, prohibited
17 substance or appendix C substance for human use only if—
- 18 (a) the dealing is authorised by a licence for the purposes of
19 research at a recognised research institution; and
- 20 (b) the research is approved by a human research ethics committee
21 that is constituted in accordance with, and acting in compliance
22 with, the NHMRC *National Statement on Ethical Conduct in*
23 *Research Involving Humans* (1999), as in force from time to
24 time.
- 25 *Note* ***Administration-related dealing, NHMRC and recognised research***
26 ***institution***—see s (5).
- 27 (4) Also, for this Act, a person is ***authorised*** to supply a regulated
28 substance by wholesale if—
- 29 (a) the person is authorised (however described) under a
30 corresponding law to supply the substance by wholesale; and

- 1 (b) the person does not have a place of business in the ACT; and
2 (c) if a condition or restriction applies to the person under the
3 corresponding law or is prescribed by regulation—the person
4 complies with each condition or restriction; and
5 (d) the chief health officer has not, under part 8.1
6 (Authorisations—disciplinary action), prohibited the person
7 from supplying the substance by wholesale in the ACT.

8 *Note* **Wholesale**—see the dictionary.

9 (5) In this section:

10 **administration-related dealing**, in relation to a dangerous poison,
11 prohibited substance or appendix C substance for human use,
12 means—

- 13 (a) giving a written or oral direction to administer the poison or
14 substance, or supply the poison or substance for administration,
15 to a person; or
16 (b) supplying the poison or substance for administration to a
17 person; or
18 (c) administering the poison or substance to a person.

19 **NHMRC** means the National Health and Medical Research Council
20 under the *National Health and Medical Research Council Act 1992*
21 (Cwlth).

22 **recognised research institution** means any of the following:

- 23 (a) the Australian Catholic University;
24 (b) the Australian National University;
25 (c) the Canberra Hospital;
26 (d) the Canberra Institute of Technology;

- 1 (e) the Commonwealth Scientific and Industrial Research
2 Organisation;
- 3 (f) the University College within the Australian Defence Force
4 Academy;
- 5 (g) the University of Canberra;
- 6 (h) any other entity prescribed by regulation.

7 **21 Meaning of *deals* with a regulated therapeutic good—Act**

8 For this Act, a person *deals* with a regulated therapeutic good if the
9 person supplies the good.

10 **22 When *authorised* to deal with regulated therapeutic
11 goods**

12 (1) For this Act, a person is *authorised* to deal with a regulated
13 therapeutic good if—

- 14 (a) the person has a licence or permit under a Commonwealth Act,
15 this Act or another territory law that authorises the dealing; or
- 16 (b) the person may or must deal with the good under a
17 Commonwealth Act, this Act or another territory law; or

18 *Note* A reference to an Act includes a reference to statutory
19 instruments made or in force under the Act, including any
20 regulation and any law or instrument applied, adopted or
21 incorporated by the Act (see Legislation Act, s 104).

- 22 (c) the chief health officer approves the dealing under a regulation;
23 or
- 24 (d) the dealing is otherwise authorised by regulation.

- 1 (2) Also, for this Act, a person is *authorised* to supply a regulated
2 therapeutic good by wholesale if—
- 3 (a) the person is authorised (however described) under a
4 corresponding law to supply the good by wholesale; and
- 5 (b) the person does not have a place of business in the ACT; and
- 6 (c) if a condition or restriction applies to the person under the
7 corresponding law or is prescribed by regulation—the person
8 complies with each condition or restriction; and
- 9 (d) the chief health officer has not, under part 8.1
10 (Authorisations—disciplinary action), prohibited the person
11 from supplying the good by wholesale in the ACT.

12 *Note* **Wholesale**—see the dictionary.

13 **23 Meaning of *supply authority*—Act**

14 In this Act:

15 *supply authority*—each of the following is a *supply authority*:

- 16 (a) a written prescription;
- 17 (b) a written requisition;
- 18 (c) a purchase order;
- 19 (d) a standing order;
- 20 (e) a document that purports to be a document mentioned in
21 paragraph (a), (b), (c) or (d).

22 *Note* A purchase order and standing order must be in writing (see the
23 definitions of these terms in the dictionary).

- 1 **24** **Meaning of *possess*, *sell* and *supply*—Act**
- 2 In this Act:
- 3 *possess*, for a regulated substance, includes the following:
- 4 (a) receive or obtain possession of the substance;
- 5 (b) have control over the disposition of the substance (whether
- 6 with or without custody of the substance);
- 7 (c) have joint possession of the substance.
- 8 *sell* includes the following:
- 9 (a) offer or expose for sale;
- 10 (b) dispose of by any method for value (or offer or expose for
- 11 disposal by any method for value);
- 12 (c) possess for sale or disposal for value.
- 13 *supply*—
- 14 (a) includes the following:
- 15 (i) sell (or offer or expose for sale);
- 16 (ii) dispense;
- 17 *Note* *Dispense* means dispense on prescription (see dict).
- 18 (iii) supply under a requisition or standing order;
- 19 (iv) dispose of by any method for free (other than by
- 20 discarding); but
- 21 (b) does not include administer.

1 **Chapter 4** **Offences relating to regulated**
2 **substances**

3 **Part 4.1** **Dealings with regulated**
4 **substances—offences**

5 **Division 4.1.1** **Preliminary**

6 **25** **Meaning of *declared substance*—pt 4.1**

7 In this part:

8 *declared substance* means—

- 9 (a) a medicine; or
10 (b) a dangerous poison; or
11 (c) a prohibited substance; or
12 (d) an appendix C substance; or
13 (e) a low harm poison, or moderate harm poison, prescribed by
14 regulation.

15 **Division 4.1.2** **Declared substances—supply**

16 **26** **Supplying declared substances**

- 17 (1) A person commits an offence if—
18 (a) the person supplies a declared substance to someone else; and

1 (b) the person is not authorised to supply the substance to the other
2 person.

3 Maximum penalty: 500 penalty units, imprisonment for 5 years or
4 both.

5 *Note* **Supply** includes sell or offer to sell (see s 24).

6 (2) A person commits an offence if—

7 (a) the person supplies a declared substance to himself or herself;
8 and

9 (b) the person is not authorised to supply the substance to himself
10 or herself.

11 Maximum penalty: 500 penalty units, imprisonment for 5 years or
12 both.

13 **27 Supplying declared substances on invalid supply**
14 **authorities—strict liability offences**

15 (1) A person commits an offence if—

16 (a) the person is authorised to supply a declared substance on a
17 supply authority; and

18 (b) the person supplies the declared substance on a supply
19 authority; and

20 (c) 1 or more of the following apply in relation to the supply
21 authority:

22 (i) all or part of the authority is illegible;

23 (ii) the authority has been changed;

24 (iii) the authority has been marked ‘cancelled’;

- 1 (iv) for a supply authority for a declared substance that is a
2 controlled medicine—the authority is issued more than
3 6 months before the date the substance medicine is
4 supplied;
- 5 (v) for a supply authority for a declared substance other than
6 a controlled medicine—the authority is issued more than
7 1 year before the date the substance is supplied.
- 8 Maximum penalty: 50 penalty units.
- 9 (2) Subsection (1) (c) (i) and (ii) do not apply in relation to the supply
10 of a declared substance by a person if, before the supply, the person
11 checks the content of the supply authority with the person who
12 issued the authority (the *issuer*) and—
- 13 (a) the supply is in accordance with the authority as confirmed by
14 the issuer; or
- 15 (b) if the authority is a prescription—
- 16 (i) the authority is changed by a pharmacist at the oral
17 direction of the issuer; and
- 18 (ii) the pharmacist notes the change on the authority as
19 prescribed by regulation; and
- 20 (iii) the supply is in accordance with the authority as changed.
- 21 (3) Subsection (1) does not apply to an employee or agent of a person
22 (the *principal*) if the employee or agent supplies the declared
23 substance at the direction of the principal.
- 24 (4) To remove any doubt, subsection (3) does not affect the principal's
25 liability for the offence under section 171 (Acts and omissions of
26 representatives of individuals).
- 27 (5) An offence against subsection (1) is a strict liability offence.

-
- 1 **28** **Supplying declared substances on invalid supply**
2 **authorities—recklessness**
- 3 A person (the *supplier*) commits an offence if—
- 4 (a) a supply authority is issued by a person who is not authorised
5 to issue the authority; and
- 6 (b) the supplier supplies a declared substance on the supply
7 authority; and
- 8 (c) the supplier is reckless about whether the supply authority is
9 issued by someone who is not authorised to issue it.
- 10 Maximum penalty: 100 penalty units, imprisonment for 1 year or
11 both.
- 12 **29** **Supplying declared substances on invalid supply**
13 **authorities—other offences**
- 14 (1) A person commits an offence if—
- 15 (a) the person supplies a declared substance on a supply authority;
16 and
- 17 (b) 1 or more of the following apply in relation to the supply
18 authority:
- 19 (i) the person knows the authority was obtained because of
20 false information given to the person (the *issuer*) who
21 issued the authority;
- 22 (ii) the person could reasonably believe that the authority has
23 been changed by someone other than the issuer;

1 (iii) the person could reasonably believe that the authority is
2 false in a material particular.

3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.

5 (2) However, subsection (1) (b) (ii) does not apply to the supply of a
6 declared substance by a person if—

7 (a) before supplying the substance, the person checks whether the
8 change to the supply authority was made by the issuer; and

9 (b) the issuer confirms the change.

10 (3) Further, subsection (1) (b) (ii) does not apply to the supply of a
11 declared substance on a prescription or requisition if—

12 (a) before the substance is supplied by the person, the prescription
13 or requisition is changed at the oral direction of the issuer; and

14 (b) the person notes the change on the prescription or requisition
15 as prescribed by regulation.

16 **30 Cancellation etc of invalid supply authorities for declared**
17 **substances**

18 (1) In this section:

19 *relevant circumstance*, in relation to a supply authority given to a
20 person to supply a declared substance, means—

21 (a) all or part of the authority is illegible; or

22 (b) all or part of the authority has been obliterated; or

23 (c) 1 or more of the following apply in relation to the supply
24 authority:

25 (i) the supply authority was issued by someone who was not
26 authorised to issue it;

- 1 (ii) the person knows the authority was obtained because of
2 false information given to the person (the *issuer*) who
3 issued the authority;
- 4 (iii) the person could reasonably believe that the authority has
5 been changed by someone other than the issuer;
- 6 (iv) the person could reasonably believe that the authority is
7 false in a material particular;
- 8 (v) the person could reasonably believe that the supply
9 authority is a forgery.

10 (2) A person commits an offence if—

- 11 (a) the person is authorised to supply a declared substance on a
12 supply authority; and
- 13 (b) the person is given a supply authority for the supply of the
14 substance; and
- 15 (c) a relevant circumstance applies in relation to the authority; and
- 16 (d) the person does not cancel the authority as prescribed by
17 regulation.

18 Maximum penalty: 100 penalty units, imprisonment for 1 year or
19 both.

20 *Note* For how long a cancelled supply authority must be kept, see s 47.

21 **31 Supply of certain declared substances—information for**
22 **chief health officer**

23 (1) A person commits an offence if—

- 24 (a) the person supplies any of the following on a supply authority:
25 (i) a controlled medicine;
- 26 (ii) a declared substance (other than a controlled medicine)
27 prescribed by regulation; and

- 1 (b) the person does not give the chief health officer the required
2 information as prescribed by regulation.
- 3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.
- 5 (2) A person commits an offence if—
- 6 (a) the person supplies any of the following otherwise than on a
7 supply authority:
- 8 (i) a controlled medicine;
- 9 (ii) a declared substance (other than a controlled medicine)
10 prescribed by regulation; and
- 11 (b) the person does not give the chief health officer the required
12 information as prescribed by regulation.
- 13 Maximum penalty: 100 penalty units, imprisonment for 1 year or
14 both.
- 15 (3) Strict liability applies to subsection (1) (b) and subsection (2) (b).
- 16 (4) In this section:
- 17 *required information* means the information prescribed by
18 regulation.
- 19 **32 Information about invalid supply authorities for chief**
20 **health officer**
- 21 (1) A person commits an offence if—
- 22 (a) the person cancels a supply authority for a declared substance
23 prescribed by regulation for section 30 (Cancellation etc of
24 invalid supply authorities for declared substances); and
- 25 (b) the declared substance is—
- 26 (i) a prescription only medicine; or

- 1 (ii) a controlled medicine; or
2 (iii) a dangerous poison; or
3 (iv) another declared substance prescribed by regulation; and
4 (c) either—
5 (i) the person fails to tell the chief health officer and a police
6 officer about the authority and the reason for cancelling
7 the authority immediately after cancelling it; or
8 (ii) not later than 24 hours after the relevant circumstance
9 under section 30 happens, the person fails to—
10 (A) tell the chief health officer, in writing, about the
11 reason; and
12 (B) give the chief health officer a copy of the cancelled
13 authority.
14 Maximum penalty: 100 penalty units, imprisonment for 1 year or
15 both.
16 (2) A person commits an offence if—
17 (a) the person supplies a declared substance on a supply authority;
18 and
19 (b) the declared substance is—
20 (i) a prescription only medicine; or
21 (ii) a controlled medicine; or
22 (iii) a dangerous poison; or
23 (iv) another declared substance prescribed by regulation; and

- 1 (c) after the person supplies the substance the person becomes
2 aware of any of the following (the *designated circumstance*):
- 3 (i) the supply authority was issued by someone who was not
4 authorised to issue it;
- 5 (ii) the supply contravened a provision of—
- 6 (A) section 27 (1) (c) (Supplying declared substances on
7 invalid supply authorities—strict liability offences);
8 or
- 9 (B) section 29 (1) (b) (Supplying declared substances on
10 invalid supply authorities—other offences); and
- 11 (d) either—
- 12 (i) the person fails to tell the chief health officer and a police
13 officer about the supply authority immediately after the
14 person becomes aware of the designated circumstance; or
- 15 (ii) not later than 24 hours after the person becomes aware of
16 the designated circumstance, the person fails to—
- 17 (A) tell the chief health officer, in writing, about the
18 supply authority; and
- 19 (B) give the chief health officer a copy of the authority.
- 20 Maximum penalty: 100 penalty units, imprisonment for 1 year or
21 both.

- 1 (3) A person must not be prosecuted for an offence under subsection (2)
2 involving a contravention of section 27 (1) (c) or section 29 (1) (b)
3 if—
4 (a) at the time the person supplied the declared substance on the
5 supply authority the person believed on reasonable grounds
6 that no designated circumstance applied in relation to the
7 supply authority; and
8 (b) the person does not contravene subsection (2).

9 **Division 4.1.3 Regulated substances—other**
10 **dealings**

11 **33 Manufacturing regulated substances**

12 A person commits an offence if—

- 13 (a) the person manufactures a regulated substance; and
14 (b) the person is not authorised to manufacture the substance.

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

17 **34 Discarding declared etc substances**

18 (1) A person commits an offence if—

- 19 (a) a regulation prescribes how a declared substance must be
20 discarded; and
21 (b) the person discards the substance; and
22 (c) the person does not discard the substance as prescribed.

23 Maximum penalty: 100 penalty units, imprisonment for 1 year or
24 both.

- 1 (2) A person commits an offence if—
2 (a) the person possesses a declared substance; and
3 (b) the chief health officer gives the person a direction under
4 section 191 (Directions about dealings with regulated
5 substances and therapeutic goods) in relation to the discarding
6 of the substance; and
7 (c) the person does not discard the substance as directed.
8 Maximum penalty: 100 penalty units, imprisonment for 1 year or
9 both.
- 10 (3) A person commits an offence if the person discards a declared
11 substance in a way that—
12 (a) puts the health or safety of people at risk; or
13 (b) is likely to cause damage to property or the environment.
14 Maximum penalty: 100 penalty units, imprisonment for 1 year or
15 both.
- 16 *Note* The *Dangerous Substances Act 2004* and *Environment Protection*
17 *Act 1997* may also apply to the discarding of a regulated substance.
- 18 (4) However, subsection (3) does not apply if the declared substance is
19 discarded in accordance with—
20 (a) a regulation about how the substance must be discarded; or
21 (b) a direction by the chief health officer under section 191.
- 22 (5) A person commits an offence if—
23 (a) the person discards a low harm poison or moderate harm
24 poison; and
25 (b) the poison is not a declared substance; and

- 1 (c) the discarding—
2 (i) puts the health or safety of people at risk; or
3 (ii) causes damage to property or the environment.

4 Maximum penalty: 50 penalty units, imprisonment for 6 months or
5 both.

6 *Note* The *Dangerous Substances Act 2004* and *Environment Protection*
7 *Act 1997* may also apply to the discarding of regulated substances.

8 **35 Obtaining certain declared substances**

- 9 (1) A person commits an offence if—
10 (a) the person obtains a declared substance that is—
11 (i) a pharmacy medicine, or pharmacist only medicine,
12 prescribed by regulation; or
13 (ii) a prescription only medicine; or
14 (iii) a controlled medicine; or
15 (iv) a dangerous poison; or
16 (v) a prohibited substance; and
17 (b) the person is not authorised to obtain the substance.

18 Maximum penalty: 200 penalty units, imprisonment for 2 years or
19 both.

- 20 (2) A person commits an offence if—
21 (a) the person obtains a prescription only medicine; and
22 (b) the person is not authorised to obtain the medicine.

23 Maximum penalty: 50 penalty units.

- 24 (3) An offence against subsection (2) is a strict liability offence.

- 1 **36** **Possessing certain declared substances**
- 2 A person commits an offence if—
- 3 (a) the person possesses a declared substance that is—
- 4 (i) a pharmacy medicine, or pharmacist only medicine,
5 prescribed by regulation; or
- 6 (ii) a prescription only medicine; or
- 7 (iii) a controlled medicine; or
- 8 (iv) a dangerous poison; or
- 9 (v) a prohibited substance; and
- 10 (b) the person is not authorised to possess the substance.
- 11 Maximum penalty: 200 penalty units, imprisonment for 2 years or
12 both.
- 13 **37** **Administering certain declared substances**
- 14 (1) A person commits an offence if—
- 15 (a) the person administers a declared substance (other than a
16 pharmacy medicine or pharmacist only medicine) to someone
17 else; and
- 18 (b) the person is not authorised to administer the substance to the
19 other person.
- 20 Maximum penalty: 100 penalty units, imprisonment for 1 year or
21 both.
- 22 (2) A person commits an offence if—
- 23 (a) the person administers a declared substance (other than a
24 pharmacy medicine or pharmacist only medicine) to himself or
25 herself; and

1 (b) the person is not authorised to administer the substance to
2 himself or herself.

3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.

5 (3) A person commits an offence if—

6 (a) the person administers a declared substance (other than a
7 pharmacy medicine or pharmacist only medicine) to an animal;
8 and

9 (b) the person is not authorised to administer the substance to the
10 animal.

11 Maximum penalty: 100 penalty units, imprisonment for 1 year or
12 both.

13 **38 Issuing purchase orders for declared substances**

14 (1) A person commits an offence if—

15 (a) the person issues a purchase order for a declared substance;
16 and

17 (b) the person is not authorised to issue the purchase order for the
18 substance.

19 Maximum penalty: 100 penalty units, imprisonment for 1 year or
20 both.

21 (2) A person commits an offence if—

22 (a) the person is authorised to issue a purchase order for a declared
23 substance; and

24 (b) the person issues a purchase order for the substance; and

1 (c) the purchase order does not comply with the requirements
2 prescribed by regulation.

3 Maximum penalty: 50 penalty units.

4 (3) An offence against subsection (2) is a strict liability offence.

5 **39 Reporting loss and theft of certain regulated substances**

6 (1) In this section:

7 *reportable substance* means—

8 (a) a controlled medicine; or

9 (b) a dangerous poison; or

10 (c) a prohibited substance; or

11 (d) an appendix C substance; or

12 (e) another regulated substance prescribed by regulation.

13 (2) A person commits an offence if—

14 (a) the person is authorised to possess a reportable substance; and

15 (b) the person possesses the substance; and

16 (c) the substance is lost or the person suspects that the substance
17 has been lost; and

18 (d) the person fails to tell the chief health officer, in writing, about
19 the loss or suspected loss and how it happened as soon as
20 practicable (but not later than 7 days) after the day the person
21 becomes aware of the loss or suspected loss.

22 Maximum penalty: 50 penalty units, imprisonment for 6 months or
23 both.

24 (3) A person commits an offence if—

25 (a) the person is authorised to possess a reportable substance; and

- 1 (b) the person possesses the substance; and
2 (c) the substance is stolen or the person suspects that the substance
3 has been stolen; and
4 (d) the person fails to tell the chief health officer and a police
5 officer about the theft or suspected theft—
6 (i) orally immediately after the person becomes aware of the
7 theft or suspected theft; and
8 (ii) in writing not later than 24 hours after the person
9 becomes aware of the theft or suspected theft.
10 Maximum penalty: 50 penalty units, imprisonment for 6 months or
11 both.

12 **40 Prescribing medicines**

- 13 (1) A person commits an offence if—
14 (a) the person prescribes a medicine (whether orally or in writing)
15 for someone else; and
16 (b) the person is not authorised to prescribe the medicine for the
17 other person.
18 Maximum penalty: 100 penalty units, imprisonment for 1 year or
19 both.
20 (2) A person commits an offence if—
21 (a) the person prescribes a medicine (whether orally or in writing)
22 for himself or herself; and
23 (b) the person is not authorised to prescribe the medicine for
24 himself or herself.
25 Maximum penalty: 100 penalty units, imprisonment for 1 year or
26 both.

- 1 (3) A person commits an offence if—
2 (a) the person prescribes a medicine (whether orally or in writing)
3 for an animal; and
4 (b) the person is not authorised to prescribe the medicine for the
5 animal.
6 Maximum penalty: 100 penalty units, imprisonment for 1 year or
7 both.

8 **41 Issuing requisitions for medicines**

- 9 A person commits an offence if—
10 (a) the person issues a requisition for a medicine (whether orally
11 or in writing); and
12 (b) the person is not authorised to issue the requisition.
13 Maximum penalty: 100 penalty units, imprisonment for 1 year or
14 both.

15 **42 Issuing standing orders for medicines**

- 16 A person commits an offence if—
17 (a) the person issues a standing order for a medicine; and
18 (b) the person is not authorised to issue the standing order.
19 Maximum penalty: 100 penalty units, imprisonment for 1 year or
20 both.

21 **43 Medicines for animals not to be prescribed etc for human
22 use**

- 23 (1) A person commits an offence if—
24 (a) the person prescribes a medicine for human use; and

1 (b) the medicine is manufactured, packed, labelled or prepared for
2 use for animal treatment; and

3 (c) the person is not authorised to prescribe the medicine for
4 human use.

5 Maximum penalty: 100 penalty units, imprisonment for 1 year or
6 both.

7 (2) A person commits an offence if—

8 (a) the person supplies a medicine for human use; and

9 (b) the medicine is manufactured, packed, labelled or prepared for
10 use for animal treatment; and

11 (c) the person is not authorised to supply the medicine for human
12 use.

13 Maximum penalty: 100 penalty units, imprisonment for 1 year or
14 both.

15 *Note* **Supply** includes dispense (see s 24).

16 (3) A person commits an offence if—

17 (a) the person administers a medicine to himself, herself or
18 someone else; and

19 (b) the medicine is manufactured, packed, labelled or prepared for
20 use for animal treatment; and

21 (c) the person is not authorised to administer the medicine for
22 human use.

23 Maximum penalty: 100 penalty units, imprisonment for 1 year or
24 both.

1 **Division 4.1.4 Dealings—other offences**

2 **44 Contravening authorisation conditions for regulated**
3 **substances**

- 4 (1) A person commits an offence if—
5 (a) the person is authorised to deal with a regulated substance; and
6 (b) the authorisation is subject to a condition; and
7 (c) the person is reckless about whether the dealing contravenes
8 the condition.

9 Maximum penalty: 200 penalty units, imprisonment for 2 years or
10 both.

- 11 (2) A person commits an offence if—
12 (a) the person is authorised to deal with a regulated substance; and
13 (b) the authorisation is subject to a condition; and
14 (c) the person contravenes the condition.

15 Maximum penalty: 50 penalty units.

16 *Note 1* For examples of conditions that might be prescribed by regulation, see
17 s 186.

18 *Note 2* A reference to an Act includes a reference to the statutory instruments
19 made or in force under the Act, including any regulation (see
20 Legislation Act, s 104).

- 21 (3) An offence against subsection (2) is a strict liability offence.

- 1 **45** **Pretending to be authorised to deal with regulated**
2 **substance**
- 3 (1) A person commits an offence if the person pretends to be authorised
4 to deal with a regulated substance.
- 5 Maximum penalty: 100 penalty units, imprisonment for 1 year or
6 both.
- 7 (2) A person commits an offence if the person pretends to be authorised
8 to deal with a regulated substance.
- 9 Maximum penalty: 50 penalty units.
- 10 (3) An offence against subsection (2) is a strict liability offence.

1 **Part 4.2** **Records for regulated**
2 **substances—offences**

3 **Division 4.2.1** **Record-keeping generally**

4 **46** **Accessibility of records**

- 5 (1) A person commits an offence if—
6 (a) the person is required under this Act to record something in
7 relation to a regulated substance; and
8 (b) the person does not record the thing—
9 (i) in writing; and
10 (ii) in English; and
11 (iii) in a way that is easily retrievable.

12 Maximum penalty: 50 penalty units.

13 *Note 1* **Written** includes in electronic form (see dict).

14 *Note 2* A reference to an Act includes a reference to statutory instruments made
15 or in force under the Act, including any regulation and any law or
16 instrument applied, adopted or incorporated by the Act (see Legislation
17 Act, s 104).

- 18 (2) An offence against this section is a strict liability offence.

19 **47** **Keeping cancelled invalid supply authorities**

- 20 (1) A person commits an offence if—
21 (a) the person cancels a supply authority under section 30
22 (Cancellation etc of invalid supply authorities for declared
23 substances); and

- 1 (b) the person fails to ensure that the cancelled supply authority is
2 kept for at least 2 years after the day the person cancels the
3 supply authority.
- 4 Maximum penalty: 50 penalty units.
- 5 (2) Subsection (1) does not apply to a person if—
- 6 (a) the person is required under this Act to give the supply
7 authority to the chief health officer or a police officer; or
- 8 (b) either the chief health officer or a police officer requires the
9 person to give the supply authority to the chief health officer or
10 police officer.
- 11 (3) An offence against subsection (1) is a strict liability offence.

12 **Division 4.2.2 Registers for regulated substances**

13 **48 Meaning of *must keep* register—div 4.2.2**

14 For this division, a person *must keep* a register for a regulated
15 substance—

- 16 (a) if the person is prescribed by regulation for the substance; or
- 17 (b) if—
- 18 (i) the person is a pharmacist who is responsible for the
19 management of a community pharmacy; and
- 20 (ii) controlled medicines are kept at the pharmacy.

21 *Note* **Community pharmacy**—see the dictionary.

22 **49 Registers—not keeping**

- 23 (1) A person commits an offence if—
- 24 (a) the person must keep a register for a regulated substance; and

1 (b) the person does not keep the register as prescribed by
2 regulation.

3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.

5 (2) A person commits an offence if—

6 (a) the person must keep a register for a regulated substance; and

7 (b) the person does not keep the register as prescribed by
8 regulation.

9 Maximum penalty: 50 penalty units.

10 (3) An offence against subsection (2) is a strict liability offence.

11 **50 Registers—where to be kept**

12 (1) A person commits an offence if—

13 (a) the person must keep a register for a regulated substance; and

14 (b) a regulation prescribes a place to keep the register; and

15 (c) the person fails to keep the register at the place prescribed.

16 Maximum penalty: 100 penalty units, imprisonment for 1 year or
17 both.

18 (2) A person commits an offence if—

19 (a) the person must keep a register for a regulated substance; and

20 (b) a regulation prescribes a place to keep the register; and

21 (c) the person fails to keep the register at the place prescribed.

22 Maximum penalty: 50 penalty units.

23 (3) An offence against subsection (2) is a strict liability offence.

1 **51 Registers—duty to ensure entries made**

2 (1) A person (the *principal*) who must keep a register for a regulated
3 substance commits an offence if—

4 (a) the principal, or an employee or agent of the principal, deals
5 with the regulated substance; and

6 (b) the principal fails to ensure that the details prescribed by
7 regulation for the dealing are entered in the register prescribed
8 by regulation as soon as practicable (but not later than
9 24 hours) after the dealing happens.

10 Maximum penalty: 50 penalty units.

11 (2) An offence against subsection (1) is a strict liability offence.

12 **52 Registers—signing entries**

13 (1) A person commits an offence if—

14 (a) the person makes an entry in a register for a regulated
15 substance; and

16 (b) the person fails to sign the entry as soon as practicable (but not
17 later than 24 hours) after the entry is made.

18 Maximum penalty: 50 penalty units.

19 *Note* *Signs*—see the dictionary.

20 (2) An offence against this section is a strict liability offence.

21 **53 Registers—witnessing administration of medicines**

22 A person commits an offence if—

23 (a) a regulated substance is prescribed by regulation; and

24 (b) the person is prescribed by regulation as a witness in relation to
25 the administration of the substance; and

- 1 (c) the person witnesses the administration of the medicine; and
2 (d) the administration of the medicine is entered in a register for
3 the medicine; and
4 (e) the person fails to sign the entry in the register as witness as
5 soon as practicable (but not later than 24 hours) after the entry
6 is made.

7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
8 both.

9 *Note Signs*—see the dictionary.

10 **54 Registers—witnessing discarding**

11 A person commits an offence if—

- 12 (a) a regulated substance is prescribed by regulation; and
13 (b) the person is prescribed by regulation as a witness in relation to
14 the discarding of the substance; and
15 (c) the person witnesses the discarding of the substance; and
16 (d) the discarding of the substance is entered in the register for the
17 substance; and
18 (e) the person fails to sign the entry in the register as witness as
19 soon as practicable (but not later than 24 hours) after the entry
20 is made.

21 Maximum penalty: 100 penalty units, imprisonment for 1 year or
22 both.

23 *Note Signs*—see the dictionary.

