

Australian Capital Territory

Drugs of Dependence (Cannabis Handling, Destruction and Preservation Protocol) Determination 2009 (No 1)*

Disallowable instrument DI2009—168

made under the

***Drugs of Dependence Act 1989, s 193B (1) Protocols for destruction etc of
cannabis***

I determine that the Protocol for Handling, Destruction and Preservation of cannabis, as detailed in the Schedule, is a protocol for the purposes of the Act having been approved in writing by the Chief Health Officer and the Director of Public Prosecutions.

Ian Fox

A/g Government Analyst

15 July 2009

*Name amended under Legislation Act, s 60

Cannabis Handling, Destruction and Preservation Protocol under Section 193B (1) of the *Drugs of Dependence Act 1989*

Part A. Preliminary

This protocol specifies the procedure for the handling and destruction of cannabis for the purpose of preserving a sample of the cannabis under section 193C (Destruction of cannabis without court order) and 193E (Amendment and revocation of cannabis preservation) of the *Drugs of Dependence Act 1989*.

In this protocol “cannabis” has the same meaning as in the *Drugs of Dependence Act 1989*. In the *Drugs of Dependence Act 1989* “cannabis”, “means a cannabis plant, whether living or dead, and includes any flowering or fruiting top, leaf, seed, stalk or any other part of a cannabis plant and any mixture of parts of a cannabis plant, but does not include cannabis resin or cannabis fibre”.

In this protocol a plant is leaf and/or flowering tops attached to a stem with a root ball whether fresh or dried.

In this protocol “cannabis product” refers to “cannabis” other than when it is in the form of a plant.

In this protocol the Government Analyst is the Government Analyst appointed under section 15 (Appointment of analysts) of the *Public Health Act 1997*.

In this protocol an analyst is an analyst appointed under section 15 (Appointment of analysts) of the *Public Health Act 1997* and authorised under section 15A (Functions of analysts) of the *Public Health Act 1997* to carry out the functions of an analyst under the *Drugs of Dependence Act 1989*.

In this protocol an analyst’s certificate is a certificate under section 135A (Evidence-certificates by analysts) of the *Public Health Act 1997*.

Part B of this protocol is a determination under section 193B (Protocols for destruction etc of cannabis) (1) (a) of the *Drugs of Dependence Act 1989*. It is to be used for the processing of cannabis plants.

Part C of this protocol is a determination under section 193B (Protocols for destruction etc of cannabis) (1) (b) of the *Drugs of Dependence Act 1989*. It is to be used for the processing of cannabis product.

Part D of this protocol is a determination under section 193B (Protocols for destruction etc of cannabis) (1) (a) and (b) of the *Drugs of Dependence Act 1989*. It is to be used for the destruction of the remaining cannabis by the government analyst.

Cannabis Handling, Destruction and Preservation Protocol under Section 193B (1) of the *Drugs of Dependence Act 1989*

Part B. Inspection, Sampling and Analysis Protocol for Cannabis Plants

- 1) The collection of photographic and video evidence of seized cannabis plants is the responsibility of the police prior to submission of the seized plants for analysis.
- 2) The seized plants are to be visually inspected by an analyst, for botanical features consistent with cannabis, and those plants so identified are to be dealt with as in the following paragraphs. [Note: This inspection process identifies the plants in the seizure that will be taken to be cannabis.]

Where the number of plants exceeds 1000, inspection of all plants is not required but is to be of not less than 1001 plants.

- 3) The plants identified as cannabis plants in the seizure are to be counted and the number recorded.
- 4) The plants identified as cannabis plants are to be weighed without the root balls and total weight recorded.
- 5) A record is then to be made, using the terms set out in Schedule 1, providing a description of the plants identified as cannabis plants and any accompanying items. This description is to be included on the analyst's certificate relating to the plants.
- 6) A portion, not less than one gram, is to be retained from each plant identified as a cannabis plant. The total weight of plant material retained is to be not less than 100 grams.

Where the number of plants exceeds 1000, a portion is not required to be retained from each plant but is to be taken from not less than 1001 plants.

A portion of flowering top or leaf is to be retained in preference to other parts of the plant.

