

2009

LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

DRUGS OF DEPENDENCE REGULATION 2009

SUBORDINATE LAW NO SL2009-5

EXPLANATORY STATEMENT

Circulated by the authority  
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## Overview

Following the commencement of the *Criminal Code (Serious Drug Offences) Amendment Act 2004* the *Drugs of Dependence Act 1989* ceased to deal with serious drug offences. The *Drugs of Dependence Act 1989* did however retain some lower order offences and the Simple Cannabis Offence Notice Scheme. The *Drugs of Dependence Act 1989* was also, until the commencement of the *Medicines, Poisons and Therapeutic Goods Act 2008* (the MPTG Act), the primary legislative tool for regulating the legitimate manufacture, supply, and use of pharmaceuticals in the ACT.

Upon commencement of the *Criminal Code (Serious Drug Offences) Amendment Act 2004*, the schedules relating to 'drugs of dependence' and 'prohibited drugs' in the *Drugs of Dependence Regulation 1993* were moved to schedule 1 of the *Criminal Code Regulation 2005*.

The *Drugs of Dependence Regulation 2005* ensured that schedule 1 of the *Criminal Code Regulation 2005* also applied to the *Drugs of Dependence Act 1989*. The *Drugs of Dependence Regulation 2005* also included a schedule that at the time was needed for the licensing scheme for the manufacture of drugs in part 2 of the *Drugs of Dependence Act 1989*.

This Regulation will replace the *Drugs of Dependence Regulation 2005*. The provisions applying schedule 1 of the *Criminal Code Regulation 2005* to the *Drugs of Dependence Act 1989* are retained, but with amended headings, to reflect consequential amendments made by the MPTG Act.

The licensing of the manufacture of drugs is now governed by the MPTG Act, replacing the licensing scheme that was in the *Drugs of Dependence* legislation. Accordingly, the schedule in the *Drugs of Dependence Regulation 2005* and the section applying the schedule were not required in this Regulation.

The differences between the *Drugs of Dependence Regulation 2005* and this Regulation are minor; being corrected references and the removal of redundant provisions. On that basis a Regulatory Impact Statement for the Regulation is not required under section 34 of the *Legislation Act 2001* as this Regulation does not impose an appreciable cost on the community, or a part of the community.

## Clauses

### **Section 1 – Name of regulation**

This section sets out the name of the Regulation as the *Drugs of Dependence Regulation 2009*.

### **Section 2 – Commencement**

The commencement of the Regulation is tied to commencement of the *Medicines, Poisons and Therapeutic Goods Act 2008*, schedule 2.9.

### **Section 3 - Notes**

This section provides that notes are explanatory and not part of the regulation.

**Section 4 – Drugs of dependence – Act, dict, def *drug of dependence***

Section 4(a) provides that a substance listed in part 1.1 of Schedule 1 of the Criminal Code Regulation 2005 is a *drug of dependence* for the *Drugs of Dependence Act 1989*.

Furthermore, a drug that is an *associated drug* or a *related drug* of a substance listed in part 1.1 of Schedule 1 of the Criminal Code Regulation 2005 is also a drug of dependence by virtue of this provision. What is an *associated drug* is established by section 5(2) of the Criminal Code Regulation 2005. Section 5(3) of the Criminal Code Regulation 2005 establishes what is a *related drug*.

**Section 5 – Prohibited substances – Act, s 3(1), def *prohibited substance***

Section 5(a) provides that a substance listed in part 1.2 of Schedule 1 of the Criminal Code Regulation 2005 is a *prohibited substance* for the *Drugs of Dependence Act 1989*.

Furthermore, a drug that is an *associated drug* or a *related drug* of a substance listed in part 1.2 of Schedule 1 of the Criminal Code Regulation 2005 is also a drug of dependence by virtue of this provision. What is an *associated drug* is established by section 5(2) of the Criminal Code Regulation 2005. Section 5(3) of the Criminal Code Regulation 2005 establishes what is a *related drug*.

**Section 6 – Legislation repealed**

This section repeals the Drugs of Dependence Regulation 2005, otherwise referenced as SL2005-3.