1 **55 Registers—changes etc to entries**

2 (1) A person commits an offence if the person cancels, changes, deletes
3 or obliterates an entry in a register for a regulated substance.

4 Maximum penalty: 100 penalty units, imprisonment for 1 year or
5 both.

6 (2) However, subsection (1) does not apply to a person if the person—

7 (a) made the entry in the register; and

8 (b) amends the entry as prescribed by regulation.

9 *Note* It is an offence to produce a document in compliance with a territory
10 law if the document is false or misleading in a material particular (see
11 Criminal Code, s 339).

12 **56 Registers—period to be kept**

13 (1) A person commits an offence if—

14 (a) the person must keep a register for a regulated substance; and

15 (b) the person fails to ensure that the register is kept for at least
16 2 years after the day when the last entry is made in the register.

17 Maximum penalty: 50 penalty units.

18 *Note* For how long a register for a regulated substance kept electronically
19 must be kept, see the *Electronic Transactions Act 2001*, s 11 and this
20 Act, s 187.

21 (2) An offence against this section is a strict liability offence.

22 **57 Registers—damage or loss**

23 (1) A person commits an offence if—

24 (a) the person must keep a register for a regulated substance; and

25 (b) the register is damaged in a material respect, stolen, lost or
26 destroyed; and

1 (c) the person fails to tell the chief health officer, in writing, about
2 the damage, theft, loss or destruction as soon as practicable
3 (but not later than 7 days) after the day it happens.

4 Maximum penalty: 100 penalty units, imprisonment for 1 year or
5 both.

6 (2) A person commits an offence if—

7 (a) the person must keep a register for a regulated substance; and

8 (b) the register is damaged in a material respect, stolen, lost or
9 destroyed; and

10 (c) the person does not take an inventory as prescribed by
11 regulation of each regulated substance in the person's
12 possession to which the register related.

13 *Note* **Possess** includes have control over disposition (see s 24).

14 Maximum penalty: 100 penalty units, imprisonment for 1 year or
15 both.

16 (3) This section does not apply to a register for a regulated substance if
17 the most recent entry in the register is made more than 2 years
18 before the day the register is damaged, stolen, lost or destroyed.

19 (4) In this section:

20 **material respect**—a register for a regulated substance is damaged in
21 a **material respect** if anything required to be entered in the register
22 is missing or cannot be easily read.

1 **58 Transferring responsibility for community pharmacies—**
2 **stocktake etc of controlled medicines**

- 3 (1) A pharmacist (the *responsible pharmacist*) who is responsible for
4 the management of a community pharmacy commits an offence if—
5 (a) the pharmacist proposes to stop being responsible for the
6 pharmacy for a continuous period of longer than 14 days; and
7 (b) before the pharmacist stops being responsible for the
8 pharmacy, the pharmacist fails to—
9 (i) take a written inventory of each quantity of each form and
10 strength of a controlled medicine held in the pharmacy;
11 and
12 (ii) enter each of the quantities in the controlled medicines
13 register for the pharmacy; and
14 (iii) sign and date each entry in the register.

15 Maximum penalty: 100 penalty units, imprisonment for 1 year or
16 both.

17 *Note* *Community pharmacy* and *signs*—see the dictionary.

- 18 (2) A pharmacist commits an offence if—
19 (a) the pharmacist intends to take responsibility for a community
20 pharmacy for a continuous period of more than 14 days; and
21 (b) before taking responsibility for the pharmacy, the pharmacist
22 fails to—
23 (i) check the entries made in the controlled medicines
24 register for the pharmacy under subsection (1) (b) (ii); and

- 1 (ii) for each of the entries in the register, indicate in writing
2 whether the pharmacist agrees that the entry is a correct
3 record of the quantity of the form and strength of the
4 controlled medicine held in the pharmacy; and
- 5 (iii) sign and date each of the entries in the register.
- 6 Maximum penalty: 100 penalty units, imprisonment for 1 year or
7 both.
- 8 (3) The responsible pharmacist for a community pharmacy commits an
9 offence if—
- 10 (a) the pharmacist takes an inventory of controlled medicines held
11 in the pharmacy; and
- 12 (b) the quantity of a form and strength of a controlled medicine
13 held at the pharmacy is not the quantity shown for the form and
14 strength of the medicine in the controlled medicines register
15 for the pharmacy; and
- 16 (c) the pharmacist fails to take reasonable steps to resolve the
17 discrepancy between—
- 18 (i) the quantity of the form and strength of the controlled
19 medicine held at the pharmacy; and
- 20 (ii) the quantity shown in the register.
- 21 Maximum penalty: 100 penalty units, imprisonment for 1 year or
22 both.
- 23 (4) The responsible pharmacist for a community pharmacy commits an
24 offence if—
- 25 (a) the pharmacist takes an inventory of controlled medicines held
26 in the pharmacy; and

- 1 (b) the quantity of a form and strength of a controlled medicine
2 held at the pharmacy is not the quantity shown for the form and
3 strength of the medicine in the controlled medicines register
4 for the pharmacy; and
- 5 (c) the pharmacist does not tell the chief health officer about the
6 discrepancy—
- 7 (i) orally immediately after checking the entries in the
8 controlled medicines register; and
- 9 (ii) in writing not later than 24 hours after finishing the check.
- 10 Maximum penalty: 50 penalty units, imprisonment for 6 months or
11 both.
- 12 (5) In this section:
- 13 ***controlled medicines register***, for a community pharmacy, means a
14 register for controlled medicines that a pharmacist must keep for the
15 pharmacy under section 48 (Meaning of *must keep* register—
16 div 4.2.2).

1 **Part 4.3** **Regulated substances—other**
2 **offences**

3 **Division 4.3.1** **Packaging and labelling—offences**

4 **59** **Packaging of supplied regulated substances**

5 (1) A person commits an offence if—

6 (a) the person is authorised to supply a regulated substance; and

7 (b) the person supplies the substance to someone else; and

8 (c) the substance is not packaged—

9 (i) as prescribed by regulation; or

10 (ii) in accordance with an approval under section 193
11 (Approval of non-standard packaging and labelling).

12 Maximum penalty: 100 penalty units, imprisonment for 1 year or
13 both.

14 (2) A person commits an offence if—

15 (a) the person is authorised to supply a regulated substance; and

16 (b) the person supplies the substance to someone else; and

17 (c) the substance is not packaged—

18 (i) as prescribed by regulation; or

19 (ii) in accordance with an approval under section 193.

20 Maximum penalty: 50 penalty units.

21 (3) This section does not apply to a regulated substance that is supplied
22 for immediate administration to a person.

23 (4) An offence against subsection (2) is a strict liability offence.

- 1 **60 Labelling of supplied regulated substances**
- 2 (1) A person commits an offence if—
- 3 (a) the person is authorised to supply a regulated substance; and
- 4 (b) the person supplies a regulated substance to someone else; and
- 5 (c) the substance is not labelled—
- 6 (i) as prescribed by regulation; or
- 7 (ii) in accordance with an approval under section 193
- 8 (Approval of non-standard packaging and labelling).
- 9 Maximum penalty: 100 penalty units, imprisonment for 1 year or
- 10 both.
- 11 (2) A person commits an offence if—
- 12 (a) the person is authorised to supply a regulated substance; and
- 13 (b) the person supplies a regulated substance to someone else; and
- 14 (c) the substance is not labelled—
- 15 (i) as prescribed by regulation; or
- 16 (ii) in accordance with an approval under section 193.
- 17 Maximum penalty: 50 penalty units.
- 18 (3) This section does not apply to a regulated substance that is supplied
- 19 for immediate administration to a person.
- 20 (4) An offence against subsection (2) is a strict liability offence.

1 **Division 4.3.2 Storage—offence**

2 **61 Storing declared substances**

3 A person commits an offence if—

- 4 (a) the person is authorised to possess a declared substance; and
5 (b) the person is prescribed by regulation in relation to the
6 substance; and
7 (c) the person fails to store the substance as prescribed by
8 regulation.

9 Maximum penalty: 100 penalty units, imprisonment for 1 year or
10 both.

11 **Division 4.3.3 Containers—offences**

12 **62 Permanently named containers—use for other regulated**
13 **substances**

14 A person commits an offence if—

- 15 (a) the person uses a container for a regulated substance; and
16 (b) the container is permanently marked with the name of a
17 different regulated substance.

18 Maximum penalty: 50 penalty units, imprisonment for 6 months or
19 both.

20 **63 Certain containers not to be used for human use**
21 **substances**

22 (1) A person commits an offence if—

- 23 (a) the person supplies a human use substance in a container; and

- 1 (b) the container is of a kind prescribed by regulation.
2 Maximum penalty: 50 penalty units, imprisonment for 6 months or
3 both.
4 (2) For this section, each of the following substances is a *human use*
5 *substance*:
6 (a) food;
7 (b) a drink;
8 (c) a condiment.

9 **Division 4.3.4 Representations and**
10 **advertisements—offences**

11 **64 False statements to obtain certain regulated substances**
12 **etc**

- 13 (1) In this section:
14 *reportable substance*—see section 39.
15 (2) A person commits an offence if—
16 (a) the person makes a statement to a person (the *authorised*
17 *person*) who is authorised to administer or supply a reportable
18 substance; and
19 *Note* *Supply* includes dispense on prescription (see s 24).
20 (b) the statement is false or misleading; and
21 (c) the person knows the statement—
22 (i) is false or misleading; or
23 (ii) omits anything without which the statement is false or
24 misleading; and

- 1 (d) the person makes the statement for the purpose of obtaining the
2 substance from the authorised person.
- 3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.
- 5 (3) A person commits an offence if—
- 6 (a) the person makes a statement to a person (the *authorised*
7 *person*) who is authorised to issue a prescription or purchase
8 order for a reportable substance; and
- 9 (b) the statement is false or misleading; and
- 10 (c) the person is reckless about whether the statement—
- 11 (i) is false or misleading; or
- 12 (ii) omits anything without which the statement is false or
13 misleading; and
- 14 (d) the person makes the statement for the purpose of obtaining the
15 prescription or purchase order from the authorised person.
- 16 Maximum penalty: 50 penalty units, imprisonment for 6 months or
17 both.
- 18 (4) A person commits an offence if—
- 19 (a) the person states a name or residential address to—
- 20 (i) a person (the *authorised person*) authorised to dispense a
21 reportable substance; or
- 22 (ii) an employee or agent of an authorised person in the
23 course of the employee's or agent's employment or
24 agency; and
- 25 (b) the statement—
- 26 (i) is false or misleading; or

1 (ii) omits anything without which the statement is false or
2 misleading.

3 Maximum penalty: 50 penalty units.

4 (5) An offence against subsection (4) is a strict liability offence.

5 (6) Subsections (2), (3) and (4) do not apply to the making of a
6 statement if the statement is not false or misleading in a material
7 particular.

8 (7) Subsections (2), (3) and (4) do not apply to the omission of
9 something from a statement if the omission does not make the
10 statement not false or misleading in a material particular.

11 **65 Falsely representing substance is regulated**

12 (1) A person (the *supplier*) commits an offence if—

13 (a) the supplier supplies a substance as a particular regulated
14 substance (the *purported substance*); and

15 (b) the supplier knows that the substance is not the purported
16 substance.

17 Maximum penalty: 200 penalty units, imprisonment for 2 years or
18 both.

19 (2) A person (the *supplier*) commits an offence if—

20 (a) the supplier supplies a substance as a particular regulated
21 substance (the *purported substance*); and

22 (b) the supplier is reckless about whether the substance is the
23 purported substance.

24 Maximum penalty: 100 penalty units, imprisonment for 1 year or
25 both.

- 1 **66 Advertising controlled medicines and prohibited**
2 **substances**
- 3 (1) A person commits an offence if—
- 4 (a) the person publishes an advertisement; and
- 5 (b) the advertisement promotes or encourages the use of a
6 controlled medicine or prohibited substance.
- 7 Maximum penalty: 100 penalty units, imprisonment for 1 year or
8 both.
- 9 (2) A person commits an offence if—
- 10 (a) the person publishes an advertisement; and
- 11 (b) the advertisement indicates that someone is willing or
12 authorised to supply a controlled medicine or prohibited
13 substance.
- 14 Maximum penalty: 100 penalty units, imprisonment for 1 year or
15 both.
- 16 (3) This section does not apply to—
- 17 (a) an advertisement for a controlled medicine in a publication
18 published primarily for dentists, doctors, pharmacists or
19 veterinary surgeons; or
- 20 (b) an advertisement by a pharmacist prescribed by regulation; or
- 21 (c) an advertisement prescribed by regulation.
- 22 (4) In this section:
- 23 **advertisement** means writing, sound or a picture, symbol, light or
24 other visible device, object or sign (or a combination of 2 or more of
25 these) that a reasonable person would consider publicises, or
26 otherwise promotes, the purchase or use of a controlled medicine or
27 prohibited substance.

1 **Division 4.3.5 Vending machines—offences**

2 **67 Meaning of *vending machine*—div 4.3.5**

3 In this division:

4 *vending machine* means a machine or device from which regulated
5 substances can be obtained, including by 1 or more of the following:

- 6 (a) electronic funds transfer;
7 (b) inserting money, a token or another object.

8 **Example of other objects—par (b)**

- 9 1 credit card
10 2 debit card
11 3 key

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

15 **68 Vending machines—use for supply of regulated**
16 **substances**

- 17 (1) A person commits an offence if—
18 (a) the person is the occupier of premises; and
19 (b) a vending machine is installed on the premises; and
20 (c) the vending machine is used, or available for use, for the
21 supply of a regulated substance by a person other than the
22 occupier or an employee or agent of the occupier.

23 Maximum penalty: 100 penalty units, imprisonment for 1 year or
24 both.

- 25 (2) Subsection (1) does not apply if the vending machine was placed on
26 the premises without the occupier's consent.

1 **69 Vending machines—use for supply of unscheduled**
2 **medicines**

3 (1) In this section:

4 *manufacturer's pack*, of an unscheduled medicine, means a primary
5 pack of the medicine that has been packaged and labelled by the
6 medicine's manufacturer as prescribed by regulation.

7 *Note Primary pack* means the pack in which medicine and its immediate
8 container or immediate wrapper or measure pack are presented for sale
9 or supply (see the medicines and poisons standard).

10 *unscheduled medicine* means a substance mentioned in the
11 medicines and poisons standard, schedules 2, 3, 4 or 8 if none of the
12 schedules apply to the substance because of an exception in the
13 standard.

14 **Example**

15 Aspirin is mentioned in several schedules but in small packages is an unscheduled
16 medicine.

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

20 (2) A person commits an offence if—

21 (a) the person is the occupier of premises; and

22 (b) a vending machine is installed on the premises; and

23 (c) the vending machine is used, or available for use, for the
24 supply of an unscheduled medicine.

25 Maximum penalty: 100 penalty units, imprisonment for 1 year or
26 both.

27 (3) Subsection (2) does not apply if the vending machine was placed on
28 the premises without the occupier's consent.

- 1 (4) Also, subsection (2) does not apply if—
2 (a) the unscheduled medicine is supplied in a manufacturer’s pack
3 containing not more than 2 adult doses of the medicine; and
4 (b) the medicine was packed in the manufacturer’s pack by the
5 manufacturer of the medicine; and
6 (c) the vending machine is presented and located in a way that
7 makes unsupervised access by children unlikely.

8 **Division 4.3.6 Paints—offences**

9 *Note to div 4.3.6*

10 *Paint*—see the medicines and poisons standard, pt 1, par 1 (1) (see s 16).

11 **70 Manufacture, supply and use of paints containing white** 12 **lead**

- 13 (1) A person commits an offence if—
14 (a) the person manufactures a paint containing basic lead
15 carbonate (white lead); and
16 (b) the paint is not manufactured as prescribed by regulation.
17 Maximum penalty: 100 penalty units, imprisonment for 1 year or
18 both.
19 (2) A person commits an offence if—
20 (a) the person supplies a paint containing basic lead carbonate
21 (white lead); and
22 (b) the paint is not supplied as prescribed by regulation.
23 Maximum penalty: 100 penalty units, imprisonment for 1 year or
24 both.

- 1 (3) A person commits an offence if—
2 (a) the person uses a paint containing basic lead carbonate (white
3 lead); and
4 (b) the paint is not used as prescribed by regulation.
5 Maximum penalty: 100 penalty units, imprisonment for 1 year or
6 both.

7 **71 Manufacture, supply and use of paints for certain**
8 **purposes**

- 9 (1) A person commits an offence if the person manufactures, supplies or
10 uses a first schedule paint as prescribed by regulation.

11 Maximum penalty: 40 penalty units.

12 *Note* **First schedule paint**—see the medicines and poisons standard, pt 1,
13 par 1 (1).

- 14 (2) A person commits an offence if the person manufactures, supplies or
15 uses a second schedule paint as prescribed by regulation.

16 Maximum penalty: 50 penalty units, imprisonment for 6 months or
17 both.

18 *Note* **Second schedule paint**—see the medicines and poisons standard, pt 1,
19 par 1 (1).

- 20 (3) A person commits an offence if the person manufactures, supplies or
21 uses a third schedule paint as prescribed by regulation.

22 Maximum penalty: 100 penalty units, imprisonment for 1 year or
23 both.

24 *Note* **Third schedule paint**—see the medicines and poisons standard, pt 1,
25 par 1 (1).

1 **72** **Manufacture, supply and use of paints for toys**

2 A person commits an offence if—

3 (a) the person manufactures, supplies or uses a paint for
4 application to toys; and

5 (b) the paint is not prescribed by regulation.

6 Maximum penalty: 100 penalty units, imprisonment for 1 year or
7 both.

8 **73** **Manufacture, supply and use of paints containing**
9 **pesticides**

10 A person commits an offence if—

11 (a) the person manufactures, supplies or uses a paint containing a
12 pesticide; and

13 (b) the pesticide is not prescribed by regulation.

14 Maximum penalty: 100 penalty units, imprisonment for 1 year or
15 both.

16 *Note* **Pesticide**—see the medicines and poisons standard, pt 1, par 1 (1).

1 **Chapter 5 Offences relating to regulated**
2 **therapeutic goods**

3 **74 Supplying regulated therapeutic goods**

- 4 (1) A person commits an offence if—
5 (a) the person supplies a regulated therapeutic good to someone
6 else; and
7 (b) the person is not authorised to supply the good to the other
8 person.

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

11 *Note 1* **Supply** includes sell or offer to sell (see s 24).

12 *Note 2* **Regulated therapeutic good**—see s 14.

- 13 (2) A person commits an offence if—
14 (a) the person supplies a regulated therapeutic good to himself or
15 herself; and
16 (b) the person is not authorised to supply the good to himself or
17 herself.

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

20 **75 Contravening authorisation conditions for regulated**
21 **therapeutic goods**

- 22 (1) A person commits an offence if—
23 (a) the person is authorised to deal with a regulated therapeutic
24 good; and

- 1 (b) the authorisation is subject to a condition; and
2 (c) the person contravenes the condition.

3 Maximum penalty: 50 penalty units.

4 *Note* A reference to an Act includes a reference to the statutory instruments
5 made or in force under the Act, including any regulation (see
6 Legislation Act, s 104).

- 7 (2) An offence against this section is a strict liability offence.

8 **76 Pretending to be authorised to deal with regulated**
9 **therapeutic goods**

10 A person commits an offence if the person pretends to be authorised
11 to deal with a regulated therapeutic good.

12 Maximum penalty: 100 penalty units, imprisonment for 1 year or
13 both.

14 **77 Falsely representing thing is regulated**

- 15 (1) A person (the *supplier*) commits an offence if—

16 (a) the supplier supplies a thing as a particular regulated
17 therapeutic good (the *purported therapeutic good*); and

18 (b) the supplier knows that the thing is not the purported
19 therapeutic good.

20 Maximum penalty: 200 penalty units, imprisonment for 2 years or
21 both.

- 22 (2) A person (the *supplier*) commits an offence if—

23 (a) the supplier supplies a thing as a particular regulated
24 therapeutic good (the *purported therapeutic good*); and

Chapter 5 Offences relating to regulated therapeutic goods

Section 77

1 (b) the supplier is reckless about whether the thing is the purported
2 therapeutic good.

3 Maximum penalty: 100 penalty units, imprisonment for 1 year or
4 both.

1 **Chapter 6 Licences for regulated**
2 **substances and regulated**
3 **therapeutic goods**

4 **Part 6.1 Licences generally**

5 **78 Meaning of *licence* etc—ch 6**

6 (1) In this chapter:

7 *licence* means a licence that authorises the licence-holder to deal
8 with a regulated substance or regulated therapeutic good.

9 (2) A regulation may prescribe the licences that may be issued under
10 this Act.

11 (3) To remove any doubt, the chief health officer may issue a licence to
12 a person to deal with a regulated substance or regulated therapeutic
13 good even if the licence is not prescribed by regulation for
14 subsection (2).

15 **79 Meaning of *close associate*—ch 6**

16 (1) In this chapter:

17 *close associate*—a person is a *close associate* of someone (the
18 *related person*) if—

19 (a) the person holds or will hold an executive position (however
20 described) in the related person's business; or

Section 79

- 1 (b) the chief health officer is satisfied that the person is or will be
2 able to exercise a significant influence in relation to the
3 conduct of the related person's business because the person
4 holds or will hold a financial interest, or is entitled to exercise
5 a relevant power, in the business.

6 *Note* **Business**—see the dictionary.

7 (2) In this section:

8 **executive position**—a position (however described) in the related
9 person's business is an **executive position** if the holder of the
10 position is concerned with, or takes part in, the management of the
11 business.

12 **exercise** a power includes exercise the power on behalf of someone
13 else.

14 **financial interest**, in a business, means—

- 15 (a) a share in the capital of the business; or
16 (b) an entitlement to receive income derived from the business,
17 however the entitlement arises.

18 **hold** a position includes hold the position on behalf of someone else.

19 **power** means a power exercisable—

- 20 (a) by voting or otherwise; and
21 (b) alone or with others.

22 **relevant power**, in a business, means a power—

- 23 (a) to take part in a directorial, managerial or executive decision
24 for the business; or
25 (b) to elect or appoint a person as an executive officer in the
26 business.

- 1 **80** **Meaning of *influential person* for corporation—ch 6**
- 2 (1) In this chapter:
- 3 *influential person*, for a corporation, means any of the following:
- 4 (a) an executive officer of the corporation;
- 5 (b) a person who may exercise a relevant power in relation to the
- 6 corporation;
- 7 (c) a related corporation;
- 8 (d) an executive officer of a related corporation.
- 9 (2) In this section:
- 10 *related corporation* means a related body corporate under the
- 11 Corporations Act.
- 12 *relevant power*, for a corporation, means a power—
- 13 (a) to take part in a directorial, managerial or executive decision
- 14 for the corporation; or
- 15 (b) to elect or appoint a person as an executive officer in the
- 16 corporation; or
- 17 (c) to exercise a significant influence in relation to the conduct of
- 18 the corporation.
- 19 **81** **Suitability of individuals for licences**
- 20 (1) In deciding whether an individual is a *suitable person* to hold a
- 21 licence, the chief health officer must have regard to the following:
- 22 (a) the knowledge, experience and training of the individual in
- 23 relation to the regulated substances or regulated therapeutic
- 24 goods to which the licence relates;
- 25 (b) the dealings to which the licence relates;

Section 81

- 1 (c) whether the individual or a close associate of the individual, or
2 a corporation of which the individual was at the relevant time
3 an executive officer, has—
- 4 (i) supplied information or a document in relation to this Act
5 that is false or misleading in a material particular; or
- 6 (ii) contravened this Act or a corresponding law, whether or
7 not the individual, associate or corporation has been
8 convicted or found guilty of an offence for the
9 contravention; or
- 10 (iii) failed to comply with a condition of a licence under this
11 Act or a licence (however described) under a
12 corresponding law, whether or not the individual,
13 associate or corporation has been convicted or found
14 guilty of an offence for the failure;
- 15 (d) anything prescribed by regulation.
- 16 *Note* A reference to an Act includes a reference to statutory instruments made
17 or in force under the Act, including any regulation and any law or
18 instrument applied, adopted or incorporated by the Act (see Legislation
19 Act, s 104).
- 20 (2) However, an individual is not a *suitable person* to hold a licence
21 if—
- 22 (a) the individual, a close associate of the individual, or a
23 corporation of which the individual was at the relevant time an
24 executive officer, has been convicted or found guilty of any of
25 the following in the 5-year period before the day the
26 application for the licence is made:
- 27 (i) an offence against this Act;
- 28 (ii) an offence in Australia or elsewhere in relation to a
29 regulated substance or regulated therapeutic good; or

- 1 (b) the individual, or a close associate of the individual, is an
2 undischarged bankrupt or, at any time in the 5-year period
3 before the day the application for the licence is made—
4 (i) was an undischarged bankrupt; or
5 (ii) executed a personal insolvency agreement; or
6 (c) at any time in the 5-year period before the day the application
7 for the licence is made, the individual, or a close associate of
8 the individual, was involved in the management of a
9 corporation when—
10 (i) the corporation became the subject of a winding-up order;
11 or
12 (ii) an administrator was appointed for the corporation; or
13 (d) a circumstance prescribed by regulation applies in relation to
14 the individual or a close associate of the individual.
15 (3) Despite subsection (2), the chief health officer may decide that an
16 individual is a *suitable person* to hold a licence if satisfied that—
17 (a) the individual's dealings with regulated substances or regulated
18 therapeutic goods authorised, or to be authorised, by the
19 licence would not be inconsistent with the objects of this Act if
20 the chief health officer decided that the individual is a suitable
21 person; and
22 (b) it is otherwise in the public interest that the individual be
23 treated as a suitable person.

24 **82 Suitability of corporations for licences**

- 25 (1) For this Act, a corporation is a *suitable person* for a licence if—
26 (a) each influential person of the corporation is a suitable person to
27 hold a licence; and

Section 83

- 1 (b) the corporation is not the subject of a winding-up order, and
2 has not been the subject of a winding-up order in the 5-year
3 period before the day the application for the licence is made;
4 and
- 5 (c) an administrator has not been appointed for the corporation in
6 the 5-year period before the day the application for the licence
7 is made.
- 8 (2) However, if a corporation is not a suitable person for a licence under
9 subsection (1), the chief health officer may decide that the
10 corporation is a *suitable person* to hold a licence if satisfied that—
- 11 (a) the corporation's dealings with regulated substances or
12 regulated therapeutic goods authorised, or to be authorised, by
13 the licence would not be inconsistent with the objects of this
14 Act if the chief health officer decided that the corporation is a
15 suitable person; and
- 16 (b) it is otherwise in the public interest that the corporation be
17 treated as a suitable person.

18 **83 Power to ask for information etc from applicants and**
19 **others**

- 20 (1) In this section:
- 21 *application* means—
- 22 (a) an application for a licence; or
23 (b) an application to amend a licence.
- 24 *designated person*, in relation to an applicant or licence means—
- 25 (a) the applicant or licence-holder; or
26 (b) a close associate of, or influential person for, the applicant or
27 licence-holder.

- 1 (2) The chief health officer may, in writing, ask a designated person in
2 relation to an application or licence to do 1 or more of the following:
- 3 (a) give the chief health officer stated information relevant to the
4 application or licence;
- 5 (b) produce for the chief health officer's inspection a stated
6 document relevant to the application or licence;
- 7 (c) allow the chief health officer to examine, copy or take extracts
8 from a stated document relevant to the application or licence
9 (including a document produced for the chief health officer's
10 inspection under paragraph (b));
- 11 (d) verify, by statutory declaration or otherwise, information given
12 or a document produced to the chief health officer;
- 13 (e) authorise a stated person to do anything mentioned in
14 paragraphs (a) to (d);
- 15 (f) give the chief health officer the authorities and consents that
16 the chief health officer asks for to allow the chief health officer
17 to obtain from other people information (including financial
18 and other confidential information) that is—
- 19 (i) about the designated person; and
- 20 (ii) relevant to—
- 21 (A) the consideration of the application; or
- 22 (B) a consideration of whether the licence-holder
23 continues to be a suitable person for a licence.

24 **Examples—par (a)**

- 25 1 The notice may ask the designated person to give information by preparing a
26 document in a stated way (including as a statutory declaration) or by
27 completing a document provided by the chief health officer.
- 28 2 The notice may ask the designated person to give the chief health officer
29 information about a close associate because of a change of the kind to which
30 section 93 (Changes affecting suitability to hold licence) applies.

- 1 **Example—par (b)**
2 a statement supplied by a police officer about the applicant’s criminal history
3 (if any)
- 4 **Example—par (c)**
5 The notice may ask the applicant to authorise the applicant’s accountant, or a
6 former close associate, to give the chief health officer stated information or
7 documents about the applicant.
- 8 *Note 1* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
9 statutory declarations under ACT laws.
- 10 *Note 2* An example is part of the Act, is not exhaustive and may extend, but
11 does not limit, the meaning of the provision in which it appears (see
12 Legislation Act, s 126 and s 132).
- 13 (3) A request under subsection (2) must state a reasonable time within
14 which the request must be complied with.

1 **Part 6.2 Licences—issue and amendment**

2 **84 Applications for licences**

- 3 (1) A person may apply to the chief health officer for a licence.

4 *Note 1* If a form is approved under s 198 for this provision, the form must be
5 used.

6 *Note 2* A fee may be determined under s 197 for this section.

- 7 (2) The applicant must give the chief health officer a written statement
8 (*a change statement*) if, before the application is decided, a change
9 happens in relation to—

10 (a) something mentioned in the application; or

11 (b) a document, or something mentioned in a document, that
12 accompanied the application.

- 13 (3) A change statement must—

14 (a) set out the details of the change; and

15 (b) ask the chief health officer to amend the application to include
16 the change; and

17 (c) be signed by the applicant.

18 **85 Decision on applications for licences**

- 19 (1) On application under section 84, the chief health officer must issue
20 the licence to the applicant if satisfied that—

21 (a) no restriction on the issue of the licence prescribed by
22 regulation applies in relation to the applicant; and

23 (b) the applicant is a suitable person to hold the licence; and

Section 86

- 1 (c) the applicant can comply with this Act in relation to the
2 regulated substances or regulated therapeutic goods to which
3 the application relates.
- 4 (2) The chief health officer must refuse to issue the licence if not
5 satisfied about the matters mentioned in subsection (1).
- 6 (3) However, the chief health officer need not decide the application
7 if—
- 8 (a) the application does not include the information and any
9 documents required by the application form; or
- 10 (b) the chief health officer has asked for something under
11 section 83 (Power to ask for information etc from applicants
12 and others) and the request has not been complied with.

