



Australian Capital Territory

# **Poisons Act 1933**

**A1933-37**

**Republication No 8**

**Effective: 9 April 2004 – 26 May 2004**

Republication date: 9 April 2004

Last amendment made by A2004-15

Not all amendments are in force: see last endnote

Authorised by the ACT Parliamentary Counsel

## About this republication

### The republished law

This is a republication of the *Poisons Act 1933* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 9 April 2004. It also includes any amendment, repeal or expiry affecting the republished law to 9 April 2004.

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

### Kinds of republications

The Parliamentary Counsel's Office prepares 2 kinds of republications of ACT laws (see the ACT legislation register at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)):

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

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

### Editorial changes

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

This republication does not include amendments made under part 11.3 (see endnote 1).

### Uncommenced provisions and amendments

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

### Modifications

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

### Penalties

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

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



Australian Capital Territory

# Poisons Act 1933

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R8  
09/04/04

Poisons Act 1933  
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Australian Capital Territory

## Poisons Act 1933

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An Act relating to the control, sale and use of poisons and poisonous substances, and for other purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Poisons Act 1933*.

### 2 Dictionary

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

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

For example, the signpost definition ‘*drugs and poisons standard*—see the *Poisons and Drugs Act 1978*, dictionary.’ means that the expression ‘poisons and drugs standard’ is defined in that dictionary and the definition applies to this Act.

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

### 3 Notes

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

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

## **U** 3A Offences against Act—application of Criminal Code etc

## Part 2 Administration

### 4 Application of Act to Territory

- (1) This Act does not bind the Territory.
- (2) This section has effect despite the *Legislation Act 2001*, section 121 (Binding effect of Acts).

### 5 Licences to sell poisons and other substances

- (1) The chief health officer may grant to a person who the chief health officer believes on reasonable grounds to be a fit and proper person a licence to sell poisons, poisonous substances, biological preparations or restricted substances.

*Note* A fee may be determined under s 20 (Determination of fees) for this section.

- (2) Any licence so granted may be limited to apply to the sale of any particular substance or substances and shall be subject to such conditions as are prescribed or as the chief health officer specifies.
- (3) A licence shall remain in force until revoked by the chief health officer.
- (4) The chief health officer may, where a licensee has committed any breach of this Act or of the conditions upon which the licence was issued, revoke the licence.

## **6 Appointment of analysts**

The chief executive may appoint a public servant as an analyst for this Act.

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

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

## **7 Evidence of analysis**

In proceedings in the Magistrates Court for an offence against this Act, a certificate purporting to be signed by an analyst and to state the results of an analysis of a substance is—

- (a) to be taken to have been signed by an analyst, unless the contrary is proved; and
- (b) is evidence of the matters stated in the certificate.

## **8 Powers of inspection**

For this Act, any authorised person may enter any premises and may demand the production of, and may inspect, any books or documents and any stocks of poisons, poisonous substances, biological preparations, restricted substances and any substance mentioned in the drugs and poisons standard, schedule 4.

## **9 Calculation of percentages**

For this Act, percentages of liquid preparations are to be calculated on the basis that a preparation containing 1% of any preparation is a preparation in which—

- (a) if the substance is a solid—1g of the substance is contained in every 100ml of the preparation; and



- (b) if the substance is a liquid—1ml of the substance is contained in every 100ml of the preparation.

## 10 Declaration of substances by Minister

- (1) The Minister may, in writing, declare what substances are for this Act—

- (a) poisons; or
- (b) poisonous substances; or
- (c) restricted substances; or
- (d) substances the sale of which is attended by certain conditions; or
- (e) biological preparations; or
- (f) are exempted from this Act, either generally or with limitations as to place and subject matter, and either absolutely or subject to any specified conditions or restrictions;

and may in any such notice define the substances so declared.

*Note* The following Acts are also relevant to poisons and drugs:

- the *Drugs of Dependence Act 1989*
- the *Poisons and Drugs Act 1978*.

- (2) Without limiting subsection (1), a substance may be declared by applying, with or without modification, provisions of the drugs and poisons standard.
- (3) A declaration under subsection (1) is a disallowable instrument.

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



**13 Pharmacists may manufacture poison and poisonous substances**

Subject to this Act, a pharmacist may—

- (a) manufacture in the ordinary course of his or her retail business any preparation, admixture or extract of any poison or poisonous substance; and
- (b) carry on the business of retailing, dispensing or compounding any poison or poisonous substance; and
- (c) supply a poison or poisonous substance to a doctor, dentist or veterinary surgeon.

**14 Storage of poisons**

Every licensee shall store or keep all poisons under such conditions of storage as are prescribed.

Maximum penalty: 50 penalty units.

**15 Sale or supply from vending machines prohibited**

- (1) A person must not—
  - (a) install a vending machine for the sale or supply of a poison or poisonous substance; or
  - (b) sell or supply a poison or poisonous substance using a vending machine.

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

- (2) In this section:

***vending machine*** means a machine, or device, operated by a token, money or electronic funds transfer by a member of the public.