- 7) The portions to be retained are to be dried, if required, and securely stored individually packed.
- 8) A sample of the portions to be retained is to be further analysed in accordance with procedures approved by the government analyst to confirm the identity of the plants as cannabis as follows:
 - a) in the case of 1 to 20 plants identified as cannabis plants – 6 plants (all plants if less than 6); or
 - b) in the case of 21 to 1000 plants identified as cannabis plants – (square root [number of plants]+1) plants, to a maximum of 32 plants.

Cannabis Handling, Destruction and Preservation Protocol under Section 193B (1) of the *Drugs of Dependence Act 1989*

Part C. Inspection, Sampling and Analysis Protocol for Cannabis Product

- 1) The collection of photographic and video evidence of seized cannabis product is the responsibility of the police prior to submission of the seized material for analysis.
- 2) The whole of the seized material is to be visually inspected by an analyst, for botanical features consistent with cannabis and that material so identified is to be dealt with as in the following paragraphs. [Note: This inspection process identifies the portions of the seizure that will be taken to be cannabis.]
- 3) The material identified as cannabis is to be weighed and the total weight recorded.
- 4) A record is then to be made, using the terms set out in Schedule 1, providing a description of the identified material and any accompanying items. This description is to be included on the analyst's certificate relating to the cannabis.
- 5) A portion, not less than 100 grams in weight, of the material identified as cannabis is to be retained. This portion is to be representative of the whole of the identified material as follows:
 - a) where the identified material consists of a number of distinct items such as packages, a portion is to be sampled from each item. The weight of the total of the portions retained is to be not less than 100 grams; and
 - b) where a range of vegetable matter is present flowering top material or leaf material is to be retained in preference to other vegetable matter.

The portions to be retained are to be dried, if required, and securely stored individually packed.

- 1) A sample of the portions to be retained is to be further analysed in accordance with procedures approved by the government analyst to confirm the identity of the material as cannabis.
- 2) Where the material identified as cannabis consists of a number of distinct items, a sample of the portions to be retained is to be analysed as follows:
 - a) in the case of 1 to 20 items of material identified as cannabis – 6 items (all items if less than 6); or
 - b) in the case of greater than 20 items of material identified as cannabis – (square root [number of items]+1) items to a maximum of 32 items.

Cannabis Handling, Destruction and Preservation Protocol under Section 193B (1) of the *Drugs of Dependence Act 1989*

Part D Destruction of the Remaining Cannabis

The government analyst shall cause the destruction under section 193C (Destruction of cannabis without court order) and 193E (Amendment and revocation of cannabis preservation) of the *Drugs of Dependence Act 1989* of any remaining cannabis, after:

- a) the cannabis has been sampled and analysed, in accordance with this protocol;
- b) an analyst's certificate has been made in relation to the cannabis;
- c) the retained portions have been securely stored; and
- d) the cannabis was given to the analyst more than 24 hours ago.

The government analyst must not destroy any remaining cannabis:

- contrary to a court order of which the analyst has notice; or
- if the analyst has notice of an application under section 193D (Order for preservation of cannabis) in relation to the cannabis – until the application is finally decided.

Cannabis Handling, Destruction and Preservation Protocol under Section 193B (1) of the *Drugs of Dependence Act 1989*

Schedule 1

Cannabis Material Descriptions

The following terms shall be used in a record prepared under clause 5, Part B and clause 4, Part C.

- seeds
- leaves
- female flowering tops
- male flowering tops
- stalk (*woody portion of branches*)
- stem (*woody portion that root ball is attached to*)
- root ball
- plant portions (*stalk/stem material with leaves and/or flowering tops, but no root ball*)
- plant (*stem with root ball attached*)
- small plant
- seedling (*seed leaves present*)
- mixture of vegetable matter
- crushed leaf material
- crushed female flowering tops
- crushed male flowering tops
- crushed stalk/stem material
- fresh
- dried
- rotting
- mature (*eg. mature flowering tops would refer to well developed flowering structures*)
- immature (*eg. immature flowering tops would refer to flowering tops which are not well developed*)

More than one of these terms can be used as appropriate to describe the seized cannabis material. Other terms may be used if considered appropriate.