13 **86 Term of licences**

- 14 (1) A licence is issued for the period stated in the licence.
- 15 (2) A licence must not be issued for longer than 3 years, or any shorter
16 period prescribed by regulation.

17 **87 Licences not transferable**

18 A licence is not transferable.

19 **88 Form of licences**

- 20 (1) A licence must include the following information:
- 21 (a) what licence it is or the dealings authorised by the licence;
- 22 (b) the regulated substances or regulated therapeutic goods to
23 which the licence relates;
- 24 (c) the full name of the licence-holder;
- 25 (d) the licence-holder's ABN (if any);

- 1 (e) if the licence-holder is a corporation—the corporation’s ACN;
2 (f) if applicable, the location of the premises where the
3 licence-holder is authorised to deal with a regulated substance
4 or regulated therapeutic good under the licence;
5 (g) if applicable, the name of each individual who is to supervise
6 the dealings authorised under the licence;
7 (h) any conditions included in the licence by the chief health
8 officer;
9 *Note* See s 90 to s 92 for conditions included in a licence by the chief
10 health officer.
11 (i) a unique identifying number;
12 (j) when the term of the licence ends;
13 (k) any other information prescribed by regulation.
14 (2) For this Act, the conditions mentioned in subsection (1) (h) may be
15 included in a separate document and, if they are, the separate
16 document forms part of the licence.

17 **89 Statutory licence conditions**

18 A licence is subject to the following conditions:

- 19 (a) the licence-holder must comply with any written request by the
20 chief health officer under section 83 (Power to ask for
21 information etc from applicants and others) in relation to the
22 amendment of the licence;
23 (b) if section 93 (Changes affecting suitability to hold licence)
24 applies in relation to the licence-holder, the licence-holder
25 must comply with the section;
26 (c) a condition prescribed by regulation.

1 **90 Other licence conditions**

- 2 (1) A licence is subject to any condition the chief health officer includes
3 in the licence when giving the licence or at any other time.
- 4 (2) For subsection (1), the chief health officer may include a condition
5 in a licence to ensure that regulated substances and regulated
6 therapeutic goods are properly dealt with under the licence,
7 including, for example—
- 8 (a) a condition about—
- 9 (i) the supervision of dealings; and
- 10 (ii) the security of regulated substances and regulated
11 therapeutic goods and of premises where regulated
12 substances and regulated therapeutic goods are stored;
13 and
- 14 (iii) the keeping of records about dealings; and
- 15 (b) for a regulated substance—a condition recommended by the
16 medicines and poisons standard for dealing with the regulated
17 substance.

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

21 **91 Amending licence on chief health officer's initiative**

- 22 (1) The chief health officer may, by written notice (an *amendment*
23 *notice*) given to a licence-holder, amend the licence to change a
24 licence condition.
- 25 (2) However, the chief health officer may amend the licence to change a
26 licence condition only if—
- 27 (a) the chief health officer has given the licence-holder written
28 notice (a *proposal notice*) of the proposed amendment; and

- 1 (b) the notice states that written comments on the proposal may be
2 made to the chief health officer before the end of a stated
3 period of at least 14 days after the day the proposal notice is
4 given to the licence-holder; and
- 5 (c) after the end of the stated period, the chief health officer has
6 considered any comments made in accordance with the notice.
- 7 (3) The amendment takes effect on the day the amendment notice is
8 given to the licence-holder or any later day stated in the notice.
- 9 (4) In this section:
- 10 **change**, for a licence condition, means—
- 11 (a) amend an existing licence condition; or
12 (b) impose a new licence condition; or
13 (c) remove an existing licence condition.
- 14 **condition** does not include a condition mentioned in section 89
15 (Statutory licence conditions).

16 **92 Amending licence on application by licence-holder**

- 17 (1) A licence-holder may apply to the chief health officer to amend the
18 licence (including by changing a licence condition).
- 19 *Note 1* If a form is approved under s 198 for this provision, the form must be
20 used.
- 21 *Note 2* A fee may be determined under s 197 for this section.
- 22 (2) In deciding whether to amend the licence, the chief health officer
23 may consider anything that may be considered under section 85
24 (Decision on applications for licences) in relation to an application
25 for a licence.

Section 93

- 1 (3) If the chief health officer receives an application under
2 subsection (1), the chief health officer must—
- 3 (a) amend the licence in accordance with the application; or
4 (b) amend the licence in terms different to the application; or
5 (c) refuse to amend the licence.
- 6 (4) However, the chief health officer need not decide the application if
7 the chief health officer has asked for something under section 83
8 (Power to ask for information etc from applicants and others) and
9 the request has not been complied with.
- 10 (5) In this section:
- 11 *change*, for a licence condition—see section 91 (4).
12 *condition*—see section 91 (4).

13 **93 Changes affecting suitability to hold licence**

- 14 (1) This section applies if a licence-holder believes that there will be a
15 change (the *anticipated change*) to anything stated in—
- 16 (a) the licence; or
17 (b) an application to amend the licence.
- 18 *Note* Failure to comply with this section contravenes a condition of the
19 licence (see s 89 (1) (b)).
- 20 (2) The licence-holder must—
- 21 (a) give the chief health officer written notice of the anticipated
22 change not later than 7 days before the day the change is
23 expected to happen; and

- 1 (b) if the change affects the information shown on the licence—
2 apply under section 92 to amend the licence to take account of
3 the change.

4 **Examples of changes**

- 5 1 a change of the person who, under the licence that authorises the supply by
6 wholesale of a controlled medicine, must supervise the supply of the
7 medicine
8 2 a change in a close associate of, or influential person for, the licence-holder
9 3 a structural change in premises relevant to dealing with a regulated substance

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

13 **94 Returning licences for amendment**

- 14 (1) A licence-holder commits an offence if—
15 (a) the licence-holder's licence is amended under section 91
16 (Amending licence on chief health officer's initiative) or
17 section 92 (Amending licence on application by
18 licence-holder); and
19 (b) the licence-holder fails to return the licence to the chief health
20 officer as soon as practicable (but not later than 7 days) after
21 the day the licence-holder is told about the chief health
22 officer's action or decision.

23 Maximum penalty: 20 penalty units.

- 24 (2) An offence against this section is a strict liability offence.

25 **95 Replacing licences**

- 26 (1) The chief health officer may issue a replacement licence to a
27 licence-holder if satisfied that the licence-holder's original licence
28 has been lost, stolen or destroyed.

Chapter 6
Part 6.2

Licences for regulated substances and regulated therapeutic goods
Licences—issue and amendment

Section 95

1 (2) For subsection (1), the chief health officer may require the
2 licence-holder to give the chief health officer a statutory declaration
3 signed by the licence-holder, stating that the original licence has
4 been lost, stolen or destroyed.

5 *Note 1* A fee may be determined under s 197 for this section.

6 *Note 2* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
7 statutory declarations under ACT laws.

1 **Part 6.3 Licences—other provisions**

2 **96 Contravening licence conditions**

- 3 (1) A person commits an offence if—
4 (a) the person is a licence-holder; and
5 (b) the licence is subject to a condition; and
6 (c) the person is reckless about whether an act or omission by the
7 person contravenes the condition.

8 Maximum penalty: 200 penalty units, imprisonment for 2 years or
9 both.

- 10 (2) A licence-holder commits an offence if the licence-holder
11 contravenes a condition of the licence.

12 Maximum penalty: 50 penalty units.

- 13 (3) An offence against subsection (2) is a strict liability offence.

14 **97 Surrendering licences**

- 15 (1) A licence-holder may surrender the licence by giving written notice
16 of the surrender to the chief health officer.

- 17 (2) The licence-holder must, with the notice—

- 18 (a) return the licence to the chief health officer; or
19 (b) if the licence has been lost, stolen or destroyed—give the chief
20 health officer a statutory declaration signed by the
21 licence-holder stating that the licence has been lost, stolen or
22 destroyed.

23 *Note* The *Statutory Declarations Act 1959* (Cwlth) applies to the making of
24 statutory declarations under ACT laws.

- 1 **Chapter 7 Enforcement**
- 2 **Part 7.1 Inspection and seizure powers**
- 3 **Division 7.1.1 Preliminary**
- 4 **98 Definitions—pt 7.1**
- 5 In this part:
- 6 *connected*—a thing is *connected* with an offence if—
- 7 (a) the offence has been committed in relation to it; or
- 8 (b) it will provide evidence of the commission of the offence; or
- 9 (c) it was used, is being used, or is intended to be used, to commit
- 10 the offence.
- 11 *occupier*, of premises, includes—
- 12 (a) a person believed on reasonable grounds to be an occupier of
- 13 the premises; and
- 14 (b) a person apparently in charge of the premises.
- 15 *offence* includes an offence that there are reasonable grounds for
- 16 believing has been, is being, or will be, committed.
- 17 **99 Meaning of *medicines and poisons inspector*—Act**
- 18 In this Act:
- 19 *medicines and poisons inspector* means—
- 20 (a) a police officer; or
- 21 (b) a person appointed under section 100.

1 **Division 7.1.2 Medicines and poisons inspectors**

2 **100 Appointment of medicines and poisons inspectors**

3 The chief health officer may appoint a public servant to be a
4 medicines and poisons inspector for this Act.

5 *Note 1* For the making of appointments (including acting appointments), see
6 the Legislation Act, pt 19.3.

7 *Note 2* In particular, a person may be appointed for a particular provision of a
8 law (see Legislation Act, s 7 (3)) and an appointment may be made by
9 naming a person or nominating the occupant of a position (see
10 Legislation Act, s 207).

11 **101 Identity cards**

12 (1) The chief health officer must give a medicines and poisons inspector
13 (other than a police officer) an identity card stating the person's
14 name and that the person is a medicines and poisons inspector.

15 (2) The identity card must show—

- 16 (a) a recent photograph of the person; and
17 (b) the card's date of issue and expiry; and
18 (c) anything else prescribed by regulation.

19 (3) A person commits an offence if—

- 20 (a) the person stops being a medicines and poisons inspector; and
21 (b) the person does not return the person's identity card to the
22 chief health officer as soon as practicable (but not later than
23 7 days) after the day the person stops being a medicines and
24 poisons inspector.

25 Maximum penalty: 1 penalty unit.

26 (4) An offence against this section is a strict liability offence.

1 **Division 7.1.3 Powers of medicines and poisons**
2 **inspectors**

3 **102 Power to enter premises**

- 4 (1) For this Act, a medicines and poisons inspector may—
- 5 (a) at any reasonable time, enter premises that the public is entitled
6 to use or that are open to the public (whether or not on
7 payment); or
- 8 (b) at any reasonable time, enter premises that the public is entitled
9 to use or that are open to the public; or
- 10 (c) at any time, enter premises with the occupier's consent; or
- 11 (d) enter premises in accordance with a search warrant; or
- 12 (e) at any time, enter premises if the inspector believes on
13 reasonable grounds that the circumstances are so serious and
14 urgent that immediate entry to the premises without the
15 authority of a search warrant is necessary.
- 16 (2) However, subsection (1) (a) does not authorise entry into a part of
17 premises that is being used only for residential purposes.
- 18 (3) A medicines and poisons inspector may, without the consent of the
19 occupier of premises, enter land around the premises to ask for
20 consent to enter the premises.
- 21 (4) To remove any doubt, a medicines and poisons inspector may enter
22 premises under subsection (1) without payment of an entry fee or
23 other charge.
- 24 (5) In this section:
- 25 *at any reasonable time* includes at any time when the public is
26 entitled to use the premises, or when the premises are open to or
27 used by the public (whether or not on payment).

1 **103 Production of identity card**

2 A medicines and poisons inspector must not remain at premises
3 entered under this part if the inspector does not produce his or her
4 identity card when asked by the occupier.

5 **104 Consent to entry**

6 (1) When seeking the consent of an occupier of premises to enter the
7 premises under section 102 (1) (b), a medicines and poisons
8 inspector must—

9 (a) produce his or her identity card; and

10 (b) tell the occupier—

11 (i) the purpose of the entry; and

12 (ii) that anything found and seized under this part may be
13 used in evidence in court; and

14 (iii) that consent may be refused.

15 (2) If the occupier consents, the medicines and poisons inspector must
16 ask the occupier to sign a written acknowledgment (an
17 *acknowledgement of consent*)—

18 (a) that the occupier was told—

19 (i) the purpose of the entry; and

20 (ii) that anything found and seized under this part may be
21 used in evidence in court; and

22 (iii) that consent may be refused; and

23 (b) that the occupier consented to the entry; and

24 (c) stating the time and date when consent was given.

25 (3) If the occupier signs an acknowledgment of consent, the medicines
26 and poisons inspector must immediately give a copy to the occupier.

- 1 (4) A court must find that the occupier did not consent to entry to the
2 premises by the medicines and poisons inspector under this division
3 if—
4 (a) the question arises in a proceeding in the court whether the
5 occupier consented to the entry; and
6 (b) an acknowledgment of consent is not produced in evidence;
7 and
8 (c) it is not proved that the occupier consented to the entry.

9 **105 General powers on entry to premises**

- 10 (1) A medicines and poisons inspector who enters premises under this
11 part may, for this Act, do 1 or more of the following in relation to
12 the premises or anything on the premises:
13 (a) inspect or examine;
14 (b) examine and copy, or take extracts from, documents relating to
15 a regulated substance or regulated therapeutic good;
16 (c) examine and copy, or take extracts from, any packaging,
17 labelling or advertising material;
18 (d) take measurements or conduct tests;
19 (e) take samples;
20 (f) subject to part 7.2 (Taking and analysis of samples of
21 substances), take for analysis samples of anything else
22 (including any substance) at the premises;
23 (g) open (or require to be opened) any container or package that
24 the inspector believes on reasonable grounds contains a
25 regulated substance or regulated therapeutic good;
26 (h) take photographs, films, or audio, video or other recordings;

1 (i) require the occupier, or anyone at the premises, to give
2 information, answer questions, or produce documents or
3 anything else, reasonably needed to exercise the inspector's
4 functions under this Act.

5 *Note* The Legislation Act, s 170 and s 171 deal with the application of
6 the privilege against selfincrimination and client legal privilege.

7 (2) A person must take all reasonable steps to comply with a
8 requirement made of the person under subsection (1) (g) or (i).

9 Maximum penalty: 50 penalty units, imprisonment for 6 months or
10 both.

11 **106 Power to seize things**

12 (1) A medicines and poisons inspector who enters premises under this
13 part with the occupier's consent may seize anything at the premises
14 if—

15 (a) the inspector is satisfied on reasonable grounds that the thing is
16 connected with an offence against this Act; and

17 (b) seizure of the thing is consistent with the purpose of the entry
18 told to the occupier when seeking the occupier's consent.

19 (2) A medicines and poisons inspector who enters premises under a
20 warrant under this part may seize anything at the premises that the
21 inspector is authorised to seize under the warrant.

22 (3) A medicines and poisons inspector who enters premises under this
23 part (whether with the occupier's consent, under a warrant or
24 otherwise) may seize anything at the premises if satisfied on
25 reasonable grounds that—

26 (a) the thing is connected with an offence against this Act; and

- 1 (b) the seizure is necessary to prevent the thing from being—
2 (i) concealed, lost or destroyed; or
3 (ii) used to commit, continue or repeat the offence.
- 4 (4) Also, a medicines and poisons inspector who enters premises under
5 this part (whether with the occupier's consent or otherwise) may
6 seize anything at the premises if satisfied on reasonable grounds that
7 the thing—
8 (a) puts the health or safety of people at risk; or
9 (b) may cause damage to property or the environment.
- 10 (5) The powers of a medicines and poisons inspector under
11 subsections (3) and (4) are additional to any powers of the inspector
12 under subsection (1) or any other territory law.
- 13 (6) Having seized a thing, a medicines and poisons inspector may—
14 (a) remove the thing from the premises where it was seized (the
15 *place of seizure*) to another place; or
16 (b) leave the thing at the place of seizure but restrict access to it.
- 17 (7) A person commits an offence if—
18 (a) the person interferes with a seized thing, or anything
19 containing a seized thing, to which access has been restricted
20 under subsection (6); and
21 (b) the person does not have a medicines and poisons inspector's
22 approval to interfere with the thing.
- 23 Maximum penalty: 50 penalty units.
- 24 (8) An offence against this section is a strict liability offence.

- 1 **107 Power to destroy unsafe things**
- 2 (1) This section applies to anything inspected or seized under this part
- 3 by a medicines and poisons inspector if the inspector is satisfied on
- 4 reasonable grounds that the thing—
- 5 (a) puts the health or safety of people at risk; or
- 6 (b) is likely to cause damage to property or the environment.
- 7 (2) The medicines and poisons inspector may direct an occupier of the
- 8 premises where the thing is to destroy or otherwise dispose of the
- 9 thing.
- 10 (3) The direction may state 1 or more of the following:
- 11 (a) how the thing must be destroyed or otherwise disposed of;
- 12 (b) how the thing must be kept until it is destroyed or otherwise
- 13 disposed of;
- 14 (c) the period within which the thing must be destroyed or
- 15 otherwise disposed of.
- 16 (4) A person given a direction under subsection (2) commits an offence
- 17 if the person contravenes a direction given to the person under
- 18 subsection (2).
- 19 Maximum penalty: 100 penalty units.
- 20 (5) Alternatively, if the thing has been seized under this part, the
- 21 medicines and poisons inspector may destroy or otherwise dispose
- 22 of the thing.

- 1 (6) Costs incurred by the Territory in relation to the disposal of a thing
2 under subsection (5) are a debt owing to the Territory by, and are
3 recoverable together and separately from, the following people:
- 4 (a) the person who owned the thing;
5 (b) each person in charge of the premises where the thing was.
- 6 (7) An offence against this section is a strict liability offence.

7 **108 Power to require name and address**

- 8 (1) A medicines and poisons inspector may require a person to state the
9 person's name and home address if the inspector believes on
10 reasonable grounds that the person is committing or has just
11 committed an offence against this Act.

12 *Note* A reference to an Act includes a reference to the statutory instruments
13 made or in force under the Act, including any regulation (see
14 Legislation Act, s 104).

- 15 (2) The medicines and poisons inspector must tell the person the reason
16 for the requirement and, as soon as practicable, record the reason.
- 17 (3) The person may ask the medicines and poisons inspector to produce
18 the inspector's identity card for inspection by the person.
- 19 (4) A person must comply with a requirement made of the medicines
20 and poisons inspector under subsection (1) if the inspector—
- 21 (a) tells the person the reason for the requirement; and
22 (b) complies with any request made by the person under
23 subsection (3).

24 Maximum penalty: 10 penalty units.

1 **Division 7.1.4 Search warrants**

2 **109 Warrants generally**

3 (1) A medicines and poisons inspector may apply to a magistrate for a
4 warrant to enter premises.

5 (2) The application must be sworn and state the grounds on which the
6 warrant is sought.

7 (3) The magistrate may refuse to consider the application until the
8 medicines and poisons inspector gives the magistrate all the
9 information the magistrate requires about the application in the way
10 the magistrate requires.

11 (4) The magistrate may issue a warrant only if satisfied there are
12 reasonable grounds for suspecting—

13 (a) there is a particular thing or activity connected with an offence
14 against this Act; and

15 (b) the thing or activity is, or is being engaged in, at the premises,
16 or may be, or may be engaged in, at the premises within the
17 next 14 days.

18 *Note At premises includes in or on the premises (see dict).*

19 (5) The warrant must state—

20 (a) that a medicines and poisons inspector may, with any
21 necessary assistance and force, enter the premises and exercise
22 the inspector's powers under this part; and

23 (b) the offence for which the warrant is issued; and

24 (c) the things that may be seized under the warrant; and

25 (d) the hours when the premises may be entered; and

26 (e) the date, within 14 days after the day of the warrant's issue,
27 that the warrant ends.

- 1 (6) In this section:
2 *connected*—an activity is *connected* with an offence if—
3 (a) the offence has been committed by engaging or not engaging in
4 it; or
5 (b) it will provide evidence of the commission of the offence.
- 6 **110 Warrants—application made other than in person**
- 7 (1) A medicines and poisons inspector may apply for a warrant by
8 phone, fax, radio or other form of communication if the inspector
9 considers it necessary because of—
10 (a) urgent circumstances; or
11 (b) other special circumstances.
- 12 (2) Before applying for the warrant, the medicines and poisons
13 inspector must prepare an application stating the grounds on which
14 the warrant is sought.
- 15 (3) The medicines and poisons inspector may apply for the warrant
16 before the application is sworn.
- 17 (4) After issuing the warrant, the magistrate must immediately fax a
18 copy to the medicines and poisons inspector if it is practicable to do
19 so.
- 20 (5) If it is not practicable to fax a copy to the medicines and poisons
21 inspector—
22 (a) the magistrate must—
23 (i) tell the inspector what the terms of the warrant are; and
24 (ii) tell the inspector the date and time the warrant was
25 issued; and

- 1 (b) the inspector must complete a form of warrant (the *warrant*
2 *form*) and write on it—
- 3 (i) the magistrate's name; and
- 4 (ii) the date and time the magistrate issued the warrant; and
- 5 (iii) the warrant's terms.
- 6 (6) The faxed copy of the warrant, or the warrant form properly
7 completed by the medicines and poisons inspector, authorises the
8 entry and exercise of the inspector's powers under this part.
- 9 (7) The medicines and poisons inspector must, at the first reasonable
10 opportunity, send to the magistrate—
- 11 (a) the sworn application; and
- 12 (b) if the inspector completed a warrant form—the completed
13 warrant form.
- 14 (8) On receiving the documents, the magistrate must attach them to the
15 warrant.
- 16 (9) A court must find that a power exercised by a medicines and
17 poisons inspector was not authorised by a warrant under this section
18 if—
- 19 (a) the question arises in a proceeding before the court whether the
20 exercise of power was authorised by a warrant; and
- 21 (b) the warrant is not produced in evidence; and
- 22 (c) it is not proved that the exercise of power was authorised by a
23 warrant under this section.

- 1 **111 Search warrants—announcement before entry**
- 2 (1) A medicines and poisons inspector must, before anyone enters
- 3 premises under a search warrant—
- 4 (a) announce that the inspector is authorised to enter the premises;
- 5 and
- 6 (b) give anyone at the premises an opportunity to allow entry to
- 7 the premises; and
- 8 (c) if an occupier of the premises, or someone else who apparently
- 9 represents the occupier, is present at the premises—identify
- 10 himself or herself to the person.
- 11 (2) The medicines and poisons inspector is not required to comply with
- 12 subsection (1) if the inspector believes on reasonable grounds that
- 13 immediate entry to the premises is required to ensure—
- 14 (a) the safety of anyone (including the inspector or any person
- 15 assisting); or
- 16 (b) that the effective execution of the warrant is not frustrated.
- 17 **112 Details of search warrant to be given to occupier etc**
- 18 If an occupier of premises, or someone else who apparently
- 19 represents the occupier, is present at the premises while a search
- 20 warrant is being executed, the medicines and poisons inspector or a
- 21 person assisting must make available to the person—
- 22 (a) a copy of the warrant; and
- 23 (b) a document setting out the rights and obligations of the person.

1 **113 Occupier entitled to be present during search etc**

- 2 (1) If an occupier of premises, or someone else who apparently
3 represents the occupier, is present at the premises while a search
4 warrant is being executed, the occupier or the other person is
5 entitled to observe the search being conducted.
- 6 (2) However, the person is not entitled to observe the search if—
- 7 (a) to do so would impede the search; or
- 8 (b) the person is under arrest, and allowing the person to observe
9 the search being conducted would interfere with the objectives
10 of the search.
- 11 (3) This section does not prevent 2 or more areas of the premises being
12 searched at the same time.

13 **114 Moving things to another place for examination or**
14 **processing**

- 15 (1) A thing found at premises entered under a search warrant may be
16 moved to another place for examination or processing to decide
17 whether it may be seized under the warrant if—
- 18 (a) both of the following apply:
- 19 (i) there are reasonable grounds for believing that the thing is
20 or contains something to which the warrant relates;
- 21 (ii) it is significantly more practicable to do so having regard
22 to the timeliness and cost of examining or processing the
23 thing at another place and the availability of expert
24 assistance; or
- 25 (b) the occupier of the premises agrees in writing.
- 26 (2) The thing may be moved to another place for examination or
27 processing for not longer than 72 hours.

- 1 (3) A medicines and poisons inspector may apply to a magistrate for an
2 extension of time if the inspector believes on reasonable grounds
3 that the thing cannot be examined or processed within 72 hours.
- 4 (4) The medicines and poisons inspector must give notice of the
5 application to the occupier of the premises, and the occupier is
6 entitled to be heard on the application.
- 7 (5) If a thing is moved to another place under this section, the medicines
8 and poisons inspector must, if practicable—
- 9 (a) tell the occupier of the premises the address of the place where,
10 and time when, the examination or processing will be carried
11 out; and
- 12 (b) allow the occupier or the occupier's representative to be
13 present during the examination or processing.
- 14 (6) The provisions of this part relating to the issue of search warrants
15 apply, with any necessary changes, to the giving of an extension
16 under this section.

17 **115 Use of electronic equipment at premises**

- 18 (1) A medicines and poisons inspector or a person assisting may operate
19 electronic equipment at premises entered under a search warrant to
20 access data (including data not held at the premises) if the inspector
21 or person believes on reasonable grounds that—
- 22 (a) the data might be something to which the warrant relates; and
23 (b) the equipment can be operated without damaging the data.
- 24 (2) If the medicines and poisons inspector or person assisting believes
25 on reasonable grounds that any data accessed by operating the
26 electronic equipment might be something to which the warrant
27 relates, the inspector or person may—
- 28 (a) copy the data to a data storage device brought to the premises;
29 or

- 1 (b) if the occupier of the premises agrees in writing—copy the data
2 to a data storage device at the premises.
- 3 (3) The medicines and poisons inspector or person assisting may take
4 the device from the premises.
- 5 (4) The medicines and poisons inspector or person assisting may do the
6 following things if the inspector or person finds that anything (the
7 *material*) to which the warrant relates is accessible using the
8 equipment:
- 9 (a) seize the equipment and any data storage device;
- 10 (b) if the material can, by using facilities at the premises, be put in
11 documentary form—operate the facilities to put the material in
12 documentary form and seize the documents produced.
- 13 (5) A medicines and poisons inspector may seize equipment under
14 subsection (4) (a) only if—
- 15 (a) it is not practicable to copy the data as mentioned in
16 subsection (2) or to put the material in documentary form as
17 mentioned in subsection (4) (b); or
- 18 (b) possession of the equipment by the occupier of the premises or
19 someone else could be an offence.

20 **116 Person with knowledge of computer to assist access etc**

- 21 (1) A medicines and poisons inspector may apply to a magistrate for an
22 order requiring a stated person to provide any information or
23 assistance that is reasonably necessary to allow the inspector or a
24 person assisting to do 1 or more of the following:
- 25 (a) access data held in or accessible from a computer that is at the
26 premises;
- 27 (b) copy the data to a data storage device;
- 28 (c) convert the data into documentary form.

- 1 (2) The magistrate may make an order if satisfied that—
- 2 (a) there are reasonable grounds for suspecting that something to
- 3 which the warrant relates is accessible from the computer; and
- 4 (b) the stated person is—
- 5 (i) reasonably suspected of possessing, or having under the
- 6 person’s control, something to which the warrant relates;
- 7 or
- 8 (ii) the owner or lessee of the computer; or
- 9 (iii) an employee or agent of the owner or lessee of the
- 10 computer; and
- 11 (c) the stated person has knowledge of—
- 12 (i) the computer or a computer network of which the
- 13 computer forms a part; or
- 14 (ii) measures applied to protect data held in or accessible
- 15 from the computer.
- 16 (3) A person commits an offence if the person contravenes an order
- 17 under this section.
- 18 Maximum penalty: 50 penalty units, imprisonment for 6 months or
- 19 both.
- 20 (4) The provisions of this part relating to the issue of search warrants
- 21 apply, with any necessary changes, to the making of an order under
- 22 this section.

1 **117 Securing electronic equipment**

- 2 (1) This section applies if the medicines and poisons inspector or a
3 person assisting believes on reasonable grounds that—
- 4 (a) something (the *material*) to which the warrant relates may be
5 accessible by operating electronic equipment at the premises;
6 and
- 7 (b) expert assistance is required to operate the equipment; and
- 8 (c) the material may be destroyed, altered or otherwise interfered
9 with if the inspector or person does not take action.
- 10 (2) The medicines and poisons inspector or person assisting may do
11 whatever is necessary to secure the equipment, whether by locking it
12 up, placing a guard or otherwise.
- 13 (3) The medicines and poisons inspector or a person assisting must give
14 written notice to an occupier of the premises of—
- 15 (a) the inspector's or person's intention to secure the equipment;
16 and
- 17 (b) the fact that the equipment may be secured for up to 24 hours.
- 18 (4) The equipment may be secured until the earlier of the following
19 events happens:
- 20 (a) the end of the 24-hour period;
- 21 (b) the equipment is operated by the expert.
- 22 (5) If the medicines and poisons inspector or a person assisting believes
23 on reasonable grounds that the expert assistance will not be
24 available within the 24-hour period, the inspector or person may
25 apply to a magistrate to extend the period.
- 26 (6) The medicines and poisons inspector or a person assisting must tell
27 an occupier of the premises of the intention to apply for an
28 extension, and the occupier is entitled to be heard on the application.

1 (7) The provisions of this part relating to the issue of search warrants
2 apply, with any necessary changes, to the giving of an extension
3 under this section.

4 **118 Copies of seized things to be provided**

- 5 (1) This section applies if—
- 6 (a) an occupier of premises, or someone else who apparently
7 represents the occupier, is present at the premises while a
8 search warrant is executed; and
- 9 (b) the medicines and poisons inspector seizes—
- 10 (i) a document, film, computer file or something else that can
11 be readily copied; or
- 12 (ii) a data storage device containing information that can be
13 readily copied.
- 14 (2) The occupier or other person may ask the medicines and poisons
15 inspector to give the person a copy of the thing or information.
- 16 (3) The medicines and poisons inspector must give the person the copy
17 as soon as practicable after the seizure.
- 18 (4) However, the medicines and poisons inspector is not required to
19 give the copy if—
- 20 (a) the thing was seized under section 115 (Use of electronic
21 equipment at premises); or
- 22 (b) possession of the thing or information by an occupier of the
23 premises or someone else would be an offence.

Division 7.1.5 Return and forfeiture of things seized

119 Receipt for things seized

- (1) As soon as practicable after a medicines and poisons inspector seizes a thing under this part, the inspector must give a receipt for it to the person from whom it was seized.
- (2) If, for any reason, it is not practicable to comply with subsection (1), the medicines and poisons inspector must leave the receipt, secured conspicuously, at the place of seizure under section 106 (Power to seize things).
- (3) A receipt under this section must include the following:
- (a) a description of the thing seized;
 - (b) an explanation of why the thing was seized;
 - (c) the medicines and poisons inspector's name, and how to contact the inspector;
 - (d) if the thing is moved from the premises where it is seized—where the thing is to be taken.

120 Access to things seized

- (1) A person who would, apart from the seizure, be entitled to inspect a thing seized under this part may—
- (a) inspect it; and
 - (b) if it is a document—take extracts from it or make copies of it.
- (2) This section does not apply to—
- (a) a thing seized under section 106 (4) (which is about the seizure of a thing that poses a risk to the health or safety of people or of damage to property or the environment); or

- 1 (b) a thing or information if possession of it by the person
2 otherwise entitled to inspect it would be an offence.

3 **121 Return of things seized**

- 4 (1) A thing seized under this part must be returned to its owner, or
5 reasonable compensation must be paid by the Territory to the owner
6 for the loss of the thing, if—

- 7 (a) an infringement notice for an offence relating to the thing is
8 not served on the owner within 90 days after the day of seizure
9 and a prosecution for an offence relating to the thing—

10 (i) is not started within the 90-day period; or

11 (ii) is started within the 90-day period but the court does not
12 find the offence proved; or

- 13 (b) an infringement notice for an offence relating to the thing is
14 served on the owner within 90 days after the day of seizure, the
15 infringement notice is withdrawn and a prosecution for an
16 offence relating to the thing—

17 (i) is not started within the 90-day period; or

18 (ii) is started within the 90-day period but the court does not
19 find the offence proved; or

- 20 (c) an infringement notice for an offence relating to the thing is
21 served on the owner and not withdrawn within 90 days after
22 the day of seizure, liability for the offence is disputed in
23 accordance with the *Magistrates Court Act 1930*, section 132
24 (Disputing liability for infringement notice offence) and an
25 information—

26 (i) is not laid in the Magistrates Court against the person for
27 the offence within 60 days after the day notice is given
28 under section 132 that liability is disputed; or

1 (ii) is laid in the Magistrates Court against the person for the
2 offence within the 60-day period, but the Magistrates
3 Court does not find the offence proved.

4 (2) However, this section does not apply—

5 (a) to a thing seized under section 106 (4) (which is about the
6 seizure of things that pose a risk to the health or safety of
7 people or of damage to property or the environment); or

8 (b) to a thing if the chief health officer believes on reasonable
9 grounds that the only practical use of the thing in relation to the
10 premises where it was seized would be an offence against this
11 Act or another territory law; or

12 (c) to a thing if possession of it by its owner would be an offence.

13 *Note* See also section 125 (Forfeiture of seized things).

14 **122 Application for order disallowing seizure**

15 (1) A person claiming to be entitled to anything seized under this part
16 may apply to the Magistrates Court within 10 days after the day of
17 the seizure for an order disallowing the seizure.

18 (2) However, this section does not apply to a thing seized under
19 section 106 (3) (which is about the seizure of things that pose a risk
20 to the health or safety of people or of damage to property or the
21 environment).

22 (3) The application may be heard only if the applicant has served a copy
23 of the application on the chief health officer.

24 (4) The chief health officer is entitled to appear as respondent at the
25 hearing of the application.

1 **123 Order for return of seized thing**

- 2 (1) This section applies if a person claiming to be entitled to anything
3 seized under this part applies to the Magistrates Court under
4 section 122 for an order disallowing the seizure.
- 5 (2) The Magistrates Court must make an order disallowing the seizure if
6 satisfied that—
- 7 (a) the applicant would, apart from the seizure, be entitled to the
8 return of the seized thing; and
- 9 (b) the thing is not connected with an offence against this Act; and
10 (c) possession of the thing by the person would not be an offence.
- 11 (3) The Magistrates Court may also make an order disallowing the
12 seizure if satisfied there are exceptional circumstances justifying the
13 making of the order.
- 14 (4) If the Magistrates Court makes an order disallowing the seizure, the
15 court may make 1 or more of the following ancillary orders:
- 16 (a) an order directing the chief health officer to return the thing to
17 the applicant or someone else that appears to be entitled to it;
- 18 (b) if the thing cannot be returned or has depreciated in value
19 because of the seizure—an order directing the Territory to pay
20 reasonable compensation;
- 21 (c) an order about the payment of costs in relation to the
22 application.

23 **124 Adjournment pending hearing of other proceedings**

- 24 (1) This section applies to the hearing of an application under
25 section 122 (Application for order disallowing seizure).

- 1 (2) If it appears to the Magistrates Court that the seized thing is required
2 to be produced in evidence in a pending proceeding in relation to an
3 offence against a territory law, the court may, on the application of
4 the chief health officer or its own initiative, adjourn the hearing until
5 the end of the pending proceeding.

6 **125 Forfeiture of seized things**

- 7 (1) This section applies if—
8 (a) anything seized under this part has not been returned under
9 section 121 (Return of things seized); and
10 (b) an application for disallowance of the seizure under
11 section 122 (Application for order disallowing seizure)—
12 (i) has not been made within 10 days after the day of seizure;
13 or
14 (ii) has been made within the 10-day period, but the
15 application has been refused or has been withdrawn
16 before a decision in relation to the application had been
17 made.
18 (2) If this section applies to the seized thing—
19 (a) it is forfeited to the Territory; and
20 (b) it may be sold, destroyed or otherwise disposed of as the chief
21 health officer directs.

22 **126 Return of forfeited things**

- 23 (1) This section applies to something forfeited under section 125 that
24 has not been disposed of in a way that would prevent its return.

- 1 (2) If the chief health officer becomes satisfied that there has been no
2 offence against this Act with which the thing is connected, the chief
3 health officer must, as soon as practicable, return the thing to the
4 person from whom it was seized or someone else who appears to the
5 chief health officer to be entitled to it.
- 6 (3) On its return, any proprietary and other interests in the thing that
7 existed immediately before its forfeiture are restored.

8 **127 Cost of disposal of forfeited things**

- 9 (1) This section applies if—
- 10 (a) a person is convicted, or found guilty, of an offence against
11 this Act in relation to something forfeited to the Territory
12 under this part; and
- 13 (b) the thing is connected with an offence against this Act; and
- 14 (c) the person was the owner of the thing immediately before its
15 forfeiture.

16 *Note Found guilty*—see the Legislation Act, dict, pt 1.

- 17 (2) If this section applies, costs incurred by or on behalf of the Territory
18 in relation to the lawful disposal of the thing (including storage
19 costs) are a debt owing to the Territory by the person.

20 **Division 7.1.6 Medicines and poisons inspectors—**
21 **other provisions**

22 **128 Disposal etc of things obtained otherwise than under**
23 **pt 7.1**

- 24 (1) This section applies if the chief health officer comes into possession
25 of a regulated substance or regulated therapeutic good otherwise
26 than under this part.

- 1 (2) The chief health office may dispose of the regulated substance or
2 regulated therapeutic good as prescribed by regulation.

3 **129 Damage etc to be minimised**

- 4 (1) In the exercise, or purported exercise, of a function under this part, a
5 medicines and poisons inspector must take all reasonable steps to
6 ensure that the inspector, and any person assisting the inspector,
7 causes as little inconvenience, detriment and damage as practicable.
- 8 (2) If a medicines and poisons inspector, or a person assisting a
9 medicines and poisons inspector, damages anything in the exercise
10 or purported exercise of a function under this part, the inspector
11 must give written notice of the particulars of the damage to the
12 person the inspector believes on reasonable grounds is the owner of
13 the thing.
- 14 (3) If the damage happens at premises entered under this part in the
15 absence of the occupier, the notice may be given by leaving it,
16 secured conspicuously, at the premises.

17 **130 Compensation for exercise of enforcement powers**

- 18 (1) A person may claim compensation from the Territory if the person
19 suffers loss or expense because of the exercise, or purported
20 exercise, of a function under this part by a medicines and poisons
21 inspector or a person assisting the inspector.
- 22 (2) Compensation may be claimed and ordered in a proceeding for—
23 (a) compensation brought in a court of competent jurisdiction; or
24 (b) an offence against this Act brought against the person making
25 the claim for compensation.
- 26 (3) A court may order the payment of reasonable compensation for the
27 loss or expense only if satisfied it is just to make the order in the
28 circumstances of the particular case.

Chapter 7 Enforcement
Part 7.1 Inspection and seizure powers
Division 7.1.6 Medicines and poisons inspectors—other provisions

Section 130

- 1 (4) A regulation may prescribe matters that may, must or must not be
2 taken into account by the court in considering whether it is just to
3 make the order.
- 4 (5) To remove any doubt, this section does not authorise a court to order
5 the payment of compensation for regulated substances or regulated
6 therapeutic goods seized by a medicines and poisons inspector if the
7 substance or good was recalled under the *Therapeutic Goods*
8 *Act 1989* (Cwlth).

1 **Part 7.2** **Taking and analysis of samples**
2 **of substances**

3 **131** **Inspector may buy samples without complying with pt 7.2**

4 This part does not stop a medicines and poisons inspector from
5 buying a sample of a substance for analysis for the routine
6 monitoring of compliance with this Act without complying with the
7 requirements of this part.

8 *Note* For the admissibility of the analysis of a sample of a substance taken by
9 a medicines and poisons inspector, see s 181.

10 **132** **Person in charge etc to be told sample to be analysed**

11 (1) This section applies if a medicines and poisons inspector proposes
12 to take, or takes, a sample of a substance for analysis from premises
13 where a regulated substance is dealt with.

14 (2) Before or as soon as practicable after taking the sample, the
15 medicines and poisons inspector must tell a person in charge of the
16 premises of the inspector's intention to have the sample analysed.

17 (3) If a person in charge is not present or readily available, the
18 medicines and poisons inspector must instead tell the person from
19 whom the sample was obtained of the inspector's intention to have
20 the sample analysed.

21 **133** **Payment for samples**

22 (1) This section applies if a medicines and poisons inspector takes a
23 sample of a substance for analysis from premises where a regulated
24 substance is dealt with.

- 1 (2) The medicines and poisons inspector must pay, or offer to pay, the
2 person from whom the sample is taken—
- 3 (a) the amount (if any) prescribed by regulation as the amount
4 payable for the sample; or
- 5 (b) if no amount is prescribed—the current market value of the
6 sample.

7 **134 Samples from packaged substances**

8 If a package of a substance contains 2 or more smaller packages of
9 the same substance, the medicines and poisons inspector may take
10 1 of the smaller packages for analysis.

11 **135 Procedures for dividing samples**

- 12 (1) This section—
- 13 (a) applies to a sample of a substance being taken by a medicines
14 and poisons inspector for analysis; and
- 15 (b) is subject to section 136.
- 16 (2) The medicines and poisons inspector must—
- 17 (a) divide the sample into 3 parts, and mark and either seal or
18 fasten each part; and
- 19 (b) leave 1 part with the person told under section 132 (Person in
20 charge etc to be told sample to be analysed) of the inspector's
21 intention to have the sample analysed; and
- 22 (c) keep 1 part for analysis; and
- 23 (d) keep 1 part for future comparison with the other parts.

- 1 (3) If a sample of a substance taken by a medicines and poisons
2 inspector is in the form of separate or severable objects, the
3 inspector may—
- 4 (a) take a number of the objects; and
- 5 (b) divide them into 3 parts each consisting of 1 or more of the
6 objects, or of the severable parts of the objects, and mark and
7 either seal or fasten each part; and
- 8 (c) deal with the sample under subsection (2) (b) to (d).

9 **136 Exception to usual procedures for dividing samples**

- 10 (1) This section applies to a sample of a substance being taken by a
11 medicines and poisons inspector for analysis if dividing the
12 substance into 3 parts would, in the inspector's opinion—
- 13 (a) so affect or impair the composition or quality of the sample as
14 to make the parts unsuitable for accurate analysis; or
- 15 (b) result in the parts being too small for accurate analysis; or
- 16 (c) otherwise make the sample unsuitable for analysis (including a
17 method of analysis prescribed by regulation for the substance
18 in relation to which the sample is taken).
- 19 (2) The medicines and poisons inspector may take as many samples as
20 the inspector considers necessary to allow an accurate analysis to be
21 made, and may deal with each sample in any way that is appropriate
22 in the circumstances, instead of complying with section 135.

23 **137 Certificates of analysis by authorised analysts**

- 24 (1) The analysis of a sample of a substance for the chief health officer
25 must be carried out by, or under the supervision of, an authorised
26 analyst.

- 1 (2) An authorised analyst who analyses the sample must give to the
2 chief health officer a certificate of analysis that—
- 3 (a) is signed and dated by the analyst; and
- 4 (b) contains a written report of the analysis that sets out the
5 findings; and
- 6 (c) identifies the method of analysis.
- 7 *Note 1* If a form is approved under s 198 for the certificate, the form must be
8 used.
- 9 *Note 2* For evidentiary certificates by authorised analysts, see the *Public Health*
10 *Act 1997*, s 135A.
- 11 (3) In this section:
- 12 ***authorised analyst*** means an analyst appointed under the *Public*
13 *Health Act 1997*, section 15 who is authorised under that Act to
14 exercise a function under this Act.

1 **Chapter 8** **Restrictions on dealing with**
2 **regulated substances and**
3 **regulated therapeutic goods**

4 **Part 8.1** **Authorisations—disciplinary**
5 **action**

6 **138** **Application—pt 8.1**

7 (1) This part does not apply in relation to a dealing by a person with a
8 regulated substance or regulated therapeutic good if the dealing is—

9 (a) authorised by a licence or permit under a Commonwealth Act;
10 or

11 (b) the dealing is otherwise in accordance with a Commonwealth
12 Act.

13 *Note* A reference to an Act includes a reference to the statutory instruments
14 made or in force under the Act, including any regulation (see
15 Legislation Act, s 104).

16 (2) To remove any doubt, this part does not limit the power of anyone
17 exercising a function under this Act to make a report under the
18 *Health Professionals Act 2004*, part 9.2 about a health professional.

19 *Note* **Function** includes authority, duty and power (see Legislation Act, dict,
20 pt 1).

21 **139** **Definitions—pt 8.1**

22 In this part:

23 **authorisation holder** means a person who is, or has been, authorised
24 to deal with a regulated substance or regulated therapeutic good.

Chapter 8	Restrictions on dealing with regulated substances and regulated therapeutic goods
Part 8.1	Authorisations—disciplinary action

Section 140

- 1 *disciplinary action*—see section 141.
- 2 *disciplinary notice*—see section 142.
- 3 *ground for disciplinary action*, against an authorisation holder—see
- 4 section 140.
- 5 *interstate wholesaler* means a person who is or has been authorised
- 6 under—
- 7 (a) section 20 (4) (When *authorised* to deal with regulated
- 8 substances) to supply a regulated substance by wholesale; or
- 9 (b) section 22 (2) (When *authorised* to deal with regulated
- 10 therapeutic goods) to supply a regulated therapeutic good by
- 11 wholesale.
- 12 **140 Grounds for disciplinary action against authorisation**
- 13 **holders**
- 14 (1) Each of the following is a *ground for disciplinary action* against an
- 15 authorisation holder:
- 16 (a) the authorisation holder has given information to the chief
- 17 health officer that was false or misleading in a material
- 18 particular;
- 19 (b) the authorisation holder has failed to give information required
- 20 to be given under this Act;
- 21 (c) the authorisation holder has contravened a condition of the
- 22 authorisation;

- 1 (d) the authorisation holder, or an agent or employee of the
2 authorisation holder, has contravened this Act (whether or not
3 the authorisation holder or employee is convicted, or found
4 guilty, of the offence);
- 5 *Note* A reference to an Act includes a reference to the statutory
6 instruments made or in force under the Act, including any
7 regulation (see Legislation Act, s 104).
- 8 (e) if the authorisation holder is or has been a licence-holder—
- 9 (i) when the chief health officer issued the licence, grounds
10 existed to refuse the application for the licence but the
11 chief health officer was not aware of them; or
- 12 (ii) the licence-holder is not, or is no longer, a suitable person
13 for a licence; or
- 14 (iii) the licence-holder no longer carries out the dealing to
15 which the licence relates; or
- 16 (iv) a ground mentioned in paragraph (a), (b), (c) or (d)
17 applies in relation to a close associate of, or influential
18 person for, the licence-holder; or
- 19 (v) a close associate of, or influential person for, the
20 licence-holder is not, or is no longer, a suitable person for
21 the licence;
- 22 (f) if the person is or was an interstate wholesaler—
- 23 (i) the person, or an agent or employee of the person,
24 supplied a regulated substance or regulated therapeutic
25 good to someone not authorised to obtain it; or
- 26 (ii) the person, or an agent or employee of the person,
27 contravened a condition or restriction that applies or
28 applied to the person under a corresponding law or a
29 regulation.

1 (2) In subsection (1) (d), a reference to a contravention of this Act
2 includes a reference to the following:

3 (a) a contravention of the Criminal Code in relation to a document
4 completed, kept or given, or required to be completed, kept or
5 given, under this Act;

6 (b) a contravention of the Criminal Code in relation to anything
7 else done, or not done, under this Act.

8 *Note* See also the Criminal Code, pt 2.4 (Extensions of criminal
9 responsibility) and pt 2.5 (Corporate criminal responsibility).

10 (3) In this section:

11 *close associate*—see section 79.

12 *influential person*—see section 80.

13 **141 Disciplinary action against authorisation holders**

14 (1) Each of the following is *disciplinary action* when taken against an
15 authorisation holder (other than a former authorisation holder):

16 (a) reprimanding the authorisation holder;

17 (b) requiring the authorisation holder, or an employee of the
18 authorisation holder, to complete a stated course of training to
19 the satisfaction of the chief health officer or another stated
20 person;

21 (c) imposing a condition on the authorisation holder's authority to
22 deal with a regulated substance or regulated therapeutic good;

23 (d) varying the authorisation holder's authority to deal with a
24 regulated substance or regulated therapeutic good;

- 1 (e) suspending the authorisation holder's authority to deal with a
2 regulated substance or regulated therapeutic good, or a
3 particular authorised dealing under the authorisation—
4 (i) for a stated period; or
5 (ii) until the authorisation holder, or an employee of the
6 authorisation holder, completes a stated course of training
7 to the satisfaction of the chief health officer or someone
8 else; or
9 (iii) until a stated event happens;
10 (f) cancelling the authorisation holder's authority to deal with a
11 regulated substance or regulated therapeutic good;
12 (g) if the authorisation holder is an interstate wholesaler—
13 prohibiting the authorisation holder from supplying a regulated
14 substance or regulated therapeutic good by wholesale in the
15 ACT.
- 16 (2) Each of the following is *disciplinary action* when taken against a
17 former authorisation holder:
18 (a) reprimanding the former authorisation holder;
19 (b) disqualifying the former authorisation holder from being
20 authorised, or authorised in a particular way, to deal with a
21 regulated substance or regulated therapeutic good—
22 (i) for a stated period; or
23 (ii) until the former authorisation holder, or an employee of
24 the former authorisation holder, completes a stated course
25 of training to the satisfaction of the chief health officer or
26 someone else; or
27 (iii) until a stated event happens;

- 1 (c) if the former authorisation holder was an interstate
2 wholesaler—prohibiting the former authorisation holder from
3 supplying a regulated substance or regulated therapeutic good
4 by wholesale in the ACT.

5 **142 Taking disciplinary action against authorisation holders**

- 6 (1) If the chief health officer is satisfied that a ground for disciplinary
7 action exists, or may exist, in relation to an authorisation holder, the
8 chief health officer may give the authorisation holder a notice (a
9 *disciplinary notice*).
- 10 (2) The disciplinary notice must—
- 11 (a) state the ground for disciplinary action; and
- 12 (b) tell the authorisation holder that he or she may, not later than
13 3 weeks after the day the authorisation holder is given the
14 notice, give a written response to the chief health officer about
15 the notice.
- 16 (3) If, after considering any response given not later than the end of the
17 3-week period, the chief health officer is satisfied that a ground for
18 disciplinary action exists in relation to the authorisation holder, the
19 chief health officer may take disciplinary action against the
20 authorisation holder.
- 21 (4) To remove any doubt, the disciplinary action may consist of 2 or
22 more of the actions mentioned in section 141.
- 23 (5) The disciplinary action takes effect when the authorisation holder
24 receives written notice of the action or, if the notice states a later
25 time of effect, at the stated time.

1 **143 Immediate suspension of authorisations**

2 (1) This section applies if the chief health officer has given, or is
3 considering whether to give, a disciplinary notice to an authorisation
4 holder.

5 (2) The chief health officer may give the authorisation holder a written
6 notice (an *immediate suspension notice*) suspending—

7 (a) the authorisation holder's authority to deal with a regulated
8 substance or regulated therapeutic good; or

9 (b) a particular authorised dealing under the authorisation.

10 (3) However, the chief health officer may suspend the authorisation
11 under subsection (2) only if—

12 (a) the chief health officer has taken into account the
13 circumstances leading to the decision to give or consider
14 giving the disciplinary notice and the grounds stated, or that
15 may be stated, in the disciplinary notice; and

16 (b) the chief health officer believes on reasonable grounds that it is
17 in the public interest that the authorisation be suspended before
18 a decision is made whether or not to take action against the
19 authorisation holder under section 142.

20 (4) If an immediate suspension notice is given to the authorisation
21 holder, the authorisation holder's authority to deal with the
22 regulated substance or regulated therapeutic good to which the
23 authorisation relates is suspended when the notice is given to the
24 authorisation holder.

25 *Note* If the authorisation is a licence or approval, the licence or approval must
26 be returned to the chief health officer, see s 145.

- 1 (5) If the authorisation holder is given an immediate suspension notice
2 because the chief health officer is considering whether to give a
3 disciplinary notice to the authorisation holder, the chief health
4 officer must, as soon as practicable—
- 5 (a) give a disciplinary notice to the authorisation holder; or
6 (b) tell the authorisation holder in writing that a disciplinary notice
7 will not be given to the authorisation holder.
- 8 (6) An immediate suspension notice ends—
- 9 (a) if the chief health officer decides not to give a disciplinary
10 notice to the authorisation holder—when the chief health
11 officer tells the authorisation holder about the decision under
12 subsection (5) (b); or
- 13 (b) if a disciplinary notice is given to the authorisation holder—
- 14 (i) when any disciplinary action takes effect; or
15 (ii) the authorisation holder is given written notice by the
16 chief health officer that no disciplinary action will be
17 taken.

18 **144 Effect of suspension of authorisations**

- 19 (1) If an authorisation to deal with a regulated substance or regulated
20 therapeutic good is suspended, the authorisation does not authorise
21 the authorisation holder to carry on any dealing with the regulated
22 substance or regulated therapeutic good under the authorisation
23 during the suspension.
- 24 (2) If an authorised dealing with a regulated substance or regulated
25 therapeutic good under an authorisation is suspended, the
26 authorisation—
- 27 (a) does not authorise the authorisation holder to carry out the
28 dealing under the authorisation during the suspension; and

1 (b) is taken to be varied under this part to the extent necessary to
2 give effect to the suspension.

3 **145 Return of certain licences and approvals**

4 (1) A person commits an offence if—

5 (a) the person is the holder of—

6 (i) a licence; or

7 (ii) an approval under section 20 (1) (c) (When *authorised* to
8 deal with regulated substances) or section 22 (1) (c)
9 (When *authorised* to deal with regulated therapeutic
10 goods); and

11 (b) the person's authorisation to deal with a regulated substance or
12 regulated therapeutic good is varied, suspended or cancelled
13 under this part; and

14 (c) the person fails to return the licence or approval to the chief
15 health officer as soon as practicable (but not later than 7 days)
16 after the day the person is told about the variation, suspension
17 or cancellation.

18 Maximum penalty: 20 penalty units.

19 (2) An offence against this section is a strict liability offence.

20 **146 Action by chief health officer in relation to certain**
21 **licences and approvals**

22 (1) If a licence or approval varied under this part is returned to the chief
23 health officer, the chief health officer must—

24 (a) vary the licence or approval and return it to the authorisation
25 holder; or

- 1 (b) give the authorisation holder a replacement licence or approval
2 that includes the variation.
- 3 *Note* A licence or approval is taken to be varied if an authorised dealing
4 under the licence or approval is suspended (see s 144 (2)).
- 5 (2) If a licence or approval is suspended under this part and the
6 suspension ends before the end of the term of the licence or
7 approval, the chief health officer must—
- 8 (a) return the licence or approval to the authorisation holder; or
9 (b) give the authorisation holder a replacement licence or approval
10 for the remainder of the term of the licence or approval.
- 11 (3) In this section:
- 12 *approval* means an approval under section 20 (1) (c) (When
13 *authorised* to deal with regulated substances) or section 22 (1) (c)
14 (When *authorised* to deal with regulated therapeutic goods).

1 **Part 8.2** **Controlled medicines and**
2 **prohibited substances—**
3 **disqualification by courts**

4 **147** **Definitions—pt 8.2**

5 In this part:

6 *drug offence* means an offence against—

- 7 (a) chapter 4 (Offences relating to regulated substances) in relation
8 to a controlled medicine or prohibited substance; or
9 (b) the Criminal Code, chapter 6 (Serious drug offences); or
10 (c) the *Drugs of Dependence Act 1989*, part 10 (Offences).

11 *relevant person* means—

- 12 (a) a person who is authorised to deal with a regulated substance;
13 or
14 (b) a person who is authorised under this Act or another territory
15 law to possess a controlled medicine or prohibited substance.

16 **148** **Drug offences—disqualification from dealing**

- 17 (1) This section applies if a relevant person is convicted, or found
18 guilty, of a drug offence.
19 (2) The convicting court may direct that the relevant person must not,
20 during a stated period, deal with a controlled medicine or prohibited
21 substance (or both) in the ways stated in the direction.
22 (3) However, the court must not give the direction unless satisfied that
23 giving the direction is in the interests of the person or the public.

- 1 (4) The *Magistrates Court Act 1930*, section 208 (which is about
2 appeals in criminal matters) applies in relation to the direction as if
3 the direction were a penalty imposed by the court in relation to the
4 conviction of a person of an offence.

5 **149 Notice of disqualification from dealing**

- 6 (1) If a court gives a direction under section 148 (2), the court's
7 registrar must give a copy of the direction to—
8 (a) the relevant person; and
9 (b) the chief health officer.
10 (2) The chief health officer must give a copy of the direction to—
11 (a) the relevant person's employer (if any); and
12 (b) if the relevant person is a health professional—the relevant
13 health profession board for the person under the *Health*
14 *Professionals Act 2004*.

15 **150 Effect of disqualification from dealing**

- 16 (1) This section applies if a direction is given under section 148 (2)
17 (Drug offences—disqualification from dealing) in relation to a
18 relevant person.
19 (2) The relevant person's authorisation to deal with a controlled
20 medicine or prohibited substance is taken, to the extent necessary to
21 give effect to the court's direction, not to be in force for the period
22 stated in the direction.

1 Part 8.3 Surrender of prescribed 2 authorisations

3 151 Application—pt 8.3

4 This part applies to a person who is authorised under a regulation to
5 deal with a regulated substance or regulated therapeutic good, other
6 than—

7 (a) a licence-holder; or

8 *Note* For the surrender of a licence, see s 97.

9 (b) a person who is dealing with a medicine or poison in
10 accordance with an approval by the chief health officer under a
11 regulation; or

12 *Note* The approval may be revoked by the chief health officer (see
13 Legislation Act, s 46 (1)).

14 (c) a medicines and poisons inspector; or

15 (d) a person prescribed by regulation.

16 152 Surrender of authorisation under regulation

17 (1) A person to whom this part applies may, by written notice
18 (a *surrender notice*) given to the chief health officer, declare that
19 the person does not wish to be authorised under a regulation—

20 (a) to deal with a stated regulated substance or regulated
21 therapeutic good; or

22 (b) for stated dealings with a stated regulated substance or
23 regulated therapeutic good.

- 1 (2) A surrender notice—
2 (a) may state a period during which the declaration is to apply or
3 an event on which the declaration ends; and
4 (b) may be revoked by giving the chief health officer written
5 notice of the revocation at least 7 days before the revocation
6 takes effect.
- 7 (3) If the chief health officer receives from a person a surrender notice
8 or notice revoking a surrender notice, the chief health officer must
9 give a copy of the notice to—
10 (a) the person’s employer (if any); and
11 (b) if the relevant person is a health professional—the relevant
12 health profession board for the person under the *Health*
13 *Professionals Act 2004*.

14 **153 Effect of surrender of authorisation under regulation**

- 15 (1) This section applies while a surrender notice under section 152
16 relating to a regulated substance or regulated therapeutic good is in
17 force in relation to a person.
- 18 (2) The person’s authorisation to deal with the regulated substance or
19 regulated therapeutic good is taken, to the extent necessary to give
20 effect to the surrender notice, not to be in force while the notice is in
21 force.

1 **Chapter 9** **Review of decisions**

2 **154** **Chief health officer decisions reviewable by AAT**

3 A person mentioned in schedule 1, column 3 may apply to the
4 administrative appeals tribunal for review of a decision by the chief
5 health officer mentioned in column 2 for the person.

6 **155** **Notice of reviewable decisions**

7 (1) The chief health officer must give written notice of a decision
8 mentioned in schedule 1, column 2 to the affected person mentioned
9 in column 3 for the decision.

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

1 **Chapter 10** **Incorporation of**
2 **Commonwealth therapeutic**
3 **goods laws**

4 **Part 10.1** **Preliminary**

5 **156** **Definitions—ch 10**

6 In this chapter:

7 *applied provisions* means the Commonwealth therapeutic goods
8 laws that apply as a law of the Territory under section 157.

9 *Commonwealth administrative laws* means—

- 10 (a) the *Administrative Appeals Tribunal Act 1975* (Cwlth); and
11 (b) the *Freedom of Information Act 1982* (Cwlth); and
12 (c) the *Ombudsman Act 1976* (Cwlth); and
13 (d) the *Privacy Act 1988* (Cwlth).

14 *Note* A reference to an Act includes a reference to the statutory instruments
15 made or in force under the Act, including any regulation (see
16 Legislation Act, s 104).

17 *Commonwealth Minister* means the Minister responsible for
18 administering the Commonwealth therapeutic goods laws.

19 *Commonwealth Secretary* means the Secretary of the
20 Commonwealth department that is—

- 21 (a) administered by the Commonwealth Minister; and
22 (b) responsible for the Commonwealth therapeutic goods laws.

1 ***Commonwealth therapeutic goods laws*** means the *Therapeutic*
2 ***Goods Act 1989*** (Cwlth) (including the statutory instruments under
3 the Act) as modified by this Act.

4 ***Note 1*** A reference to an Act includes a reference to the statutory instruments
5 made or in force under the Act, including any regulation (see
6 Legislation Act, s 104).

7 ***Note 2*** A reference to a law includes a reference to the law as originally made
8 and as in force from time to time (see Legislation Act, s 102).

9 ***Note 3*** Commonwealth legislation is available at www.comlaw.gov.au.

1 **Part 10.2** **Application in ACT of**
2 **Commonwealth therapeutic**
3 **goods laws**

4 **Division 10.2.1** **The applied provisions**

5 **157** **Application of Commonwealth therapeutic goods laws to**
6 **ACT**

- 7 (1) The Commonwealth therapeutic goods laws apply as a law of the
8 Territory.

9 *Note* *Commonwealth therapeutic goods laws*—see s 156.

- 10 (2) This Act may modify the applied provisions.

11 *Note* A reference to an Act includes a reference to the statutory instruments
12 made or in force under the Act, including any regulation (see
13 Legislation Act, s 104).

14 **158** **Interpretation of Commonwealth therapeutic goods laws**

- 15 (1) The *Acts Interpretation Act 1901* (Cwlth) applies as a law of the
16 Territory in relation to the interpretation of the applied provisions as
17 if the applied provisions were Commonwealth laws.

18 *Note 1* The *Acts Interpretation Act 1901* (Cwlth) is available at
19 www.comlaw.gov.au.

20 *Note 2* A reference to a law includes a reference to the law as originally made
21 and as in force from time to time (see Legislation Act, s 102).

- 22 (2) The Legislation Act does not apply to the applied provisions.

1 Division 10.2.2 Functions under applied provisions

2 159 Functions of Commonwealth Minister

3 The Commonwealth Minister has the same functions under the
4 applied provisions as the Commonwealth Minister has under the
5 Commonwealth therapeutic goods laws as those laws apply to the
6 Commonwealth.

7 *Note* *Function* includes power and duty (see Legislation Act, dict, pt 1).

8 160 Functions of Commonwealth Secretary

9 The Commonwealth Secretary has the same functions under the
10 applied provisions as the Commonwealth Secretary has under the
11 Commonwealth therapeutic goods laws as those laws apply to the
12 Commonwealth.

13 161 Functions of other people

14 A medicines and poisons inspector or Commonwealth officer under
15 the Commonwealth therapeutic goods laws has the same functions
16 under the applied provisions as the inspector or officer has under the
17 Commonwealth therapeutic goods laws as the laws apply to the
18 Commonwealth.

19 162 Delegations by Commonwealth Minister or Secretary

20 A delegation by the Commonwealth Minister or the Commonwealth
21 Secretary under the *Therapeutic Goods Act 1989* (Cwlth), section 57
22 is taken to extend to, and have effect for the purposes of, the
23 corresponding provision of the applied provisions.

Chapter 10 Incorporation of Commonwealth therapeutic goods laws

Part 10.2 Application in ACT of Commonwealth therapeutic goods laws

Division 10.2.3 Applied provisions—administrative law matters

Section 163

1 **163** **Appointments under Commonwealth therapeutic goods**
2 **laws**

3 The appointment of a person to a position under a provision of the
4 Commonwealth therapeutic goods laws is taken to extend to, and
5 have effect for the purposes of, the applied provisions.

6 **Division 10.2.3** **Applied provisions—administrative**
7 **law matters**

8 **164** **Application of Commonwealth administrative laws to**
9 **applied provisions**

10 (1) The Commonwealth administrative laws apply as laws of the
11 Territory to any matter arising in relation to the applied provisions
12 as if those provisions were a law of the Commonwealth and not a
13 territory law.

14 *Note* Subsection (4) contains an exception to s (1).

15 (2) For the purposes of a territory law, a matter arising in relation to the
16 applied provisions—

17 (a) is taken to be a matter arising in relation to the laws of the
18 Commonwealth in the same way as it would if the applied
19 provisions were a law of the Commonwealth; and

20 (b) is taken not to be a matter arising in relation to the laws of the
21 Territory.

22 (3) However, a regulation may modify the operation of subsection (2).

23 (4) A provision of a Commonwealth administrative law applied under
24 subsection (1) that purports to give jurisdiction to a federal court is
25 taken not to have that effect.

1 **165** **Functions given to Commonwealth officers and**
2 **authorities**

3 (1) A Commonwealth administrative law applying as a territory law
4 under section 164 that gives a Commonwealth officer or
5 Commonwealth authority a function also gives the officer or
6 authority the same function in relation to a matter arising in relation
7 to the applied provisions.

8 *Note* **Function** includes power and duty (see Legislation Act, dict, pt 1).

9 (2) In exercising a function given by this section, the Commonwealth
10 officer or Commonwealth authority must act as nearly as practicable
11 as the officer or authority would act in exercising the same function
12 under the Commonwealth administrative law.

13 (3) A function given to a Commonwealth officer or Commonwealth
14 authority because of this section cannot be exercised by a territory
15 officer or territory authority.

16 **Division 10.2.4 Applied provisions—offences**

17 **166 Object—div 10.2.4**

18 (1) The object of this division is to further the object of this chapter by
19 providing for an offence against the applied provisions to be treated
20 as if it were an offence against a law of the Commonwealth.

21 (2) For subsection (1), the purposes for which an offence is to be treated
22 as if it were an offence against a law of the Commonwealth include,
23 for example—

24 (a) the investigation and prosecution of offences; and

25 (b) the arrest, custody, bail, trial and conviction of offenders or
26 people charged with offences; and

- 1 (c) proceedings relating to matters mentioned in paragraph (a)
2 or (b); and
- 3 (d) appeals and review relating to criminal proceedings and to
4 proceedings of the kind mentioned in paragraph (c); and
- 5 (e) the sentencing, punishment and release of people convicted of
6 offences; and
- 7 (f) fines, penalties and forfeitures; and
- 8 (g) liability to make reparation in connection with offences; and
- 9 (h) proceeds of crime; and
- 10 (i) spent convictions.

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

14 **167 Application of Commonwealth criminal laws to offences**
15 **against applied provisions**

- 16 (1) The relevant Commonwealth laws apply as laws of the Territory in
17 relation to an offence against the applied provisions as if the applied
18 provisions were a law of the Commonwealth and not a law of the
19 Territory.
- 20 (2) For the purposes of a territory law, an offence against the applied
21 provisions—
- 22 (a) is taken to be an offence against the laws of the
23 Commonwealth in the same way as it would be if the applied
24 provisions were a law of the Commonwealth; and
- 25 (b) is taken not to be an offence against the laws of the Territory.
- 26 (3) However, a regulation may modify the operation of subsection (2).

1 (4) In this section:

2 *relevant Commonwealth laws* means—

3 (a) the Commonwealth laws that would apply in relation to an
4 offence against the applied provisions if it were an offence
5 against a law of the Commonwealth; and

6 (b) includes any Commonwealth law in relation to a matter
7 mentioned in section 166 (2) (a) to (i).

8 **168 Functions of Commonwealth officers and authorities**
9 **relating to offences**

10 (1) A provision of a Commonwealth law applying under section 167
11 that gives a Commonwealth officer or Commonwealth authority a
12 function in relation to an offence against the Commonwealth
13 therapeutic goods laws also gives the officer or authority the same
14 function in relation to an offence against the corresponding
15 provision of the applied provisions.

16 *Note* **Function** includes power and duty (see Legislation Act, dict, pt 1).

17 (2) In exercising a function given by subsection (1), the Commonwealth
18 officer or Commonwealth authority must act as nearly as practicable
19 as the officer or authority would act in exercising the same function
20 in relation to an offence against the corresponding provision of the
21 Commonwealth therapeutic goods laws.

22 **169 No double jeopardy for offences against applied**
23 **provisions**

24 (1) This section applies if—

25 (a) an act or omission is an offence against both the applied
26 provisions and the Commonwealth therapeutic goods laws; and

27 (b) the offender has been punished for the offence under the
28 Commonwealth laws.

Chapter 10	Incorporation of Commonwealth therapeutic goods laws
Part 10.2	Application in ACT of Commonwealth therapeutic goods laws
Division 10.2.5	Applied provisions—other provisions
Section 170	

1 (2) The offender is not liable to be punished for the offence under the
2 applied provisions.

3 **Division 10.2.5 Applied provisions—other provisions**

4 **170 Commonwealth may keep fees paid to Commonwealth**
5 **Secretary**

6 The Commonwealth may keep fees paid to, or recovered by, the
7 Commonwealth Secretary in relation to the exercise of functions
8 given to the Secretary by the applied provisions.

Chapter 11 Procedural and evidentiary provisions

Part 11.1 General provisions about offences against Act

Section 171

- 1 (b) section 96 (Contravening licence conditions).
- 2 (3) Conduct engaged in by a representative of a person within the scope
3 of the representative's actual or apparent authority is also taken to
4 have been engaged in by the person.
- 5 (4) However, subsection (3) does not apply if the person establishes that
6 the person took all reasonable steps to prevent the conduct.
- 7 (5) In deciding whether the person took all reasonable steps to prevent
8 the conduct, a court must consider—
- 9 (a) any action the person took to ensure that the representative had
10 a reasonable knowledge and understanding of the requirement
11 to comply with the contravened provision; and
- 12 (b) the level of management, control or supervision that was
13 appropriate for the person to exercise over the representative.
- 14 (6) Subsection (5) does not limit the matters that the court may
15 consider.
- 16 (7) If it is relevant to prove that a person had a fault element or was
17 negligent in relation to a physical element of an offence, it is enough
18 to show that—
- 19 (a) the conduct relevant to the physical element was engaged in by
20 a representative of the person within the scope of the
21 representative's actual or apparent authority; and
- 22 (b) the representative had the fault element or was negligent in
23 relation to the physical element.

- 1 (8) A person may rely on the Criminal Code, section 36 (Mistake of
2 fact—strict liability) in relation to conduct by a representative that
3 would be an offence by the person only if—
- 4 (a) the representative was under a mistaken but reasonable belief
5 about the facts that, had they existed, would have meant that
6 the conduct would not have been an offence; and
- 7 (b) the person proves that the person exercised appropriate
8 diligence to prevent the conduct.
- 9 (9) A person may not rely on the Criminal Code, section 39
10 (Intervening conduct or event) in relation to a physical element of an
11 offence brought about by someone else if the other person is a
12 representative of the person.
- 13 (10) A person who is convicted of an offence cannot be punished by
14 imprisonment for the offence if the person would not have been
15 convicted of the offence without subsection (3) or subsection (7).

16 **172 Criminal liability of corporation officers**

- 17 (1) This section applies to the following provisions:
- 18 (a) a provision of—
- 19 (i) chapter 4 (Offences relating to regulated substances); or
- 20 (ii) chapter 5 (Offences relating to regulated therapeutic
21 goods);
- 22 (b) section 94 (Returning licences for amendment);
- 23 (c) section 96 (Contravening licence conditions);
- 24 (d) section 145 (Return of certain licences and approvals).

- 1 (2) An executive officer of a corporation commits an offence if—
- 2 (a) the corporation contravenes a provision to which this section
- 3 applies; and
- 4 (b) the contravention is an offence against this Act (the *relevant*
- 5 *offence*); and
- 6 (c) the officer was reckless about whether the contravention would
- 7 happen; and
- 8 (d) the officer was in a position to influence the conduct of the
- 9 corporation in relation to the contravention; and
- 10 (e) the officer failed to take all reasonable steps to prevent the
- 11 contravention.
- 12 Maximum penalty: The maximum penalty that may be imposed for
- 13 the commission of the relevant offence by an individual.
- 14 (3) This section applies whether or not the corporation is prosecuted for,
- 15 or convicted of, the relevant offence.
- 16 (4) In deciding whether the executive officer took (or failed to take)
- 17 reasonable steps to prevent the contravention, a court must have
- 18 regard to the following:
- 19 (a) any action the officer took directed towards ensuring the
- 20 following (to the extent that the action is relevant to the act or
- 21 omission):
- 22 (i) that the corporation arranged regular professional
- 23 assessments of the corporation's compliance with the
- 24 contravened provision;
- 25 (ii) that the corporation implemented any appropriate
- 26 recommendation arising from such an assessment;

- 1 (iii) that the corporation's employees, agents and contractors
2 had a reasonable knowledge and understanding of the
3 requirement to comply with the contravened provision;
- 4 (b) any action the officer took when the officer became aware that
5 the contravention was, or could be, about to happen.
- 6 (5) Subsection (4) does not limit the matters to which the court may
7 have regard.
- 8 (6) This section does not apply if the corporation would have a defence
9 to a prosecution for the relevant offence.

10 **173 No defence to claim deterioration of sample**

11 It is not a defence in a proceeding for an offence against this Act for
12 a defendant to claim that any part of a sample kept for future
13 comparison with a sample that has been analysed has, from natural
14 causes, deteriorated, perished or undergone material change.

15 **174 Remedial orders by court for offences**

- 16 (1) This section applies if—
- 17 (a) a person is convicted, or found guilty, of an offence against
18 this Act; and
- 19 (b) the prosecutor asks the court to make an order under this
20 section; and
- 21 (c) it appears to the court that the person could partly or
22 completely rectify a state of affairs that arose as a direct or
23 indirect result of the conduct that was the subject of the
24 offence.

25 *Note* **Found guilty**—see the Legislation Act, dict, pt 1.

1 (2) The court may order the person to take any steps that it considers are
2 necessary and appropriate to rectify the state of affairs and that are
3 within the person's power to take.

4 (3) If a court makes an order under this section, it may also make any
5 other consequential orders (including orders about costs) that it
6 considers appropriate.

7 **175 Court may order costs and expenses**

8 (1) A court that hears a proceeding for an offence against this Act may
9 make any order it considers appropriate in relation to costs and
10 expenses in relation to the examination, seizure, detention, storage,
11 analysis (including further analysis), destruction or other disposition
12 of anything the subject of the proceeding.

13 (2) This section does not affect any other power of the court to award
14 costs.

15 **176 Court may order forfeiture**

16 A court that convicts a person, or finds a person guilty, of an offence
17 against this Act may order the forfeiture to the Territory of anything
18 that was used in the commission of the offence.

19 **177 Notices of noncompliance by territory entities**

20 (1) This section applies if a territory entity (other than a territory-owned
21 corporation) commits an offence against this Act and the offence is
22 an infringement notice offence.

23 *Note 1* **Territory-owned corporation**—see the Legislation Act, dict, pt 1.

24 *Note 2* A reference to an Act includes a reference to statutory instruments made
25 or in force under the Act, including any regulation and any law or
26 instrument applied, adopted or incorporated by the Act (see Legislation
27 Act, s 104).

1 (2) An authorised person for the infringement notice offence may serve
2 a notice of noncompliance on the responsible chief executive for the
3 territory entity.

4 *Note* For how documents may be served, see the Legislation Act, pt 19.5.

5 (3) The responsible chief executive must include in the chief
6 executive's annual report a statement of the number of notices of
7 noncompliance serviced on the chief executive and matter to which
8 each notice related.

9 (4) In this section:

10 *annual report* means a report under the *Annual Reports*
11 *(Government Agencies) Act 2004*.

12 *authorised person*, for an infringement notice offence, means an
13 authorised person for the infringement notice offence under the
14 *Magistrates Court Act 1930*, section 134A.

15 *responsible chief executive*—see the *Auditor-General Act 1996*,
16 dictionary.

17 *territory entity* means—

18 (a) an administrative unit; or

19 (b) a territory entity under the *Auditor-General Act 1996*.

1 **Part 11.2 Evidentiary provisions**

2 **178 Evidence—authorisations under Commonwealth and**
3 **State laws**

- 4 (1) This section applies to the prosecution of a person for an offence
5 against chapter 4 (Offences relating to regulated substances) or
6 chapter 5 (Offences relating to regulated therapeutic goods) if, to
7 prove the offence, it is necessary to prove that at a particular time
8 the person was not authorised to deal with a regulated substance or
9 therapeutic good in a particular way.
- 10 (2) Without evidence to the contrary, the person is taken not to have
11 been authorised under a Commonwealth or State law to deal with
12 the regulated substance or regulated therapeutic good in that way at
13 the particular time.
- 14 (3) To remove any doubt, a reference in subsection (2) to a State law
15 does not include a territory law.

16 **179 Presumptions**

17 In a proceeding for an offence against this Act, it is presumed until
18 the contrary is proved on the balance of probabilities, that—

- 19 (a) a regulated substance or regulated therapeutic good that is part
20 of a batch, lot or consignment of the substance of the same
21 kind or description is representative of all the substance or
22 good in the batch, lot or consignment; and
- 23 (b) each part of a sample of a regulated substance divided for
24 analysis for this Act is of uniform composition with every
25 other part of the sample; and

- 1 (c) a person manufactured, packed or supplied a regulated
2 substance or regulated therapeutic good if the person appears
3 to have done so from any marking or label on an article,
4 container or package containing the substance or therapeutic
5 good for sale; and
- 6 (d) a thing that is labelled with the name of—
- 7 (i) a regulated substance is the regulated substance; and
- 8 (ii) a regulated therapeutic good is the regulated therapeutic
9 good.

10 **180 Certificate evidence etc**

- 11 (1) This section applies in relation to a proceeding for an offence
12 against this Act.
- 13 (2) A document that appears to be a copy of a licence, authorisation or
14 approval under this Act is evidence of the issue or giving of a
15 licence, authorisation or approval.
- 16 (3) A certificate that appears to be signed by or on behalf of the chief
17 health officer, and that states any of the following matters, is
18 evidence of the matters:
- 19 (a) that there was, or was not, in force a licence, authorisation or
20 approval in relation to a stated person or premises;
- 21 (b) that a licence, authorisation or approval authorised or required
22 or did not authorise or require a stated dealing at a particular
23 time and place;
- 24 (c) that a licence, authorisation or approval was or was not subject
25 to stated conditions;
- 26 (d) that a substance is or is not a regulated substance;

Chapter 11 Procedural and evidentiary provisions

Part 11.2 Evidentiary provisions

Section 181

- 1 (e) that a regulated substance belongs to or does not belong to a
2 particular kind of regulated substances;
- 3 (f) a thing is or is not a regulated therapeutic good;
- 4 (g) the receipt or otherwise of a notice, application or payment;
- 5 (h) that an amount of fees or another amount is or was payable
6 under this Act by a stated person.

7 *Note* For evidentiary certificates by authorised analysts, see the *Public Health*
8 *Act 1997*, s 135A.

- 9 (4) A certificate that appears to be signed by or on behalf of the chief
10 health officer, and states anything prescribed by regulation, is
11 evidence of the thing.
- 12 (5) A certificate mentioned in subsection (3) or subsection (4) may state
13 anything by reference to a date or period.
- 14 (6) A court must accept a certificate or other document mentioned in
15 this section as proof of the matters stated in it if there is no evidence
16 to the contrary.

17 **181 Admissibility of analysis of samples taken by inspectors**

18 The analysis of a sample of a substance taken by a medicines and
19 poisons inspector is admissible in evidence in a proceeding for an
20 offence against this Act only if the sample was taken as required or
21 allowed under part 7.2 (Taking and analysis of samples of
22 substances).

23 **182 Power of court to order further analysis**

- 24 (1) This section applies if the court before which a person is being
25 prosecuted for an offence against this Act is satisfied that there is a
26 disagreement between the evidence of the analysts for the parties to
27 the proceeding.

- 1 (2) The court may order that the part of a sample kept for comparison
2 under section 135 (Procedures for dividing samples) be sent by the
3 chief health officer to an independent analyst.
- 4 (3) For subsection (2), the order may require the sample to be sent to a
5 particular analyst or to an analyst agreed to by the parties.
- 6 (4) An analysis of a sample under this section is for the information of
7 the court.
- 8 (5) Subject to section 175 (Court may order costs and expenses), the
9 cost of an analysis under this section is payable by the Territory.

1 **Chapter 12** **Regulations about regulated**
2 **substances and regulated**
3 **therapeutic goods**

4 **183** **Meaning of *regulated thing*—ch 12**

5 In this chapter:

6 *regulated thing* means a regulated substance or regulated
7 therapeutic good.

8 **184** **Regulation-making power**

9 (1) The Executive may make regulations for this Act.

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

12 (2) A regulation may create offences and fix maximum penalties of not
13 more than 30 penalty units for the offences.

14 **185** **Regulations—regulated things**

15 (1) A regulation may make provision in relation to regulated things,
16 including, for example—

17 (a) the methods and equipment for examining and testing things to
18 decide whether they are regulated things; and

19 (b) the methods and equipment for classifying regulated things;
20 and

21 (c) the storage and display, including requirements about security
22 and accessibility, of regulated things; and

23 (d) the advertising and supply of regulated things; and

-
- 1 (e) the safe dealing with regulated things; and
2 (f) the use of regulated things; and
3 (g) the authorisation, control, notification and prohibition of
4 dealings with regulated things; and
5 (h) the plant, premises and systems for dealing with regulated
6 things; and
7 (i) the security requirements for premises used to deal with
8 regulated things; and
9 (j) the packing, marking, labelling and packaging of regulated
10 things, including the maximum sizes and packages of regulated
11 things; and
12 (k) the making and keeping of records in relation to regulated
13 things (including plant and premises for dealing with regulated
14 things) and their inspection and auditing.

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

- 18 (2) A regulation may also make provision in relation to regulated
19 things, and other things, that can be used to manufacture regulated
20 things.

21 **186 Regulations—authorisations**

- 22 (1) A regulation may make provision in relation to authorisations for
23 dealing with regulated things, including, for example—
24 (a) the circumstances in which an authorisation is required for
25 dealing with, or doing something else in relation to, regulated
26 things, including the kind of regulated thing, the kind of
27 dealings, the circumstances of the dealings and the amount that
28 may be dealt with; and

Section 186

- 1 (b) the requirements for an application for an authorisation; and
2 (c) the suitability of people to hold an authorisation to deal with
3 regulated things, including—
4 (i) the knowledge, experience and training of people; and
5 (ii) the testing or examination of people to decide whether
6 they are, or continue to be, suitable people to hold an
7 authorisation; and
8 (d) the circumstances in which authorisations may or must not be
9 given; and
10 (e) the suitability of premises (including vehicles) in relation to
11 dealings; and
12 (f) the supervision of dealings; and
13 (g) the authorisations that may be issued and the authority given to
14 people by particular authorisations; and
15 (h) the conditions of authorisations; and
16 (i) the creation and publication of registers in relation to
17 authorisations; and
18 (j) authorising people to deal with regulated things for research,
19 education or any other purpose.

Examples of conditions—par (h)

- 20
21 1 how dispensed medicines are to be labelled
22 2 the recording of the supply of regulated things
23 3 the packaging of dangerous poisons
24 4 how long documents relating to dealings with regulated things must be kept

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

- 1 (2) A regulation may also make provision in relation to the recognition
2 of authorisations (however described) under corresponding laws and
3 the circumstances in which an authorisation to deal with a regulated
4 thing under a corresponding law authorises people to deal with the
5 regulated thing in the ACT.

6 **187 Regulations—records kept electronically**

- 7 (1) If a document that is required to be kept under this Act is kept in
8 electronic form, a regulation may require that the electronic form of
9 the document be recorded or retained on a particular kind of data
10 storage device.

- 11 (2) Subsection (1) applies despite the *Electronic Transactions Act 2001*,
12 section 11 (1) (c) and (2) (d) (Retention of information and
13 documents).

14 *Note* Section 11 (1) (c) and (2) (d) provide for regulations under the
15 *Electronic Transactions Act 2001* to prescribe data storage devices.

- 16 (3) For the *Electronic Transactions Act 2001*, a regulation under
17 subsection (1) is taken to be a regulation under that Act.

- 18 (4) In this section:

19 *data storage device*—see the *Electronic Transactions Act 2001*,
20 dictionary.

21 **188 Regulations—medicines advisory committee**

22 A regulation may make provision in relation to the appointment of
23 members to, and the procedures of, the medicines advisory
24 committee.

25 *Note* The committee is established under s 194.

- 1 **189 Regulations—application etc of instruments**
- 2 (1) A regulation may apply, adopt or incorporate a law of another
- 3 jurisdiction or an instrument, or a provision of a law of another
- 4 jurisdiction or instrument, as in force from time to time.
- 5 *Note 1* The text of an applied, adopted or incorporated law or instrument,
- 6 whether applied as in force from time to time or at a particular time, is
- 7 taken to be a notifiable instrument if the operation of the Legislation
- 8 Act, s 47 (5) or (6) is not disapplied (see s 47 (7)).
- 9 *Note 2* A notifiable instrument must be notified under the Legislation Act.
- 10 (2) In this section:
- 11 *law of another jurisdiction*—see the Legislation Act,
- 12 section 47 (10).
- 13 **190 Regulations—exemption of people, dealings etc**
- 14 (1) A regulation may—
- 15 (a) exempt a person, regulated thing, premises or dealing with a
- 16 regulated thing, or anything else, prescribed by regulation from
- 17 this Act; or
- 18 (b) authorise the Minister to exempt a person, regulated thing,
- 19 premises or dealing with a regulated thing, or anything else,
- 20 prescribed by regulation from this Act.
- 21 *Note* A reference to an Act includes a reference to a provision of an Act (see
- 22 Legislation Act, s 7 (3)).
- 23 (2) An exemption under subsection (1) may be conditional.
- 24 (3) A regulation may provide for the Minister to suspend the operation
- 25 of—
- 26 (a) a regulation mentioned in subsection (1) (a) in the way and
- 27 circumstances prescribed by regulation; or

1 (b) an exemption given under subsection (1) (a) in the way and
2 circumstances prescribed by regulation.

3 (4) An exemption under subsection (1) (a) is a disallowable instrument.

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

1 Chapter 13 Miscellaneous

2 191 Directions about dealings with regulated substances and 3 therapeutic goods

4 (1) For this Act, the chief health officer may give a direction about
5 dealing with a regulated substance or regulated therapeutic good to a
6 person who is authorised to deal with the substance or good.

7 (2) Without limiting subsection (1), the chief health officer may give a
8 direction that the chief health officer considers necessary for any of
9 the following:

10 (a) discarding a regulated substance or regulated therapeutic good;

11 (b) safe dealing with a regulated substance or regulated therapeutic
12 good;

13 (c) ensuring compliance with any requirement under this Act or
14 any other territory law in relation to a regulated substance or
15 regulated therapeutic good.

16 (3) A direction may be given orally or in writing.

17 (4) A direction under subsection (2) (a)—

18 (a) must state a reasonable period within which the regulated
19 substance or regulated therapeutic good must be discarded; and

20 (b) may include requirements for the storage of the substance or
21 good until discarded.

22 192 Guidelines about dealings with regulated substances and 23 therapeutic goods

24 (1) The chief health officer may issue guidelines about dealings with
25 regulated substances and regulated therapeutic goods.

1 (2) Without limiting subsection (1), a guideline may make provision
2 about the circumstances in which a regulated substance or regulated
3 therapeutic good may be dealt with.

4 (3) A guideline is a notifiable instrument.

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

6 **193 Approval of non-standard packaging and labelling**

7 (1) The chief health officer may approve the packaging or labelling of a
8 regulated substance that does not comply with the medicines and
9 poisons standard if satisfied that the use of the packaging or
10 labelling is as safe as using the packaging or labelling allowed under
11 the standard for the substance.

12 (2) The chief health officer may approve a form of packaging or
13 labelling for a regulated therapeutic good if satisfied that the use of
14 the packaging or labelling is safe.

15 (3) An approval may be conditional.

16 (4) An approval is a notifiable instrument.

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

18 **194 Establishment of medicines advisory committee**

19 The Medicines Advisory Committee is established.

20 **195 Secrecy**

21 (1) In this section:

22 *court* includes any tribunal or other entity having power to require
23 the production of documents or the answering of questions.

24 *produce* includes permit access to.

Section 195

- 1 *protected information* means information about a person that is
2 disclosed to, or obtained by, a person to whom this section applies
3 because of the exercise of a function under this Act.
- 4 (2) This section applies to—
- 5 (a) a person who is or has been a member of the medicines
6 advisory committee; or
- 7 (b) anyone else who has exercised, or purported to exercise, a
8 function under this Act.
- 9 (3) A person to whom this section applies commits an offence if the
10 person—
- 11 (a) makes a record of protected information; or
- 12 (b) directly or indirectly discloses or communicates to a person
13 protected information about someone else.
- 14 Maximum penalty: 50 penalty units, imprisonment for 6 months or
15 both.
- 16 (4) Subsection (3) does not apply if the record is made, or the
17 information is disclosed or communicated—
- 18 (a) under this or any other Act; or
- 19 (b) in relation to the exercise of a function of the person to whom
20 this section applies under this or any other Act; or
- 21 (c) about a person if the giving of the information is necessary to
22 remove a threat to the life or health of the person; or
- 23 (d) to a person administering or enforcing a corresponding law; or
- 24 (e) to a law enforcement authority; or

1 (f) to a health profession board under the *Health Professionals*
2 *Act 2004*; or

3 (g) to a court under a summons or subpoena.

4 (5) Subsection (3) does not prevent a person to whom this section
5 applies from communicating protected information to a person
6 about someone else with the consent of the other person.

7 **196 Protection of officials from liability**

8 (1) In this section:

9 *official* means—

10 (a) a member of the medicines advisory committee; or

11 (b) anyone else who exercises a function under this Act.

12 (2) An official, or anyone engaging in conduct under the direction of an
13 official, is not personally liable for anything done or omitted to be
14 done honestly and without recklessness—

15 (a) in the exercise of a function under this Act; or

16 (b) in the reasonable belief that the conduct was in the exercise of
17 a function under this Act.

18 (3) Any civil liability that would, apart from subsection (2), attach to an
19 official attaches instead to the Territory.

20 **197 Determination of fees**

21 (1) The Minister may determine fees for this Act.

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

24 (2) A determination is a disallowable instrument.

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

1 **198 Approved forms**

2 (1) The Minister may approve forms for this Act.

3 (2) If the Minister approves a form for a particular purpose, the
4 approved form must be used for that purpose.

5 *Note* For other provisions about forms, see the Legislation Act, s 255.

6 (3) An approved form is a notifiable instrument.

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

1 **Chapter 14 Transitional**

2 **Part 14.1 Transitional—general**

3 **500 Definitions—ch 14**

4 In this chapter:

5 *commencement day* means the day this chapter commences.

6 *Drugs of Dependence Act* means the *Drugs of Dependence*
7 *Act 1989* as in force immediately before the commencement day.

8 **501 Transitional regulations**

- 9 (1) A regulation may prescribe transitional matters necessary or
10 convenient to be prescribed because of the enactment of this Act.
- 11 (2) A regulation may modify this chapter to make provision in relation
12 to anything that, in the Executive's opinion, is not, or is not
13 adequately or appropriately, dealt with in this chapter.
- 14 (3) A regulation under subsection (2) has effect despite anything
15 elsewhere in this Act.

16 **502 Transitional effect—Legislation Act, s 88**

17 This chapter is a law to which the Legislation Act, section 88
18 (Repeal does not end effect of transitional laws etc) applies.

19 **503 Expiry—ch 14**

20 This chapter expires 2 years after the commencement day.

1 **Part 14.2** **Consequential and other**
2 **amendments and repeals**

3 **510** **Legislation amended—sch 2**

4 This Act amends the legislation mentioned in schedule 2.

5 **511** **Legislation repealed**

6 (1) The following Acts (the *repealed Acts*) are repealed:

- 7 • *Poisons Act 1933* (A1933-37)
8 • *Poisons and Drugs Act 1978* (A1978-38)
9 • *Public Health (Prohibited Drugs) Act 1957* (A1957-9).

10 (2) The following regulations are repealed:

- 11 • *Poisons Regulation 1933*
12 • *Poisons and Drugs Regulation 1993* (SL1993-15).

13 (3) All other legislative instruments under the repealed Acts are
14 repealed.

15 (4) The following legislative instruments under the *Drugs of*
16 *Dependence Act 1989* are repealed:

- 17 • *Drugs of Dependence Authorisation* (NI1997-153)
18 • *Drugs of Dependence Authorisation* (NI1999-176)
19 • *Drugs of Dependence Delegation 2001* (NI2001-77)
20 • *Drugs of Dependence Delegations 2001* (DI2001-82)
21 • *Drugs of Dependence Revocation of Appointment* (NI1997-204)
22 • *Drugs of Dependence Revocation of Appointment* (NI1997-205)
23 • *Poisons and Drugs of Dependence (Fees) Determination 1991*
24 (DI1991-9).

- 1 (5) The following approved forms under the *Drugs of Dependence*
2 *Act 1989* are repealed:
- 3 • Form 1 (Drug register) (AF2001-13)
 - 4 • Form 2 (Ward register) (AF2001-14)
 - 5 • Form 2A (Methadone register) (AF2001-15)
 - 6 • Form 3 (First-aid register) (AF2001-16)
 - 7 • Form 4 (Drugs of dependence inventory) (AF2001-17).
- 8 (6) The *Public Health (Risk Activities) Declaration 2006 (No 1)*
9 (DI2006-137) is repealed.

1 **Part 14.3 Transitional—licences and**
2 **authorisations**

3 **520 Transitional—existing licences**

- 4 (1) This section applies to the following licences (each of which is an
5 *old licence*) if the licence was in force immediately before the
6 commencement day:
- 7 (a) a manufacturer’s licence or wholesaler’s licence under the
8 Drugs of Dependence Act;
- 9 (b) a licence under the *Poisons Act 1933* to sell poisons and other
10 substances;
- 11 (c) a manufacturer’s licence or vendor’s licence under the *Poisons*
12 *and Drugs Act 1978*.
- 13 (2) An old licence is taken to be a licence (the *new licence*) under this
14 Act as prescribed by regulation.
- 15 (3) The new licence continues in force—
- 16 (a) if the old licence would have remained in force, unless
17 suspended or cancelled, for a finite period but for the
18 commencement of this Act—for the rest of the period that the
19 old licence would have continued in force but for the
20 commencement of this Act, unless suspended or cancelled
21 under this Act; or
- 22 (b) if the old licence would have remained in force, unless
23 suspended or cancelled, indefinitely but for the commencement
24 of this Act—for the period ending 6 months after the
25 commencement day.

- 1 (4) The new licence continues to be subject to any condition to which
2 the old licence was subject immediately before the commencement
3 day until the condition ceases to have effect or is removed or varied
4 under this Act.
- 5 (5) To remove any doubt, section 93 (Changes affecting suitability to
6 hold licence) applies in relation to the holder of the new licence.

7 **521 Transitional—uncompleted licence applications**

- 8 (1) An application to the Minister or chief health officer for the issue or
9 renewal of an old licence that, immediately before the
10 commencement day, had not been finally decided is taken to be an
11 application to the chief health officer for the issue of a new licence
12 as prescribed under section 520 (2) for the old licence.
- 13 (2) Action under an Act mentioned in section 520 (1) to amend, vary,
14 cancel or revoke an old licence that, immediately before the
15 commencement day, had not been finally decided is taken to be the
16 corresponding action under this Act in relation to the new licence.
- 17 (3) For subsection (2), a regulation may prescribe what is, and is not,
18 corresponding action in relation to the new licence.
- 19 (4) In this section:
20 *new licence*—see section 520.
21 *old licence*—see section 520.

22 **522 Transitional—existing authorisations**

- 23 (1) This section applies to the following authorisations (each of which
24 is an *old authorisation*) if the authorisation was in force
25 immediately before the commencement day:
- 26 (a) an authorisation under the Drugs of Dependence Act,
27 section 33 (Authorisation (research or education—grant));

Chapter 14 Transitional

Part 14.3 Transitional—licences and authorisations

Section 522

- 1 (b) an authorisation under the Drugs of Dependence Act,
2 section 43 (Authorisation (first-aid—grant));
- 3 (c) an authorisation under the *Poisons and Drugs Act 1978*,
4 section 26 (Grant of authorisation) (which relates to research or
5 education);
- 6 (d) an authorisation under the *Public Health (Prohibited Drugs)*
7 *Act 1957*, section 6A (Authority to possess prohibited drugs for
8 research purposes).
- 9 (2) An old authorisation is taken to be a licence under this Act (the *new*
10 *licence*) as prescribed by regulation.
- 11 (3) The new licence continues in force—
- 12 (a) if the old authorisation would have remained in force, unless
13 suspended or cancelled, for a finite period but for the
14 commencement of this Act—for the rest of the period that the
15 old authorisation would have continued in force but for the
16 commencement of this Act, unless suspended or cancelled
17 under this Act; or
- 18 (b) if the old authorisation would have remained in force, unless
19 suspended or cancelled, indefinitely but for the commencement
20 of this Act—for the period ending 6 months after the
21 commencement day.
- 22 (4) The new licence continues to be subject to any condition to which
23 the old authorisation was subject immediately before the
24 commencement day until the condition ceases to have effect or is
25 removed or varied under this Act.
- 26 (5) To remove any doubt, section 93 (Changes affecting suitability to
27 hold licence) applies in relation to the holder of the new licence.

-
- 1 **523 Transitional—uncompleted authorisation applications**
- 2 (1) An application to the Minister for the issue or renewal of an old
- 3 authorisation that, immediately before the commencement day, had
- 4 not been finally decided is taken to be an application to the chief
- 5 health officer for the issue of a new licence as prescribed under
- 6 section 522 (2) for the old authorisation.
- 7 (2) Action under an Act mentioned in section 522 (1) to amend, vary,
- 8 cancel or revoke an old authorisation that, immediately before the
- 9 commencement day, had not been finally decided is taken to be the
- 10 corresponding action under this Act in relation to the new licence.
- 11 (3) For subsection (2), a regulation may prescribe what is, and is not,
- 12 corresponding action in relation to the new licence.
- 13 (4) In this section:
- 14 *new licence*—see section 522.
- 15 *old authorisation*—see section 522.
- 16 **524 Transitional—uncompleted applications for AAT review**
- 17 (1) This section applies if—
- 18 (a) before the commencement day, an application for review to the
- 19 administrative appeals tribunal had been made in relation to a
- 20 decision under an Act mentioned in section 511 (Legislation
- 21 repealed); and
- 22 (b) immediately before the commencement day, the proceeding on
- 23 the application had not ended; and
- 24 (c) the thing to which the decision relates is taken to be a new
- 25 licence under section 520 (2) (Transitional—existing licences)
- 26 or section 522 (2) (Transitional—existing authorisations).

Chapter 14 Transitional

Part 14.3 Transitional—licences and authorisations

Section 524

- 1 (2) If this section applies—
- 2 (a) the proceeding may be continued as if the application for
- 3 review had been made in relation to the new licence; and
- 4 (b) the decision-maker is taken to be the chief health officer.
- 5 (3) For this section, the administrative appeals tribunal may give any
- 6 direction the tribunal considers necessary or desirable to facilitate a
- 7 matter in relation to the application for review.

1 **Part 14.4** **Transitional—approvals to**
2 **prescribe drugs of dependence**

3 **530** **Transitional—meaning of *drugs advisory committee*—**
4 **pt 14.4**

5 In this part:

6 *drugs advisory committee* means the drugs advisory committee
7 established under the Drugs of Dependence Act, section 66.

8 **531** **Transitional—existing approvals to prescribe drugs of**
9 **dependence**

- 10 (1) This section applies to an approval (an *old approval*) under the
11 Drugs of Dependence Act, section 69 (which is about the approval
12 of certain prescriptions) if the approval was in force immediately
13 before the commencement day.
- 14 (2) The old approval is taken to be an authorisation (the *new approval*)
15 under this Act as prescribed by regulation.
- 16 (3) The new approval continues in force for the unexpired period of the
17 old approval unless the new approval is ended under this Act.

18 *Note* A reference to an Act includes a reference to the statutory instruments
19 made or in force under the Act, including any regulation (see
20 Legislation Act, s 104).

- 21 (4) The new approval continues to be subject to any condition to which
22 the old approval was subject immediately before the commencement
23 day until the condition ceases to have effect or is removed or varied
24 under this Act.

- 1 **532 Transitional—uncompleted applications to prescribe**
2 **drugs of dependence**
- 3 (1) An application to the chief health officer for the issue of an old
4 approval that, immediately before the commencement day, had not
5 been finally decided is taken to be an application to the chief health
6 officer for the issue of a new approval for the controlled medicine to
7 which the application for the old approval related.
- 8 (2) If the application has been referred to the drugs advisory committee
9 and, immediately before the commencement day, the application
10 had not been finally decided by the committee, the application is
11 taken to have been referred to the medicines advisory committee.
- 12 (3) For subsection (2), the consideration of the application may be
13 continued under this Act by the medicines advisory committee.
- 14 (4) Action under the Drugs of Dependence Act to vary or revoke an old
15 approval that, immediately before the commencement day, had not
16 been finally decided is taken to be the corresponding action under
17 this Act in relation to the new approval.
- 18 (5) For subsection (4), a regulation may prescribe what is, and is not,
19 corresponding action in relation to the new approval.
- 20 (6) In this section:
21 *new approval*—see section 531.
22 *old approval*—see section 531.

- 1 **533** **Transitional—uncompleted applications for drugs**
2 **advisory committee review**
- 3 (1) This section applies if—
- 4 (a) before the commencement day, an application to the drugs
5 advisory committee had been made under the Drugs of
6 Dependence Act, section 72 (Review of decisions of chief
7 health officer); and
- 8 (b) immediately before the commencement day, the proceeding on
9 the application had not ended.
- 10 (2) If this section applies, the proceeding may be continued under this
11 Act as if the application for review had been made to the medicines
12 advisory committee in relation to the controlled medicine to which
13 the application to the drugs advisory committee related.
- 14 (3) For this section, the medicines advisory committee may give any
15 direction the committee considers necessary or desirable to facilitate
16 a matter in relation to the application for review.

1 **Part 14.5 Transitional—supply authorities**

2 **540 Transitional—prescriptions generally**

3 (1) This section applies to a prescription issued before the
4 commencement day.

5 (2) To remove any doubt, this Act applies to the prescription.

6 *Note* A reference to an Act includes a reference to the statutory instruments
7 made or in force under the Act, including any regulation (see
8 Legislation Act, s 104).

9 **541 Transitional—requisitions generally**

10 (1) This section applies to a requisition issued before the
11 commencement day.

12 (2) To remove any doubt, this Act applies to the requisition.

13 **542 Transitional—purchase orders generally**

14 (1) This section applies to a purchase order issued before the
15 commencement day.

16 (2) To remove any doubt, this Act applies to the purchase order.

17 **543 Transitional—standing orders**

18 (1) This section applies to a standing order issued before the
19 commencement day.

20 (2) This Act applies to the standing order.

21 (3) If the standing order does not otherwise have an expiry date, the
22 standing order expires 6 months after the commencement day.

1 **Part 14.6** **Transitional—other**

2 **550** **Transitional—registers**

- 3 (1) This section applies to—
4 (a) a register kept at any time under the Drugs of Dependence Act,
5 part 8 (Records, safekeeping and disposal); and
6 (b) a poisons register kept at any time under the *Poisons and*
7 *Drugs Act 1978*, section 22.

- 8 (2) A register to which this section applies is taken to be a register
9 under this Act for the regulated substance to which the register
10 relates.

- 11 (3) To remove any doubt—
12 (a) entries to, and amendments of, the register made on or after the
13 commencement day must be made in accordance with this Act;
14 and
15 (b) if the register is no longer used, the register must be kept in
16 accordance with section 56.

17 *Note* A reference to an Act includes a reference to the statutory instruments
18 made or in force under the Act, including any regulation (see
19 Legislation Act, s 104).

20 **551** **Transitional—drugs advisory committee members**

- 21 (1) This section applies to a person who, immediately before the
22 commencement day, was a member of the drugs advisory
23 committee.

Chapter 14 Transitional

Part 14.6 Transitional—other

Section 551

- 1 (2) The person is taken to be a member of the medicines advisory
2 committee for the unexpired period of the person's appointment to
3 the drugs advisory committee immediately before the
4 commencement day unless the person's appointment as a member of
5 the medicines advisory committee is ended under this Act.
- 6 (3) If the person, immediately before the commencement day, was the
7 chairperson of the drugs advisory committee, the person is taken to
8 be the presiding member (however described) of the medicines
9 advisory committee.

1 **Schedule 1 Chief health officer—**
 2 **reviewable decisions**

3 (see s 154)

column 1 item	column 2 decision	column 3 affected person
1	section 85—issue licence for less than maximum period allowed	applicant for licence
2	section 85 (2)—refuse to issue licence	applicant for licence
3	section 90 (1)—issue licence subject to condition included by chief health officer	applicant for licence
4	section 91—amend licence	licence-holder
5	section 92—amend licence in terms different from application or refuse to amend licence	licence-holder
6	section 142 (3) in relation to an authorisation holder— <ul style="list-style-type: none"> • reprimand authorisation holder • require authorisation holder or employee to complete training • impose condition on authorisation holder’s authority to deal with regulated substance/regulated therapeutic good • vary authorisation holder’s authority to deal with regulated substance/regulated therapeutic good • suspend authorisation holder’s authority to deal with regulated substance/regulated therapeutic good or deal with regulated substance/regulated therapeutic good in particular way • period of suspension/course of training/stated event 	authorisation holder

Schedule 1 Chief health officer—reviewable decisions

column 1 item	column 2 decision	column 3 affected person
	<ul style="list-style-type: none"> cancel authorisation holder's authority to deal with regulated substance/regulated therapeutic good prohibit interstate wholesaler from supplying regulated substance/regulated therapeutic good by wholesale in ACT 	
7	section 142 (3) in relation to a former authorisation holder— <ul style="list-style-type: none"> reprimand former authorisation holder disqualify former authorisation holder from being authorised to deal with regulated substance/regulated therapeutic good or deal with regulated substance/regulated therapeutic good in particular way period of disqualification/course of training/stated event prohibit former interstate wholesaler from supplying regulated substance/regulated therapeutic good by wholesale in ACT 	former authorisation holder
8	section 191—give direction	person to whom direction is given

1 **Schedule 2** **Consequential and other**
2 **amendments**

3 (see s 510)

4 **Part 2.1** **Animal Diseases Act 2005**

5 **[2.1] Section 54 (a)**

6 *substitute*

7 (a) an analyst under the *Public Health Act 1997*, section 15;

8 *Note* *Analyst* includes the government analyst (see *Public Health*
9 *Act 1997*, dict).

10 **Part 2.2** **Bail Act 1992**

11 **[2.2] Schedule 1, part 1.3**

12 *substitute*

13 **Part 1.3** **Offence against Drugs of**
14 **Dependence Act 1989**

column 1 item	column 2 provision	column 3 description of offence
1	164	sale, supply etc of drug of dependence or prohibited substance

1 **Part 1.3A** **Offences against Medicines,**
2 **Poisons and Therapeutic Goods**
3 **Act 2007**

column 1 item	column 2 provision	column 3 description of offence
1	26	supply of controlled medicine or prohibited substance
2	33	manufacture of controlled medicine or prohibited substance

4 **[2.3] Schedule 1, parts 1.3A and 1.4**
5 *renumber as schedule 1, parts 1.4 and 1.5*

6 **Part 2.3** **Children and Young People Act**
7 **1999**

8 **[2.4] Section 2, note 1**

9 *substitute*

10 *Note 1* The dictionary at the end of this Act defines certain terms used in this
11 Act, and includes references (*signpost definitions*) to other terms
12 defined elsewhere.

13 For example, the signpost definition '*controlled drug*—see the Criminal
14 Code, section 600.' means that the term 'controlled drug' is defined in
15 that section and the definition applies to this Act.

16 **[2.5] Sections 47 (2) (a) (ii), 332 (1) (a) (ii) and 333 (1) (c)**

17 *omit*

18 drug of dependence or

1 **[2.6] Dictionary, definition of *drug of dependence***

2 *omit*

3 **Part 2.4 Crimes Act 1900**

4 **[2.7] New part 8**

5 *insert*

6 **Part 8 Anabolic steroids**

7 **170 Meaning of *anabolic steroid***

8 In this part:

9 *anabolic steroid* means an anabolic steroidal agent.

10 **171 Prescribing and supplying anabolic steroids**

- 11 (1) A person commits an offence if the person prescribes an anabolic
12 steroid for someone else for human use.

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

- 15 (2) A person commits an offence if the person supplies an anabolic
16 steroid for someone else for human use.

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

- 19 (3) This section does not apply to an anabolic steroid if the anabolic
20 steroid is—

21 (a) registered under the *Therapeutic Goods Act 1989* (Cwlth); or

22 (b) prescribed or supplied for the purposes of a clinical trial
23 conducted under that Act.

- 1 (4) In this section:
2 *prescribe*—see the *Medicines, Poisons and Therapeutic Goods*
3 *Act 2007*, dictionary.
4 *supply*—see the *Medicines, Poisons and Therapeutic Goods*
5 *Act 2007*, section 24.
6 *Note* *Supply* includes sell and dispense (see *Medicines, Poisons and*
7 *Therapeutic Goods Act 2007*, s 24).

8 **172 Possessing anabolic steroids**

- 9 (1) A person commits an offence if the person possesses an anabolic
10 steroid.
11 Maximum penalty: 50 penalty units, imprisonment for 6 months or
12 both.
13 (2) Subsection (1) does not apply to a person who—
14 (a) is authorised under the *Medicines, Poisons and Therapeutic*
15 *Goods Act 2007* to manufacture, possess or supply the anabolic
16 steroid; or
17 (b) obtained the anabolic steroid from someone who is authorised
18 in accordance with paragraph (a) to supply the anabolic steroid
19 to the person.

20 **173 Administering anabolic steroids**

- 21 (1) A person commits an offence if the person administers an anabolic
22 steroid to himself, herself or someone else.
23 Maximum penalty: 50 penalty units, imprisonment for 6 months or
24 both.
25 (2) This section does not apply to an anabolic steroid if the anabolic
26 steroid is—
27 (a) registered under the *Therapeutic Goods Act 1989* (Cwlth); or

1 (b) administered for the purposes of a clinical trial conducted
2 under that Act.

3 **Part 2.5** **Crimes (Sentence**
4 **Administration) Regulation 2006**

5 **[2.8] Section 2, note 1**

6 *substitute*

7 *Note 1* The dictionary at the end of this regulation defines certain terms used in
8 this regulation, and includes references (*signpost definitions*) to other
9 terms defined elsewhere.

10 For example, the signpost definition '*medicine*—see the *Medicines,*
11 *Poisons and Therapeutic Goods Act 2007*, section 11.' means that the
12 term '*medicine*' is defined in that section and the definition applies to
13 this regulation.

14 **[2.9] Section 4 (c)**

15 *omit*

16 prescribed substance

17 *substitute*

18 medicine

19 **[2.10] Dictionary, definitions of *drug of dependence* and *drugs***
20 ***and poisons standard***

21 *omit*

22 **[2.11] Dictionary, new definition of *medicine***

23 *insert*

24 *medicine*—see the *Medicines, Poisons and Therapeutic Goods*
25 *Act 2007*, section 11.

1 **[2.12] Dictionary, definition of *prescribed substance***

2 *omit*

3 **[2.13] Dictionary, definition of *prohibited substance***

4 *substitute*

5 *prohibited substance*—see the *Medicines, Poisons and Therapeutic*
6 *Goods Act 2007*, section 13.

7 **Part 2.6 Criminal Code 2002**

8 **[2.14] Section 605, note and section 614, note**

9 *substitute*

10 *Note* For an additional offence relating to possessing controlled drugs, see the
11 *Drugs of Dependence Act 1989*, s 169 and s 171 and the *Medicines,*
12 *Poisons and Therapeutic Goods Act 2007*, s 36.

13 **[2.15] Sections 633 (1) (b), 634 (1) (b) and 635 (1) (b)**

14 *omit*

15 this chapter or the *Drugs of Dependence Act 1989*, part 10

16 *substitute*

17 this chapter, the *Drugs of Dependence Act 1989*, part 10 or the
18 *Medicines, Poisons and Therapeutic Goods Act 2007*, chapter 4

19 **Part 2.7 Criminal Code Regulation 2005**

20 **[2.16] Sections 5 to 9**

21 *omit*

22 mentioned in

23 *substitute*

24 under

1 **[2.17] Schedule 1, note to schedule 1**

2 *substitute*

3 *Note to sch 1*

4 This schedule is divided into pt 1.1 (Controlled medicines) and pt 1.2 (Prohibited
5 substances). These terms are not relevant for the Criminal Code but are terms
6 used in the *Medicines, Poisons and Therapeutic Goods Act 2007*.

7 **[2.18] Schedule 1, part 1.1 heading**

8 *substitute*

9 **Part 1.1 Controlled medicines**

10 **Part 2.8 Dangerous Substances Act 2004**

11 **[2.19] Section 8 (1), note 2**

12 *omit*

- 13 • *Occupational Health and Safety Act 1989*
14 • *Poisons Act 1933*
15 • *Poisons and Drugs Act 1978*

16 *substitute*

- 17 • *Medicines, Poisons and Therapeutic Goods Act 2007*
18 • *Occupational Health and Safety Act 1989*

19 **Part 2.9 Drugs of Dependence Act 1989**

20 **[2.20] Long title**

21 *substitute*

22 An Act to prohibit the sale, supply and possession of drugs of
23 dependence and prohibited substances, and for related purposes

- 1 **[2.21] Sections 3 and 3AA**
- 2 *substitute*
- 3 **2 Dictionary**
- 4 The dictionary at the end of this Act is part of this Act.
- 5 *Note 1* The dictionary at the end of this Act defines certain terms used in this
6 Act, and includes references (*signpost definitions*) to other terms
7 defined elsewhere in this Act.
- 8 For example, the signpost definition ‘*offence*, for part 11
9 (Enforcement)—see section 174.’ means that the term ‘offence’ is
10 defined in that section for part 11.
- 11 *Note 2* A definition in the dictionary (including a signpost definition) applies to
12 the entire Act unless the definition, or another provision of the Act,
13 provides otherwise or the contrary intention otherwise appears (see
14 Legislation Act, s 155 and s 156 (1)).
- 15 **3 Notes**
- 16 A note included in this Act is explanatory and is not part of this Act.
- 17 *Note* See the Legislation Act, s 127 (1), (4) and (5) for the legal status of
18 notes.
- 19 **[2.22] Section 3A**
- 20 *relocate in division 9.1 as section 121A*
- 21 **[2.23] New sections 4 and 5**
- 22 *insert*
- 23 **4 Offences against Act—application of Criminal Code etc**
- 24 Other legislation applies in relation to offences against this Act.
- 25 *Note 1* *Criminal Code*
- 26 The Criminal Code, ch 2 applies to the following offence against this
27 Act (see Code, pt 2.1):
- 28
 - 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 **5 References to buprenorphine, cannabis or methadone**

9 In this Act, a reference to buprenorphine, cannabis or methadone,
10 includes a reference to—

11 (a) an active principal of the substance; or

12 (b) a preparation or admixture of the substance; or

13 (c) a salt of the substance or active principal.

14 **[2.24] Parts 2 to 6**

15 *omit*

16 **[2.25] Sections 86 and 87**

17 *relocate to Public Health Act 1997, division 3A.1, as sections 66C*
18 *and 66D*

19 **[2.26] Section 88 (1) (b)**

20 *omit*

21 sections 91 or 92

22 *substitute*

23 section 66H and section 66I

- 1 **[2.27] Section 88 (2)**
- 2 *omit*
- 3 section 198
- 4 *substitute*
- 5 section 131
- 6 **[2.28] Section 89**
- 7 *omit*
- 8 section 90
- 9 *substitute*
- 10 section 66G
- 11 **[2.29] Sections 88 and 89 (as amended)**
- 12 *relocate to Public Health Act 1997, division 3A.1, as sections 66E*
- 13 *and 66F*
- 14 **[2.30] Sections 90 to 92**
- 15 *relocate to Public Health Act 1997, division 3A.1, as sections 66G*
- 16 *to 66I*
- 17 **[2.31] Section 93 (1) (b) (i)**
- 18 *omit*
- 19 a drug of dependence or prohibited substance
- 20 *substitute*
- 21 a controlled drug under the Criminal Code, section 600
- 22 **[2.32] Section 93 (as amended)**
- 23 *relocate to Public Health Act 1997, division 3A.1, as section 66J*
-

-
- 1 **[2.33] Section 94**
- 2 *relocate to Public Health Act 1997, division 3A.1, as section 66K*
- 3 **[2.34] Sections 94B to 94F**
- 4 *relocate to Public Health Act 1997, division 3A.2, as sections 66M*
- 5 *to 66Q*
- 6 **[2.35] Section 94G (2)**
- 7 *omit*
- 8 section 198A
- 9 *substitute*
- 10 section 131
- 11 **[2.36] Section 94G (as amended)**
- 12 *relocate to Public Health Act 1997, division 3A.2, as section 66R*
- 13 **[2.37] Sections 94H and 94I**
- 14 *relocate to Public Health Act 1997, division 3A.2, as sections 66S*
- 15 *and 66T*
- 16 **[2.38] Part 7, remainder**
- 17 *omit*
- 18 **[2.39] Part 8**
- 19 *omit*
- 20 **[2.40] Section 121, new definition of *director***
- 21 *insert*
- 22 *director* means the Director, Alcohol and Drug Service under
- 23 section 121A.

- 1 **[2.41] Sections 160 and 161**
2 *omit*
- 3 **[2.42] Sections 164 (4) and (5)**
4 *substitute*
- 5 (4) Subsection (2) does not apply if the person is authorised under the
6 *Medicines, Poisons and Therapeutic Goods Act 2007*, or another
7 territory law, to sell or supply the drug of dependence.
- 8 (5) Subsection (3) does not apply if the person is authorised under the
9 *Medicines, Poisons and Therapeutic Goods Act 2007*, or another
10 territory law, to sell or supply the prohibited substance.
- 11 **[2.43] Sections 166 to 168**
12 *omit*
- 13 **[2.44] Section 169 heading**
14 *substitute*
- 15 **169 Possessing drugs of dependence**
- 16 **[2.45] Section 169 (2) to (4)**
17 *substitute*
- 18 (2) Subsection (1) does not apply if the person is authorised under the
19 *Medicines, Poisons and Therapeutic Goods Act 2007*, or another
20 territory law, to possess the drug of dependence.
- 21 **[2.46] Section 170**
22 *omit*
- 23 **[2.47] Section 171 heading**
24 *substitute*
- 25 **171 Possessing prohibited substances**
-

- 1 **[2.48] Section 171 (2) to (5)**
2 *substitute*
3 (2) Subsection (1) does not apply if the person is authorised under the
4 *Medicines, Poisons and Therapeutic Goods Act 2007*, or another
5 territory law, to possess the prohibited substance.
- 6 **[2.49] Section 171A (7), definition of *simple cannabis offence*,**
7 **paragraph (c)**
8 *omit*
9 section 171 (2)
10 *substitute*
11 the *Medicines, Poisons and Therapeutic Goods Act 2007*,
12 section 37 (2) (Administering certain declared substances)
- 13 **[2.50] Sections 173 and 173A**
14 *omit*
- 15 **[2.51] Section 175**
16 *omit*
- 17 **[2.52] Section 177 and 178**
18 *omit*
- 19 **[2.53] Section 180**
20 *substitute*
- 21 **180 Production of identity card**
22 A treatment centre inspector must not remain at premises entered
23 under this division if the inspector does not produce his or her
24 identity card when asked by the occupier.

- 1 **[2.54] Section 181**
- 2 *omit*
- 3 a drug inspector or
- 4 **[2.55] Sections 183 and 183A**
- 5 *omit*
- 6 **[2.56] Section 190 (1) and (2)**
- 7 *omit*
- 8 or drug inspector
- 9 **[2.57] Section 190 (3)**
- 10 *omit*
- 11 commissioner of police
- 12 *substitute*
- 13 chief police officer
- 14 **[2.58] Section 192**
- 15 *omit*
- 16 **[2.59] Section 193**
- 17 *omit*
- 18 a copy of a certificate referred to in section 192 (1)
- 19 *substitute*
- 20 a copy of an analyst's certificate
- 21 **[2.60] Section 193F (3) (a)**
- 22 *substitute*
- 23 (a) the matters mentioned in any analyst's certificate in relation to
- 24 the seized cannabis;
-

1 **[2.61] Section 194A (e)**

2 *substitute*

3 (e) be accompanied by an analyst's certificate in relation to the
4 substance.

5 **[2.62] New section 195 (2)**

6 *insert*

7 (2) However, the government analyst need not dispose of a substance
8 when required to under subsection (1) if the analyst—

9 (a) tells the chief health officer in writing that the analyst intends
10 to use the substance as a reference under the *Public Health*
11 *Act 1997*, section 15AA (Analysts and assistants—authority to
12 handle drugs etc); and

13 (b) removes from the substance any information that links the
14 substance to an offence or prosecution or to a person from
15 whom it was seized.

16 **[2.63] Section 197 (1) (a)**

17 *omit*

18 commissioner of police

19 *substitute*

20 chief police officer

21 **[2.64] Section 200**

22 *omit*

23 **[2.65] Section 201 (1)**

24 *omit*

25 a drug inspector,

1 **[2.66] Section 203**

2 *omit*

3 **[2.67] Schedule 2, items 1 to 19**

4 *omit*

5 **[2.68] New dictionary**

6 *insert*

7 **Dictionary**

8 (see s 2)

9 *Note 1* The Legislation Act contains definitions and other provisions relevant to
10 this Act.

11 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 12 • chief police officer
13 • intersex person (see s 169B)
14 • police officer.

15 *analyst* means an analyst under the *Public Health Act 1997*,
16 section 15 who is authorised under that Act to exercise a function
17 under this Act.

18 *Note* *Analyst* includes the government analyst (see *Public Health Act 1997*,
19 dict).

20 *analyst's certificate* means a certificate under the *Public Health*
21 *Act 1997*, section 135A.

22 *approval*, for division 9.4 (Approval of treatment centres)—see
23 section 148.

24 *approval holder*, for division 9.4 (Approval of treatment centres)—
25 see section 148.

26 *approved treatment centre*, for part 9 (Treatment)—see section 121.

27 *assessment order*, for part 9 (Treatment)—see section 121.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

cannabis—

- (a) 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
- (b) does not include cannabis resin or cannabis fibre.

Note See also section 5.

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 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.

chapter 6 substance—

- (a) for division 11.3 (Search, seizure and analysis)—see section 182; and
- (b) for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

connected, for part 11 (Enforcement)—see section 174.

director, for part 9 (Treatment)—see section 121.

drug dependence means the condition because of which a person is a drug-dependent person.

- 1 ***drug-dependent person***, in relation to a drug of dependence or
2 prohibited substance, means a person with a condition—
- 3 (a) who, as a result of the administration of the drug or substance,
4 demonstrates, in relation to the person's use of the drug or
5 substance—
- 6 (i) impaired control; or
- 7 (ii) drug-seeking behaviour that suggests impaired control;
8 and
- 9 (b) who, as a result of the cessation of the administration of the
10 drug or substance, is likely to experience symptoms of mental
11 or physical distress or disorder.
- 12 ***drug of dependence*** means a substance prescribed by regulation as a
13 drug of dependence.
- 14 ***government analyst*** means the government analyst under the *Public*
15 *Health Act 1997*, section 15 (b).
- 16 ***hospital***—see the *Medicines, Poisons and Therapeutic Goods*
17 *Act 2007*, dictionary.
- 18 ***member***, for part 9 (Treatment)—see section 121.
- 19 ***mental condition*** does not include drug dependence.
- 20 ***occupier***, for part 11 (Enforcement)—see section 174 (4).
- 21 ***offence***, for part 11 (Enforcement)—see section 174.
- 22 ***offender***, for part 9 (Treatment)—see section 121.
- 23 ***opioid dependency treatment centre*** means a treatment centre or
24 other facility where treatment, including the supply and
25 administration of methadone or buprenorphine, is provided to
26 drug-dependent people for their drug dependency—
- 27 (a) if the facility is—
- 28 (i) conducted by the Territory; or

- 1 (ii) approved under division 9.4, as a treatment centre of that
2 type; and
- 3 (b) whether or not the main purpose of the facility is to provide
4 treatment for drug-dependent people.
- 5 *panel*, for part 9 (Treatment)—see section 121.
- 6 *physical condition*—
- 7 (a) means—
- 8 (i) a physical disease, illness, ailment, defect or injury; or
- 9 (ii) pregnancy; or
- 10 (iii) a physical state that may be changed by surgery in the
11 course of professional medical practice; but
- 12 (b) does not include drug dependence.
- 13 *place*, for division 11.3 (Search, seizure and analysis)—see
14 section 182.
- 15 *prohibited substance* means a substance prescribed by regulation as
16 a prohibited substance.
- 17 *proper officer*, for part 9 (Treatment)—see section 121.
- 18 *protocol*, for division 11.4 (Disposal of seized substances,
19 compensation and recovery)—see section 193A.
- 20 *responsible officer*, for part 9 (Treatment)—see section 121.
- 21 *seized cannabis plant*, for division 11.4 (Disposal of seized
22 substances, compensation and recovery)—see section 193A.
- 23 *seized cannabis plants protocol*, for division 11.4 (Disposal of
24 seized substances, compensation and recovery)—see section 193A.
- 25 *seized cannabis product*, for division 11.4 (Disposal of seized
26 substances, compensation and recovery)—see section 193A.

- 1 *seized cannabis product protocol*, for division 11.4 (Disposal of
2 seized substances, compensation and recovery)—see section 193A.
- 3 *seized substance*, for division 11.4 (Disposal of seized substances,
4 compensation and recovery)—see section 193A.
- 5 *sell* includes offer or expose for sale.
- 6 *supply* includes offer to supply but does not include administer.
- 7 *treatment*, in relation to the treatment of a person for drug
8 dependence, means treatment, therapy or a program that is aimed at
9 assisting the person in relation to that dependence, and includes—
- 10 (a) medical treatment or therapy or an education or rehabilitation
11 program; and
- 12 (b) in relation to the treatment of a person with methadone or
13 buprenorphine at an opioid dependency treatment centre—
- 14 (i) the administration of methadone or buprenorphine to the
15 person at the centre; or
- 16 (ii) the supply of methadone or buprenorphine to the person
17 at the centre for self-administration at the centre or
18 elsewhere.
- 19 *treatment centre*—
- 20 (a) means—
- 21 (i) a hospital, nursing home, hostel or other institution that
22 ordinarily provides treatment for people who are
23 drug-dependent in relation to any drug of dependence; or
- 24 (ii) premises where a pharmacist practices pharmacy; or
- 25 (iii) premises where a doctor practices medicine; but
- 26 (b) does not include a hospital or other health facility conducted by
27 the Territory.

- 1 **[2.73] Dictionary, definition of *authorised analyst***
2 *substitute*
3 *authorised analyst* means an analyst under the *Public Health*
4 *Act 1997*, section 15 who is authorised under that Act to exercise a
5 function under this Act.
6 *Note Analyst* includes the government analyst (see *Public Health Act 1997*,
7 dict).

8 Part 2.12 Health Act 1993

- 9 **[2.74] New part 9**
10 *insert*

11 Part 9 Restriction on pharmacy 12 premises

13 129 Restriction on pharmacy premises—supermarkets

- 14 (1) A person commits an offence if the person operates a community
15 pharmacy inside, or partly inside, premises being used as a
16 supermarket.

17 Maximum penalty: 200 penalty units, imprisonment for 2 years or
18 both.

- 19 (2) A pharmacist commits an offence if the pharmacist practises as a
20 pharmacist in a community pharmacy inside, or partly inside,
21 premises being used as a supermarket.

22 Maximum penalty: 200 penalty units, imprisonment for 2 years or
23 both.

- 24 (3) In this section:

25 *community pharmacy*—see the *Medicines, Poisons and*
26 *Therapeutic Goods Act 2007*, dictionary.

1 *supermarket* means a large shop selling food and other household
2 items where the selection of goods is organised on a self-serve basis.

3 *Note* This definition is the same as the definition of *supermarket* in the
4 territory plan.

5 **[2.75] Part 9 heading**

6 *substitute*

7 **Part 10 Review of decisions**

8 **Part 2.13 Health Professionals Act 2004**

9 **[2.76] Section 38 (2), example 1**

10 *omit*

11 drug

12 *substitute*

13 medicine

14 **[2.77] Sections 75A and 75B**

15 *omit*

16 **[2.78] Part 13A**

17 *omit*

18 **[2.79] Sections 130A to 130C**

19 *omit*

1 **Part 2.14 Health Professionals Regulation**
2 **2004**

3 **[2.80] Section 3, note 1**

4 *substitute*

5 *Note 1* The dictionary at the end of this regulation defines certain terms used in
6 this regulation, and includes references (*signpost definitions*) to other
7 terms defined elsewhere.

8 For example, the signpost definition '*prohibited substance*—see the
9 *Medicines, Poisons and Therapeutic Goods Act 2007*, section 13.'
10 means that the term 'prohibited substance' is defined in that section and
11 the definition applies to this regulation.

12 **[2.81] Section 115 (1) (c)**

13 *substitute*

14 (c) whether the person has an addiction to a substance (whether
15 alcohol, a medicine, a prohibited substance or another
16 substance) that may affect the person's ability to practise the
17 health profession;

18 *Note* *Prohibited substance*—see the dictionary.

19 **[2.82] Sections 142 and 143**

20 *substitute*

21 **142 Substances that affect health professional's abilities**

22 (1) A registered health professional must not practise while under the
23 influence of a substance (whether alcohol, a medicine, a prohibited
24 substance or another substance) if the substance affects the health
25 professional's ability to practise.

26 *Note* *Prohibited substance*—see the dictionary.

- 1 (2) A registered health professional must not practise while dependent
2 on a substance (whether alcohol, a medicine, a prohibited substance
3 or another substance) that may adversely affect the health
4 professional's ability to practise.

5 **143 Controlled medicines and prohibited substances for**
6 **patients**

- 7 (1) A registered health professional must not supply or administer a
8 controlled medicine or prohibited substance to a drug-dependent
9 person.

10 *Note* **Controlled medicine** and **prohibited substance**—see the dictionary.

- 11 (2) This section does not apply to a controlled medicine if the controlled
12 medicine is required for the medical treatment of the
13 drug-dependent person and is supplied or administered as part of a
14 treatment plan for the person.

- 15 (3) In this section:

16 **drug-dependent person**—see the *Medicines, Poisons and*
17 *Therapeutic Goods Act 2007*, dictionary.

18 **supply**—see the *Medicines, Poisons and Therapeutic Goods*
19 *Act 2007*, section 24.

20 **[2.83] Schedule 2, note to schedule 2, 4th dot point,**
21 **paragraph (c)**

22 *substitute*

- 23 (c) whether the person has an addiction to a substance (whether alcohol, a
24 medicine, a prohibited substance or another substance) that may affect
25 the person's ability to practise; and

1 **[2.84] Schedule 2, section 2.12 (2) (b) (i)**

2 *omit*

3 drug of dependence

4 *substitute*

5 controlled medicine

6 **[2.85] Schedule 3, note to schedule 3, 4th dot point,**
7 **paragraph (c)**

8 *substitute*

9 (c) whether the person has an addiction to a substance (whether alcohol, a
10 medicine, a prohibited substance or another substance) that may affect
11 the person's ability to practise; and

12 **[2.86] Schedule 4, note to schedule 4, 4th dot point,**
13 **paragraph (c)**

14 *substitute*

15 (c) whether the person has an addiction to a substance (whether alcohol, a
16 medicine, a prohibited substance or another substance) that may affect
17 the person's ability to practise; and

18 **[2.87] Schedule 5, note to schedule 5, 5th dot point,**
19 **paragraph (c)**

20 *substitute*

21 (c) whether the person has an addiction to a substance (whether alcohol, a
22 medicine, a prohibited substance or another substance) that may affect
23 the person's ability to practise; and

24 **[2.88] Schedule 5, section 5.2**

25 *omit*

- 1 **[2.89] Schedule 6, note to schedule 6, 4th dot point,**
2 **paragraph (c)**
- 3 *substitute*
- 4 (c) whether the person has an addiction to a substance (whether alcohol, a
5 medicine, a prohibited substance or another substance) that may affect
6 the person's ability to practise; and
- 7 **[2.90] Schedule 6, section 6.1, definition of *dentist procedure*,**
8 **paragraph (b)**
- 9 *omit*
- 10 drugs or
- 11 **[2.91] Schedule 7, note to schedule 7, 4th dot point,**
12 **paragraph (c)**
- 13 *substitute*
- 14 (c) whether the person has an addiction to a substance (whether alcohol, a
15 medicine, a prohibited substance or another substance) that may affect
16 the person's ability to practise; and
- 17 **[2.92] Schedule 8, note to schedule 8, 5th dot point,**
18 **paragraph (c)**
- 19 *substitute*
- 20 (c) whether the person has an addiction to a substance (whether alcohol, a
21 medicine, a prohibited substance or another substance) that may affect
22 the person's ability to practise; and
- 23 **[2.93] Schedule 9, note to schedule 9, 4th dot point,**
24 **paragraph (c)**
- 25 *substitute*
- 26 (c) whether the person has an addiction to a substance (whether alcohol, a
27 medicine, a prohibited substance or another substance) that may affect
28 the person's ability to practise; and

1 **[2.94] Schedule 10, note to schedule 10, 4th dot point,**
2 **paragraph (c)**

3 *substitute*

- 4 (c) whether the person has an addiction to a substance (whether alcohol, a
5 medicine, a prohibited substance or another substance) that may affect
6 the person's ability to practise; and

7 **[2.95] Schedule 11, note to schedule 11, 4th dot point,**
8 **paragraph (c)**

9 *substitute*

- 10 (c) whether the person has an addiction to a substance (whether alcohol, a
11 medicine, a prohibited substance or another substance) that may affect
12 the person's ability to practise; and

13 **[2.96] Schedule 11, new part 11.1 heading**

14 *before section 11.1, insert*

15 **Part 11.1 Optometrists—preliminary**

16 **[2.97] Schedule 11, section 11.1, new definitions**

17 *insert*

18 *competency standards*, for an optometrist restricted medicines
19 authority—see section 11.10.

20 *optometrist restricted medicines authority* means an optometrist
21 restricted medicines authority issued under section 11.12.

1 **[2.98] Schedule 11, new part 11.2 heading**

2 *before section 11.2, insert*

3 **Part 11.2 Optometrists—regulation**
4 **generally**

5 **[2.99] Schedule 11, new part 11.3**

6 *insert*

7 **Part 11.3 Optometrists—restricted**
8 **medicines authorities**

9 **11.10 Competency standards for optometrist restricted**
10 **medicines authorities**

11 (1) The *competency standards* for the issue to a registered optometrist
12 of an optometrist restricted medicines authority are—

13 (a) the competency standards approved from time to time by the
14 NSW committee with the changes (if any) determined by the
15 Minister; and

16 (b) the criteria approved from time to time by the NSW committee
17 for meeting the competency standards with the changes (if any)
18 determined by the Minister.

19 (2) A determination by the Minister under subsection (1) (a) or (b) is a
20 disallowable instrument.

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

23 (3) In this section:

24 *NSW committee* means the Optometrists Drug Authority Committee
25 established under the *Poisons and Therapeutic Goods Act 1966*
26 (NSW), section 17B.

1 **11.11 Maximum term of optometrist restricted medicines**
2 **authorities**

3 The board must approve a maximum period for which an
4 optometrist restricted medicines authority may be issued.

5 **11.12 Issue of optometrist restricted medicines authorities**

6 (1) The board may, in writing, issue an authority (an *optometrist*
7 *restricted medicines authority*) for the treatment of ocular
8 conditions to a registered optometrist if satisfied that the optometrist
9 meets the competency standards for the issue of the authority.

10 (2) In deciding whether a registered optometrist satisfies the
11 competency standards, the board must apply the criteria mentioned
12 in section 11.10 (1) (b).

13 (3) An optometrist restricted medicines authority is issued for the period
14 stated in the authority.

15 (4) The period stated in an optometrist restricted medicines authority
16 must be for a period not longer than the maximum period approved
17 under section 11.11.

18 **11.13 Conditions of optometrist restricted medicines**
19 **authorities**

20 The board may issue an optometrist restricted medicines authority
21 subject to any conditions to ensure that the ocular medicines to
22 which the authority relates are properly prescribed and administered.

23 **11.14 Amending conditions of optometrist restricted medicines**
24 **authorities on board's initiative**

25 (1) The board may, by written notice given to the holder of an
26 optometrist restricted medicines authority, amend the authority to
27 change the authority's conditions.

- 1 (2) However, the board may amend the optometrist restricted medicines
2 authority to change the authority's conditions only if—
- 3 (a) the board has given the authority-holder written notice of the
4 proposed amendment; and
- 5 (b) the notice states that written comments on the proposal may be
6 made to the board before the end of a stated period of at least
7 14 days after the day the notice is given to the authority-holder;
8 and
- 9 (c) after the end of the stated period, the board has considered any
10 comments made in accordance with the notice.
- 11 (3) The amendment takes effect on the day notice of the change is given
12 to the authority-holder or any later day stated in the notice.
- 13 (4) In this section:
- 14 *change*, for the conditions of an optometrist restricted medicines
15 authority, means—
- 16 (a) amend an existing authority condition; or
- 17 (b) impose a new authority condition; or
- 18 (c) remove an existing authority condition.
- 19 **11.15 Amending conditions of optometrist restricted medicines**
20 **authorities on application by authority-holder**
- 21 (1) The holder of an optometrist restricted medicines authority may
22 apply to the board to amend the authority (including by changing the
23 authority's conditions).
- 24 (2) In deciding whether to amend the optometrist restricted medicines
25 authority, the board may consider anything in relation to the
26 competency standards for an optometrist restricted medicines
27 authority.

- 1 (3) If the board receives an application under subsection (1), the board
2 must—
3 (a) amend the authority in accordance with the application; or
4 (b) amend the authority in terms different to the application; or
5 (c) refuse to amend the authority.
6 (4) In this section:
7 *change*, for the conditions of an optometrist restricted medicines
8 authority—see section 11.14.

9 **[2.100] Schedule 12, note to schedule 12, 4th dot point,**
10 **paragraph (c)**

11 *substitute*

- 12 (c) whether the person has an addiction to a substance (whether alcohol, a
13 medicine, a prohibited substance or another substance) that may affect
14 the person's ability to practise; and

15 **[2.101] Schedule 13, note to schedule 13, 4th dot point,**
16 **paragraph (c)**

17 *substitute*

- 18 (c) whether the person has an addiction to a substance (whether alcohol, a
19 medicine, a prohibited substance or another substance) that may affect
20 the person's ability to practise; and

21 **[2.102] Schedule 14, note to schedule 14, 4th dot point,**
22 **paragraph (c)**

23 *substitute*

- 24 (c) whether the person has an addiction to a substance (whether alcohol, a
25 medicine, a prohibited substance or another substance) that may affect
26 the person's ability to practise; and

- 1 **[2.103] Dictionary, new definitions**
- 2 *insert*
- 3 *competency standards*, for an optometrist medicine authority, for
4 schedule 11 (Optometrists)—see section 11.10.
- 5 *controlled medicine*—see the *Medicines, Poisons and Therapeutic*
6 *Goods Act 2007*, section 11.
- 7 **[2.104] Dictionary, definition of *drug of dependence***
- 8 *omit*
- 9 **[2.105] Dictionary, new definitions**
- 10 *insert*
- 11 *optometrist restricted medicines authority*, for schedule 11
12 (Optometrists)—see section 11.1.
- 13 *prohibited substance*—see the *Medicines, Poisons and Therapeutic*
14 *Goods Act 2007*, section 13.

15 **Part 2.15 Health Professionals (Special**
16 **Events Exemptions) Act 2000**

- 17 **[2.106] Section 2, note 1**
- 18 *substitute*
- 19 *Note 1* The dictionary at the end of this Act defines certain terms used in this
20 Act, and includes references (*signpost definitions*) to other terms
21 defined elsewhere.
- 22 For example, the signpost definition '*supply*—see the *Medicines,*
23 *Poisons and Therapeutic Goods Act 2007*, section 24.' means that the
24 term '*supply*' is defined in that section and the definition applies to this
25 Act.

1 **[2.107] Section 8 (3)**

2 *substitute*

- 3 (3) This section does not authorise a visiting health professional to
4 possess, or supply to a visitor, a prohibited substance within the
5 meaning of the *Medicines, Poisons and Therapeutic Goods*
6 *Act 2007*.

7 **[2.108] Sections 10 and 11**

8 *substitute*

9 **10 Issue of prescriptions and supply of prescription**
10 **medicines**

- 11 (1) A visiting health professional may be authorised under this section
12 to issue a written prescription for a prescription medicine.
- 13 (2) An authorisation under this section does not authorise a visiting
14 health professional to issue a prescription unless the prescription
15 could be issued by an authorised person under the *Medicines,*
16 *Poisons and Therapeutic Goods Act 2007*.
- 17 (3) The Minister may, in a special event declaration—
- 18 (a) authorise a visiting health professional, whom the Minister is
19 satisfied should be regarded as qualified to issue prescriptions,
20 to issue written prescriptions for a prescription medicine in the
21 course of providing health care services in accordance with this
22 Act; and
- 23 (b) authorise a supplier to supply a prescription medicine on the
24 prescription.

25 *Note* A power given under an Act to make a statutory instrument about
26 particular matters includes power to make a statutory instrument about
27 any 1 or more of the matters or a particular class of the matters (see
28 Legislation Act, s 48 (2)).

- 1 (4) The Minister must not make a special event declaration containing
2 an authorisation under subsection (3) unless satisfied that adequate
3 arrangements are in place to ensure that prescription medicines will
4 be prescribed only for, and supplied only to, visitors to whom
5 visiting health professionals are authorised to provide health care
6 services under this Act.
- 7 (5) A special event declaration may impose conditions on an
8 authorisation under subsection (3), including a visiting health
9 professional's authority to issue prescriptions.
- 10 (6) In this section:
11 *supplier*, of a prescription medicine, means a person who is
12 authorised under the *Medicines, Poisons and Therapeutic Goods*
13 *Act 2007* to supply the medicine.

14 **11 Exemptions relating to offences**

- 15 (1) A visiting health professional does not commit an offence against
16 the *Health Professionals Act 2004*, the *Medicines, Poisons and*
17 *Therapeutic Goods Act 2007* or the *Skin Penetration Procedures*
18 *Act 1994* by—
- 19 (a) providing health care services authorised under this Act; or
20 (b) possessing or supplying a prescription medicine in the course
21 of providing the health care services; or
22 (c) prescribing a prescription medicine in accordance with this
23 Act; or
24 (d) holding himself or herself out as being able to provide the
25 health care services mentioned in paragraphs (a), (b) and (c); or
26 (e) using any name, initials, description, word, symbol, addition or
27 title that the health professional ordinarily uses.

- 1 (2) A visitor to a special event does not commit an offence against the
2 *Medicines, Poisons and Therapeutic Goods Act 2007* by doing
3 anything, or possessing a prescription medicine, because of being
4 provided with health care services in accordance with this Act.
- 5 (3) A person does not commit an offence against the *Medicines,*
6 *Poisons and Therapeutic Goods Act 2007* by supplying a
7 prescription medicine in accordance with a written prescription
8 issued by a visiting health professional if—
- 9 (a) the health professional is authorised under this Act to issue the
10 prescription; and
- 11 (b) the person is authorised under this Act to supply the medicine
12 on the prescription.
- 13 (4) A regulation may prescribe other offences to which exemptions
14 under this section apply.

15 *Note* A visiting health professional who provides health care services
16 otherwise than in accordance with this Act loses the exemption.

17 **[2.109] Section 12**

18 *substitute*

19 **12 Complaints about visiting health professionals**

- 20 (1) A complaint may not be made about, nor may disciplinary action be
21 taken against, a visiting health professional under the *Health*
22 *Professionals Act 2004* or *Human Rights Commission Act 2005* in
23 relation to anything done by the health professional in—
- 24 (a) providing health care services authorised under this Act; or
- 25 (b) possessing or supplying a prescription medicine in the course
26 of providing the health care services; or
- 27 (c) prescribing a prescription medicine in accordance with this
28 Act; or

- 1 (d) holding himself or herself out as being able to provide the
2 health care services mentioned in paragraphs (a), (b) and (c); or
3 (e) using any name, initials, description, word, symbol, addition or
4 title that the health professional ordinarily uses.
- 5 (2) This section does not prevent the bringing of proceedings for an
6 offence against the *Health Professionals Act 2004* or *Human Rights*
7 *Commission Act 2005*.
- 8 (3) This section does not apply to a complaint about a person who is
9 registered under the *Health Professionals Act 2004*.

10 **[2.110] Part 4**

11 *omit*

12 **[2.111] Dictionary, definitions of *Drug Regulation Act, drugs and***
13 ***poisons standard and Health Professionals Act***

14 *omit*

15 **[2.112] Dictionary, new definition of *prescription medicine***

16 *insert*

17 *prescription medicine* means a controlled medicine, or prescription
18 only medicine, within the meaning of the *Medicines, Poisons and*
19 *Therapeutic Goods Act 2007*.

20 **[2.113] Dictionary, definition of *restricted substance***

21 *omit*

22 **[2.114] Dictionary, definition of *supply***

23 *substitute*

24 *supply*—see the *Medicines, Poisons and Therapeutic Goods*
25 *Act 2007*, section 24.

1 **Part 2.16 Hemp Fibre Industry Facilitation**
2 **Act 2004**

3 **[2.115] Section 17 (d) (ii)**

4 *substitute*

- 5 (ii) whether the person has been convicted or found guilty of
6 a relevant offence or an offence that, if committed in the
7 ACT, would be a relevant offence; and

8 *Note Relevant offence*—see the dictionary.

9 **[2.116] Section 17 (e) (ii)**

10 *substitute*

- 11 (ii) whether an executive officer of the corporation has been
12 convicted or found guilty of a relevant offence or an
13 offence that, if committed in the ACT, would be a
14 relevant offence; and

15 **[2.117] Section 49 (4) (a)**

16 *substitute*

- 17 (a) there is a particular thing or activity connected with a relevant
18 offence; and

19 *Note Relevant offence*—see the dictionary.

20 **[2.118] Section 52 (1)**

21 *substitute*

- 22 (1) An inspector may require a person to state the person's name and
23 address if the inspector—

- 24 (a) finds the person committing a relevant offence; or

1 (b) believes on reasonable grounds that the person has just
2 committed a relevant offence.

3 *Note* **Relevant offence**—see the dictionary.

4 **[2.119] Dictionary, definition of *Drugs of Dependence Act***

5 *omit*

6 **[2.120] Dictionary, new definition of *relevant offence***

7 *insert*

8 ***relevant offence*** means—

9 (a) an offence against this Act; or

10 (b) an offence against the *Drugs of Dependence Act 1989*; or

11 (c) an offence against the *Medicines, Poisons and Therapeutic*
12 *Goods Act 2007*, chapter 4 (Offences relating to regulated
13 substances) in relation to a controlled medicine, or prohibited
14 substance, within the meaning of that Act.

15 **Part 2.17 Intoxicated People (Care and**
16 **Protection) Act 1994**

17 **[2.121] Section 2, notes**

18 *substitute*

19 *Note 1* The dictionary at the end of this Act defines certain terms used in this
20 Act.

21 *Note 2* A definition in the dictionary applies to the entire Act unless the
22 definition, or another provision of the Act, provides otherwise or the
23 contrary intention otherwise appears (see Legislation Act, s 155 and
24 s 156 (1)).

1 **[2.122] Section 6A (c)**
2 *substitute*
3 (c) is found in possession of a prohibited substance within the
4 meaning of the *Medicines, Poisons and Therapeutic Goods*
5 *Act 2007*.

6 **[2.123] Dictionary, definition of *prohibited substance***
7 *omit*

8 **Part 2.18 Listening Devices Act 1992**

9 **[2.124] Dictionary, definition of *defined offence*, paragraph (c)**
10 *substitute*
11 (c) an offence against the *Medicines, Poisons and Therapeutic*
12 *Goods Act 2007*, section 26 (Supplying declared substances) in
13 relation to a controlled medicine, or prohibited substance,
14 within the meaning of that Act.

15 **Part 2.19 Prostitution Act 1992**

16 **[2.125] Section 2, note 1**
17 *substitute*
18 *Note 1* The dictionary at the end of this Act defines certain terms used in this
19 Act, and includes references (*signpost definitions*) to other terms
20 defined elsewhere.
21 For example, the signpost definition '*nurse practitioner position*—see
22 the *Health Act 1993*, section 195 (2).' means that the term 'nurse
23 practitioner position' is defined in that section and the definition applies
24 to this Act.

1 **[2.126] Section 17 (1) (b) and (2) (b)**

2 *omit*

3 drug of dependence

4 *substitute*

5 controlled medicine or prohibited substance

6 **[2.127] New section 17 (3)**

7 *insert*

8 (3) In this section:

9 *controlled medicine*—see the *Medicines, Poisons and Therapeutic*
10 *Goods Act 2007*, section 11.

11 *prohibited substance*—see the *Medicines, Poisons and Therapeutic*
12 *Goods Act 2007*, section 13.

13 **[2.128] Dictionary, definition of *drug of dependence***

14 *omit*

15 **Part 2.20 Public Health Act 1997**

16 **[2.129] Section 6 (4), definition of *health law***

17 *substitute*

18 *health law* means—

19 (a) a law of the Territory that has as 1 of its objects or purposes the
20 protection of public health; or

21 (b) the *Food Act 2001*; or

22 (c) the *Medicines, Poisons and Therapeutic Goods Act 2007*.

1 **[2.130] Section 9 (1)**

2 *substitute*

3 (1) The functions of the chief health officer are as follows:

4 (a) to develop and implement strategies to promote and protect
5 public health;

6 (b) to ensure that the following Acts are complied with:

7 (i) this Act;

8 (ii) the *Food Act 2001*;

9 (iii) the *Medicines, Poisons and Therapeutic Goods Act 2007*;

10 *Note* A reference to an Act includes a reference to the statutory
11 instruments made or in force under the Act, including any
12 regulation (see Legislation Act, s 104).

13 (c) to advise the Minister about proposed legislative or
14 administrative changes related to public health and the safety
15 and suitability of food for human consumption;

16 (d) to carry out any other functions decided, in writing, by the
17 Minister for an Act mentioned in paragraph (b).

18 **[2.131] Section 11**

19 *substitute*

20 **11 Delegation by chief health officer**

21 The chief health officer may delegate a function under any of the
22 following Acts to a person:

23 (a) this Act;

24 (b) the *Drugs of Dependence Act 1989*;

1 (c) the *Food Act 2001*;

2 (d) the *Medicines, Poisons and Therapeutic Goods Act 2007*.

3 *Note* For the making of delegations and the exercise of delegated functions,
4 see the Legislation Act, pt 19.4.

5 **[2.132] Section 12A (2), new note**

6 *insert*

7 *Note* For the *Medicines, Poisons and Therapeutic Goods Act 2007*, see
8 div 7.1.2 (Medicines and poisons inspectors).

9 **[2.133] Sections 15 and 15A**

10 *substitute*

11 **15 Appointment of analysts**

12 The chief executive may appoint a person as—

13 (a) the government analyst; or

14 (b) an analyst.

15 *Note 1* For the making of appointments generally, see the Legislation Act,
16 pt 19.3.

17 *Note 2* In particular, a person may be appointed for a particular provision of a
18 law (see Legislation Act, s 7 (3)) and an appointment may be made by
19 naming a person or nominating the occupant of a position (see
20 Legislation Act, s 207).

21 **15A Functions of analysts**

22 (1) The chief health officer may, in writing, authorise an analyst for any
23 of the following Acts or any provision of the following Acts:

24 (a) this Act;

25 (b) the Criminal Code;

26 (c) the *Drugs of Dependence Act 1989*;

- 1 (d) the *Food Act 2001*;
- 2 (e) the *Medicines, Poisons and Therapeutic Goods Act 2007*.
- 3 *Note 1* **Analyst** includes the government analyst (see dict).
- 4 *Note 2* For evidentiary certificates by analysts, see s 135A.
- 5 *Note 3* A reference to an Act includes a reference to the statutory instruments
6 made or in force under the Act, including any regulation (see
7 Legislation Act, s 104).
- 8 (2) An analyst may also exercise any other function given to the analyst
9 by this Act or another territory law.

10 **15AA Analysts and assistants—authority to handle drugs etc**

- 11 (1) For section 15A and within the scope of the person's employment,
12 each of the following people is authorised to carry out an authorised
13 activity in relation to a prohibited thing:
- 14 (a) an analyst;
- 15 *Note* **Analyst** includes the government analyst (see dict).
- 16 (b) a person working under the direct supervision of an analyst.
- 17 (2) In this section:
- 18 **authorised activity**, in relation to a prohibited thing, means each of
19 the following:
- 20 (a) obtaining the thing;
- 21 (b) manufacturing the thing;
- 22 (c) possessing the thing, whether for use as a reference or
23 otherwise;
- 24 (d) if the thing is a controlled plant under the Criminal Code,
25 section 600—cultivating the plant;
- 26 (e) giving the thing to a person who is authorised to obtain it;

- 1 (f) transporting the thing;
2 (g) destroying the thing.
3 *cultivates*—see the Criminal Code, section 515.
4 *employment* includes engagement under a contract for services.
5 *manufacture*—see the Criminal Code, section 606.
6 *prohibited thing* means—
7 (a) a controlled drug, controlled plant or controlled precursor
8 within the meaning of the Criminal Code, section 600; or
9 (b) a regulated substance within the meaning of the *Medicines,*
10 *Poisons and Therapeutic Goods Act 2007*; or
11 (c) equipment used to manufacture something mentioned in
12 paragraph (a) or (b); or
13 (d) equipment used to cultivate a controlled plant within the
14 meaning of the Criminal Code, section 600.

15 **[2.134] Section 15B (1)**

- 16 *omit*
17 under section 15

18 **[2.135] Section 15D (1)**

- 19 *omit*
20 under section 15 (Appointment of analysts)

21 **[2.136] Section 15D (2) (b)**

- 22 *substitute*
23 (b) the person has otherwise contravened an Act mentioned in
24 section 15A (1) or another territory law under which the person
25 exercises a function; or

1 **[2.137] New part 3A**

2 *insert*

3 **Part 3A Supply of syringes**

4 **Division 3A.1 Supplying syringes to approved**
5 **people**

6 **66A Definitions—div 3A.1**

7 In this division:

8 *approval* means an approval under section 66C.

9 *approved person* means a person who holds a current approval.

10 *course of instruction* means a course approved under section 66B.

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

13 **66B Courses of instruction**

14 (1) The Minister may approve a course about appropriate health
15 counselling and the hygienic distribution, use, collection and
16 disposal of syringes.

17 *Note* *Syringe* includes the needle section or the plunger section of a syringe
18 (see dict).

19 (2) An approval is a notifiable instrument.

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

1 **Division 3A.2** **Supplying syringes by vending**
2 **machine**

3 **66L** **Definitions—div 3A.2**

4 In this division:

5 *approved person* means a person who holds a current vending
6 machine approval.

7 *vending machine* means a machine or device from which syringes
8 can be obtained, including by 1 or more of the following:

- 9 (a) electronic funds transfer;
10 (b) inserting money, a token or other object.

11 **Examples of other objects—par (b)**

- 12 1 credit card
13 2 debit card
14 3 key

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

18 *vending machine approval* means an approval under section 66O.

19 **Division 3A.3** **Transitional—syringe approvals**
20 **under Drugs of Dependence Act**

21 **66U** **Definitions—div 3A.3**

22 In this division:

23 *commencement day* means the day this section commences.

24 *Drugs of Dependence Act* means the *Drugs of Dependence*
25 *Act 1989* as in force immediately before the commencement day.

- 1 **66V** **Transitional—existing approvals under Drugs of**
2 **Dependence Act to distribute syringes**
- 3 (1) An approval (an *old approval*) under the Drugs of Dependence Act,
4 section 86 (Distribution of syringes—approval) is, if the approval
5 was in force immediately before the commencement day, taken to
6 be an approval (a *new approval*) under section 66C.
- 7 (2) An approval (also an *old approval*) under the Drugs of Dependence
8 Act, section 94D (Decision about vending machine approval
9 application) is, if the approval was in force immediately before the
10 commencement day, taken to be an approval (also a *new approval*)
11 under section 66O.
- 12 (3) A new approval under section 66C continues in force for the
13 unexpired period of the old approval before the commencement day
14 unless the new approval is ended under this Act.
- 15 (4) A new approval under section 66O continues in force unless it is
16 ended under this Act.
- 17 (5) A new approval continues to be subject to any condition to which
18 the old approval was subject immediately before the commencement
19 day until the condition ceases to have effect or is removed or varied
20 under this Act.
- 21 (6) This section is a law to which the Legislation Act, section 88
22 (Repeal does not end effect of transitional laws etc) applies.
- 23 **66W** **Transitional—uncompleted applications for AAT review**
- 24 (1) This section applies if—
- 25 (a) before the commencement day, an application for review to the
26 administrative appeals tribunal had been made in relation to an
27 old approval; and
- 28 (b) immediately before the commencement day, the proceeding on
29 the application had not ended.

- 1 (2) If this section applies—
2 (a) the proceeding may be continued as if the application for
3 review had been made in relation to the new approval; and
4 (b) the decision-maker is taken to be the chief health officer.
5 (3) For this section, the administrative appeals tribunal may give any
6 direction the tribunal considers necessary or desirable to facilitate a
7 matter in relation to the application for review.
8 (4) This section is a law to which the Legislation Act, section 88
9 (Repeal does not end effect of transitional laws etc) applies.
10 (5) In this section:
11 *new approval*—see section 66V.
12 *old approval*—see section 66V.

13 **66X Expiry—div 3A.3**

14 This division expires 2 years after the commencement day.

15 **[2.138] Section 93 (1), new note**

16 *insert*

17 *Note* For evidentiary certificates by analysts, see s 135A.

18 **[2.139] Sections 95 and 96**

19 *omit*

20 **[2.140] Section 121 (3) (d)**

21 *omit*

22 commissioner of police

23 *substitute*

24 chief police officer

1 **[2.141] Section 121 (4), definition of *authorised person*,**
2 **paragraph (e)**

3 *omit*
4 of this section

5 **[2.142] Sections 130 and 131**

6 *substitute*

7 **130 Decisions reviewable by AAT**

8 (1) Application may be made to the administrative appeals tribunal for
9 review of a decision by the chief health officer mentioned in
10 table 130.1, column 2.

11 **Table 130.1 Reviewable decisions—chief health officer**

column 1	column 2	column 3
item	decision	affected person
1	section 15B (1) (a)—imposing conditions on appointment	analyst
2	section 15B (1) (b)—amending appointment to impose, amend or revoke condition	analyst
3	section 15D—suspending or cancelling appointment	analyst
4	section 66C—refusing to grant approval to supply syringes	applicant for approval and anyone else whose interests are affected by the decision
5	section 66C—granting approval to supply syringes subject to condition	applicant for approval
6	section 66E—cancelling approval to supply syringes	holder of the approval
7	section 66O—refusing to give vending machine approval	applicant for approval

column 1 item	column 2 decision	column 3 affected person
8	section 66R—cancelling vending machine approval	holder of the approval

- 1 (2) Application may be made to the administrative appeals tribunal for
2 review of a decision by the Minister mentioned in table 130.2,
3 column 2.

4 **Table 130.2 Reviewable decisions—Minister**

column 1 item	column 2 decision	column 3 affected person
1	section 30 (1)—refusing to grant activity licence	applicant for the licence
2	section 34 (1)—refusing to vary activity licence	licensee
3	section 37 (1)—refusing to approve transfer of activity licence	licensee and the proposed transferee
4	section 45 (1)—refusing to grant procedure licence	applicant for the licence
5	section 49 (1)—refusing to vary procedure licence	licensee
6	section 56G—refusing to register applicant for registration	applicant for registration
7	section 56N—refusing to approve transfer of registration	registered person and the proposed transferee
8	section 56N—refusing to vary registration period in association with transfer of registration	transferee
9	section 56P (4)—suspending registration of registered person	registered person

column 1 item	column 2 decision	column 3 affected person
10	section 56P (4)—cancelling registration of registered person	registered person

- 1 **131 Notice of reviewable decisions**
- 2 (1) The chief health officer must give written notice of a decision
- 3 mentioned in table 130.1, column 2 to the affected person
- 4 mentioned in column 3 for the decision.
- 5 (2) The Minister must give written notice of a decision mentioned in
- 6 table 130.2, column 2 to the affected person mentioned in column 3
- 7 for the decision.
- 8 (3) A notice under subsection (1) or (2) must be in accordance with the
- 9 requirements of the code of practice in force under the
- 10 *Administrative Appeals Tribunal Act 1989*, section 25B (1).

11 **[2.143] New section 135A**

12 *insert*

13 **135A Evidence—certificates by analysts**

- 14 (1) This section applies in relation to a proceeding for an offence
- 15 against the following Acts:
- 16 (a) this Act;
- 17 (b) the Criminal Code;
- 18 (c) the *Drugs of Dependence Act 1989*;
- 19 (d) the *Food Act 2001*;
- 20 (e) the *Medicines, Poisons and Therapeutic Goods Act 2007*.

- 1 (2) A certificate under this section may state any of the following
2 matters in relation to a substance:
- 3 (a) that the analyst is appointed as analyst under section 15
4 (Appointment of analysts);
- 5 (b) that the analyst is authorised under section 15A (Functions of
6 analysts) for an Act or provision of an Act;
- 7 (c) when and from whom the substance was received;
- 8 (d) what (if any) labels, or other means of identifying the
9 substance, accompanied the substance when it was received;
- 10 (e) what container or containers the substance was contained in
11 when it was received;
- 12 (f) a description, and the weight, of the substance received;
- 13 (g) if the substance, or any part of it, is analysed—
- 14 (i) the name of the method of analysis; and
- 15 (ii) the results of the analysis;
- 16 (h) how the substance was dealt with after handling by the analyst,
17 including details of—
- 18 (i) the quantity retained; and
- 19 (ii) the name of the person (if any) to whom any retained
20 quantity was given; and
- 21 (iii) measures taken to secure any retained quantity;
- 22 (i) that the certificate was signed by the analyst or was signed on
23 behalf of the analyst.

- 1 (3) A certificate under this section is admissible in a proceeding for an
2 offence against an Act mentioned in subsection (1), and is evidence
3 of the facts stated in it, if a copy of the certificate is served by the
4 party who obtained the analysis on the other party to the proceeding
5 at least 14 days before the hearing of the offence to which the
6 certificate relates.
- 7 (4) However, a court may order, at the request of a party to the
8 proceedings or on its own initiative, that the period mentioned in
9 subsection (3) be reduced to the period stated in the court's order.
- 10 (5) An analyst who carried out an analysis in relation to which a
11 certificate under this section is produced as evidence in a proceeding
12 for an offence against an Act mentioned in subsection (1) need not
13 be called as a witness in the proceedings by the party producing the
14 certificate unless the court hearing the proceedings orders, at the
15 request of a party to the proceedings or on its own initiative, that the
16 analyst be called as a witness.
- 17 (6) If the certificate of an analyst is admitted in evidence in a
18 proceeding, the defendant may require the analyst to be called as a
19 witness for the prosecution and the analyst may be cross-examined
20 as if the analyst had given evidence of the matters stated in the
21 certificate.
- 22 (7) Subsection (6) does not entitle a person to require the analyst to be
23 called as a witness for the prosecution unless—
- 24 (a) the prosecutor has been given at least 4 days notice of the
25 person's intention to require the analyst to be called; or
- 26 (b) the court, by order, allows the analyst to be so called.
- 27 (8) If an analyst issues a certificate under this section in relation to a
28 proceeding for an offence against the *Criminal Code* or the *Drugs of*
29 *Dependence Act 1989*, the analyst must give a copy of the certificate
30 to the chief police officer.

1 **[2.144] Dictionary, note 2**

2 *substitute*

3 *Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- 4 • ambulance service
- 5 • chief executive (see s 163)
- 6 • contravene
- 7 • doctor
- 8 • document
- 9 • exercise
- 10 • function
- 11 • public servant.

12 **[2.145] Dictionary, definition of *analyst***

13 *substitute*

14 *analyst* means the following appointed under section 15:

- 15 (a) the government analyst;
- 16 (b) an analyst.

17 **[2.146] Dictionary, new definitions**

18 *insert*

19 *approval*, for division 3A.1 (Supply of syringes to approved
20 people)—see section 66A.

21 *approved person* means—

- 22 (a) for division 3A.1 (Supply of syringes to approved people)—
23 see section 66A; and
- 24 (b) for division 3A.2 (Supply of syringes by vending machine)—
25 see section 66L.

26 *course of instruction*, for division 3A.1 (Supply of syringes to
27 approved people)—see section 66A.

1 *health worker*, for division 3A.1 (Supply of syringes to approved
2 people)—see section 66A.

3 **[2.147] Dictionary, definition of *patient***

4 *substitute*

5 *patient*, in relation to a doctor, means a person being professionally
6 attended by the doctor.

7 **[2.148] Dictionary, new definitions**

8 *insert*

9 *syringe* includes the needle section or the plunger section of a
10 syringe.

11 *vending machine*, for division 3A.2 (Supply of syringes by vending
12 machine)—see section 66L.

13 *vending machine approval*, for division 3A.2 (Supply of syringes
14 by vending machine)—see section 66L.

15 **Part 2.21 Public Health Regulation 2000**

16 **[2.149] Section 51 (7) and section 54 (1) and (2)**

17 *omit*

18 **[2.150] Sections 59 and 60**

19 *omit*

20 **[2.151] Division 5.5**

21 *omit*

1 **Part 2.22** **Supervised Injecting Place Trial**
2 **Act 1999**

3 **[2.152] Long title**

4 *substitute*

5 An Act to allow for a trial of a supervised injecting place for
6 drug-dependent people

7 **[2.153] Section 2, notes**

8 *substitute*

9 *Note 1* The dictionary at the end of this Act defines certain terms used in this
10 Act.

11 *Note 2* A definition in the dictionary applies to the entire Act unless the
12 definition, or another provision of the Act, provides otherwise or the
13 contrary intention otherwise appears (see Legislation Act, s 155 and
14 s 156 (1)).

15 **[2.154] Section 9 (3) (d)**

16 *omit*

17 Drugs of Dependence Act, part 7

18 *substitute*

19 *Public Health Act 1997*, part 3A (Supply of syringes)

20 **[2.155] Section 13 (2)**

21 *substitute*

- 22 (2) The directions for subsection (1) must include, but are not limited
23 to, a direction stating circumstances in which the DPP is restrained
24 from prosecuting a person who administers a substance to himself or
25 herself at the facility for an offence against—

- 1 (a) the *Drugs of Dependence Act 1989*, section 169 (Possessing
2 drugs of dependence) or section 171 (Possessing prohibited
3 substances); or
- 4 (b) the *Medicines, Poisons and Therapeutic Goods Act 2007*,
5 section 36 (Possessing certain declared substances) or
6 section 37 (Administering certain declared substances).

7 **[2.156] Section 14**

- 8 *omit*
- 9 drug dependent person
- 10 *substitute*
- 11 drug-dependent person

12 **[2.157] Dictionary, definition of *drug dependent person***

- 13 *substitute*
- 14 *drug-dependent person*—see the *Medicines, Poisons and*
15 *Therapeutic Goods Act 2007*, dictionary.

16 **[2.158] Dictionary, definitions of *drug of dependence* and *Drugs***
17 ***of Dependence Act***

- 18 *omit*

19 **[2.159] Dictionary, definition of *prohibited substance***

- 20 *omit*

21 **[2.160] Dictionary, definition of *substance***

- 22 *substitute*
- 23 *substance* means a controlled medicine, or prohibited substance,
24 within the meaning of the *Medicines, Poisons and Therapeutic*
25 *Goods Act 2007*.

- 1 **[2.161] Further amendments, references to *drug dependent***
2 ***persons***
3 *omit*
4 drug dependent persons
5 *substitute*
6 drug-dependent people
7 *in*
8 • section 5 (2) (a) (i)
9 • section 10 (5), definition of *criteria*
10 • section 13 (1)
11 • section 30 (c)
12 • dictionary, definition of *supervised injecting place*,
13 paragraph (a)

14 **Part 2.23 Victims of Crime (Financial**
15 **Assistance) Act 1983**

- 16 **[2.162] Section 37 (3)**
17 *substitute*
18 (3) In this section:
19 *intoxicated* means intoxicated as a result of the voluntary
20 consumption of alcohol or the voluntary administration of a
21 controlled medicine, or prohibited substance, within the meaning of
22 the *Medicines, Poisons and Therapeutic Goods Act 2007*.

1 Dictionary

2 (see s 3)

3 *Note 1* The Legislation Act contains definitions and other provisions relevant to
4 this Act.

5 *Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- 6 • contravene
- 7 • corporation
- 8 • dentist
- 9 • doctor
- 10 • function
- 11 • midwife
- 12 • Minister (see s 162)
- 13 • nurse
- 14 • nurse practitioner
- 15 • optometrist
- 16 • pharmacist
- 17 • under.

18 *appendix C substance*—see section 13.

19 *applied provisions*, for chapter 10 (Incorporation of Commonwealth
20 therapeutic goods laws)—see section 156.

21 *applies*, in relation to a substance for a schedule or appendix of the
22 medicines and poisons standard—see section 17.

23 *at premises* includes in or on the premises.

24 *authorisation holder*, for part 8.1 (Authorisations—disciplinary
25 action)—see section 139.

26 *authorised*—

27 (a) to deal with a regulated substance—see section 20; and

28 (b) to deal with a regulated therapeutic good—see section 22.

- 1 **business** includes—
- 2 (a) a business not carried on for profit; and
- 3 (b) a trade or profession.
- 4 **chief pharmacist**, for an institution with a pharmacy, means the
- 5 pharmacist having the supervision of all other pharmacists
- 6 employed at the institution.
- 7 **close associate**, of someone, for chapter 6 (Licences for regulated
- 8 substances and regulated therapeutic goods)—see section 79.
- 9 **Commonwealth administrative laws**, for chapter 10 (Incorporation
- 10 of Commonwealth therapeutic goods laws)—see section 156.
- 11 **Commonwealth Minister**, for chapter 10 (Incorporation of
- 12 Commonwealth therapeutic goods laws)—see section 156.
- 13 **Commonwealth Secretary**, for chapter 10 (Incorporation of
- 14 Commonwealth therapeutic goods laws)—see section 156.
- 15 **Commonwealth therapeutic goods laws**, for chapter 10
- 16 (Incorporation of Commonwealth therapeutic goods laws)—see
- 17 section 156.
- 18 **community pharmacy** means a pharmacy at a place other than an
- 19 institution.
- 20 **connected**, with an offence, for part 7.1 (Inspection and seizure
- 21 powers)—see section 98.
- 22 **controlled medicine**—see section 11.
- 23 **corresponding law** means—
- 24 (a) a law of a State corresponding, or substantially corresponding,
- 25 to this Act; or

1 (b) a law of the Commonwealth, a State or New Zealand that is
2 declared by regulation to be a corresponding law, whether or
3 not the law corresponds, or substantially corresponds, to this
4 Act.

5 *Note* *State* includes a territory (see Legislation Act, dict, pt 1).

6 ***dangerous poison***—see section 12.

7 ***day hospital*** means a facility where a person is admitted for surgical
8 or medical treatment and discharged on the same day.

9 ***deals***—

10 (a) with a regulated substance—see section 19; and

11 (b) with a regulated therapeutic good—see section 21.

12 ***declared substance***, for part 4.1 (Supply of certain regulated
13 substances—offences)—see section 25.

14 ***disciplinary action***, for part 8.1 (Authorisations—disciplinary
15 action)—see section 141.

16 ***disciplinary notice***, for part 8.1 (Authorisations—disciplinary
17 action)—see section 142 (1).

18 ***dispense*** means supply on prescription.

19 ***dosage unit*** means an individual dose of a medicine or poison for
20 therapeutic use and includes a tablet, capsule, cachet, single-dose
21 powders or single-dose sachet or powders or granules.

22 ***drug-dependent person***, in relation to a controlled medicine or
23 prohibited substance, means a person with a condition—

24 (a) who, as a result of the administration of the medicine or
25 substance, demonstrates, in relation to the person's use of the
26 medicine or substance—

27 (i) impaired control; or

- 1 (ii) drug-seeking behaviour that suggests impaired control;
2 and
- 3 (b) who, as a result of the cessation of the administration of the
4 medicine or substance, is likely to experience symptoms of
5 mental or physical distress or disorder.
- 6 **drug offence**, for part 8.2 (Controlled medicines and prohibited
7 substances—disqualification by courts)—see section 147.
- 8 **executive officer**, of a corporation, means a person, however
9 described and whether or not the person is a director of the
10 corporation, who is concerned with, or takes part in, the
11 corporation's management.
- 12 **ground for disciplinary action**, against an authorisation holder, for
13 part 8.1 (Authorisations—disciplinary action)—see section 140 (1).
- 14 **health professional**—see the *Health Professionals Act 2004*,
15 section 14.
- 16 **hospital**—
- 17 (a) means a public hospital, private hospital or day hospital; and
- 18 *Note* A hospice is a hospital (see *The Macquarie Dictionary*, 3rd ed,
19 def *hospice*).
- 20 (b) includes a body prescribed by regulation as a hospital.
- 21 **influential person**, for a corporation, for chapter 6 (Licences for
22 regulated substances and regulated therapeutic goods)—see
23 section 80.

- 1 ***institution***—
- 2 (a) means a hospital, residential aged care facility, residential
- 3 disability care facility or other institution used for the
- 4 accommodation, treatment and care of people suffering from
- 5 mental or physical conditions; and
- 6 *Note* ***Hospital, residential aged care facility*** and ***residential disability***
- 7 ***care facility*** are defined in this dictionary.
- 8 (b) includes a body prescribed by regulation as an institution.
- 9 ***interstate wholesaler***, for part 8.1 (Authorisations—disciplinary
- 10 action)—see section 139.
- 11 ***licence***, for chapter 6 (Licences for regulated substances and
- 12 regulated therapeutic goods)—see section 78.
- 13 ***low harm poison***—see section 12.
- 14 ***manufacture***, for a regulated substance, means do 1 or more of the
- 15 following in relation to the substance:
- 16 (a) carry out a process to produce the substance;
- 17 (b) refine the substance;
- 18 (c) convert the substance into another regulated substance;
- 19 (d) make or prepare an ampoule, capsule, tablet, vial or other
- 20 dosage form that consists of, or contains, the substance;
- 21 (e) mix, compound or formulate the substance with another
- 22 regulated substance or any other substance;
- 23 (f) pack or repack the substance for sale by wholesale or for use in
- 24 connection with a business, industry, profession or trade.
- 25 ***medicine***—see section 11.
- 26 ***medicines advisory committee*** means the Medicines Advisory
- 27 Committee established by section 194.
- 28 ***medicines and poisons inspector***—see section 99.

- 1 ***medicines and poisons standard***—see section 15.
- 2 ***moderate harm poison***—see section 12.
- 3 ***must keep***, a register for a regulated substance, for division 4.2.2
4 (Registers for regulated substances)—see section 48.
- 5 ***occupier***, of premises, for part 7.1 (Inspection and seizure
6 powers)—see section 98.
- 7 ***offence***, for part 7.1 (Inspection and seizure powers)—see
8 section 98.
- 9 ***opioid dependency treatment centre*** means a facility—
- 10 (a) licensed under this Act to treat opioid dependency; or
- 11 (b) operated by the Territory where treatment, including the supply
12 and administration of controlled medicines, is provided to
13 drug-dependent people for their drug dependency.
- 14 ***pharmacist only medicine***—see section 11.
- 15 ***pharmacy medicine***—see section 11.
- 16 ***poison***—see section 12.
- 17 ***possess***, for a regulated substance—see section 24.
- premises*** includes land or a structure or vehicle and any part of an
 area of land or a structure or vehicle.
- 18 ***prescribe*** means issue a prescription.
- 19 ***prescription***, in relation to a medicine, means an oral or written
20 direction (other than a purchase order, requisition or standing order)
21 to a person—
- 22 (a) who is authorised to administer the medicine to administer the
23 medicine; or
- 24 (b) who is authorised to dispense the medicine to dispense the
25 medicine.

- 1 ***prescription only medicine***—see section 11.
- 2 ***prohibited substance***—see section 13.
- 3 ***purchase order*** means a written order for the supply of a regulated
4 substance.
- 5 ***register***, for a regulated substance, means a register that a person is
6 required to keep under section 48 for the substance.
- 7 ***regulated substance***—see section 10.
- 8 ***regulated therapeutic good***—see section 14.
- 9 ***regulated thing***, for chapter 12 (Regulations about regulated
10 substances and regulated therapeutic goods)—see section 183.
- 11 ***relevant person***, for part 8.2 (Controlled medicines and prohibited
12 substances—disqualification by courts)—see section 147.
- 13 ***requisition*** means an oral or written request for the supply of a
14 medicine—
- 15 (a) from a pharmacy in an institution to a ward or another
16 pharmacy in the institution; or
- 17 (b) to a pharmacy in an institution from a ward in the institution;
18 or
- 19 (c) to a ward in an institution from another ward in the institution;
20 or
- 21 (d) from a pharmacy in an institution to a pharmacy in another
22 institution.
- 23 ***residential aged care facility*** means a residential facility that
24 provides residential care within the meaning of the *Aged Care*
25 *Act 1997* (Cwlth), section 41-3 (Meaning of *residential care*) to
26 residents at the facility.

- 1 ***residential disability care facility***—
- 2 (a) means a residential facility that provides disability care to
- 3 people with disabilities; but
- 4 (b) does not include a residential aged care facility.
- 5 ***sell***—see section 24.
- 6 ***signs***—a person *signs* something if the person signs with the
- 7 person’s usual signature, whether electronically or otherwise.
- 8 ***standing order*** means a written order authorising the supply or
- 9 administration of medicines as stated in the order, in stated clinical
- 10 circumstances.
- 11 ***suitable person***—
- 12 (a) for an individual—see section 81; and
- 13 (b) for a corporation—see section 82.
- 14 ***supply***—see section 24.
- 15 ***supply authority***—see section 23.
- 16 ***vending machine***, for division 4.3.5 (Other offences—vending
- 17 machines)—see section 67.
- 18 ***ward*** means an area of an institution used to accommodate or treat
- 19 people, including an operating theatre and an opioid dependency
- 20 treatment centre.
- 21 ***wholesale*** means supply—
- 22 (a) for retail sale; or
- 23 (b) for use in connection with a business, industry, profession or
- 24 trade.
- 25 ***written*** includes in electronic form.

Endnotes

1 Presentation speech

Presentation speech made in the Legislative Assembly on 2007.

2 Notification

Notified under the Legislation Act on 2007.

3 Republications of amended laws

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

© Australian Capital Territory 2007