## Part 4 Biological preparations and restricted substances

### **U** 16 Sale and supply of biological preparations and restricted substances

- (1) A person shall not sell or supply to, or dispense for, another person a biological preparation or restricted substance unless that other person is—
- (a) a doctor; or
  - (b) a dentist; or
  - (c) a pharmacist; or
  - (d) a veterinary surgeon; or
  - (e) the holder of a licence to sell that preparation or that substance, as the case may be; or
  - (f) a public employee who is authorised in writing by the Minister; or
  - (g) a person who presents a prescription signed by a doctor, dentist or veterinary surgeon authorising the sale or supply to, or dispensing for, that person or another person for whom that person is acting of that preparation or that substance.

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

- (2) A person shall not offer for sale a biological preparation or restricted substance unless he or she is—
- (a) a doctor; or
  - (b) a pharmacist; or
  - (c) a veterinary surgeon; or

(d) the holder of a licence to sell that preparation or that substance, as the case may be; or

(e) a public employee who is authorised in writing by the Minister.

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

## **Part 5                      Miscellaneous**

### **17                      Offences in relation to the sale of poisons etc**

- (1) A person must not sell a poison or poisonous substance, or a preparation containing a poison or poisonous substance, in contravention of this Act.

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

- (2) A person must not sell a poison or poisonous substance without having made the entries required by this Act.

Maximum penalty: 10 penalty units.

- (3) A person must not sell a poison or poisonous substance without having obtained the signatures required by this Act.

Maximum penalty: 5 penalty units.

- (4) A person must not buy a poison or poisonous substance and give false information to the seller about the matters the seller is entitled or required by this Act to inquire into.

Maximum penalty: 10 penalty units.

- (5) A person must not sign his or her name as a witness to the sale of poison to a person unknown to him or her.

Maximum penalty: 10 penalty units.

- (6) A person must not, without reasonable excuse, fail to produce a book, document or material in stock if required so to do by an authorised person under this Act.

Maximum penalty: 50 penalty units.

**U 18 Maximum penalty where offence is due to inadvertence**

A person shall not, on conviction for any offence against this Act relating to—

- (a) the keeping of books; or
- (b) the issuing or dispensing of prescriptions issued by doctors;

be sentenced to imprisonment or to pay a penalty of more than 10 penalty units if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to, or committed in the course of, or in connection with, the commission or intended commission of any other offence.

**19 Averment of prosecution**

In every prosecution for an offence against this Act the averment of the prosecutor contained in the information shall, in the absence of proof to the contrary, be taken to be proved.

**19A Extended meaning of *possession***

For this Act, a person is taken to be in *possession* of a substance if the substance is in or on land or premises occupied, used or controlled by the person, unless the person establishes that the person had no knowledge of the substance being in or on land or premises occupied by the person.

**20 Determination of fees**

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

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

- (2) A determination is a disallowable instrument.

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

## **20A Approved forms**

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

*Note* For other provisions about forms, see Legislation Act, s 255.

- (3) An approved form is a notifiable instrument.

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

## **21 Appointment of authorised people**

The Minister may appoint a public servant as an authorised person for this Act.

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

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

## **U 22 Regulation-making power**

- (1) The Executive may make regulations for this Act.

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

- (2) The regulations may make provision in relation to the following matters:
  - (a) the manufacture, storage and safe custody of poisons and poisonous substances;
  - (b) the colouring of any poison or poisonous substance;
  - (c) the shape, size, materials and labelling of the containers or packages in which any poisons or poisonous substances may be sold;



- (d) the printing on packages, in which any poison is enclosed, contained, or packed for sale, of the name of an effective remedy to counteract the effects of the poison;
  - (e) the inspection by police officers or authorised persons of books and other documents;
  - (f) the issue of licences;
  - (g) the prohibition of the manufacture of any poison or poisonous substance, except on premises licensed for the purpose or by pharmacists on their premises;
  - (h) the prohibition of the manufacture or distribution of any poison or poisonous substance except by doctors, pharmacists, veterinary surgeons, persons holding licences for that purpose or persons authorised under section 16;
  - (i) the issue by doctors of prescriptions containing any poison or poisonous substance and the dispensing of those prescriptions;
  - (j) the keeping of records and furnishing of information either in writing or otherwise by persons engaged in the manufacture, sale or distribution of any poison or poisonous substance;
  - (k) the control of the sale of methylated spirit.
- (3) The regulations may also prescribe offences for contraventions of the regulations and prescribe maximum penalties of not more than 10 penalty units for offences against the regulations.

## Dictionary

(see s 2)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- exercise
- function
- penalty unit (see also s 133)
- public employee.

***analyst*** means an analyst appointed under section 6.

***authorised person*** means a person appointed under section 21.

***biological preparation*** means a substance declared to be a biological preparation under section 10 (Declaration of substances by Minister).

***drugs and poisons standard***—see the *Poisons and Drugs Act 1978*, dictionary.

***licence*** means a licence under this Act.

***poison*** means a substance (other than a substance that is a poison under the *Poisons and Drugs Act 1978*) the introduction of which into the body of a person by any route involves the risk of death to the person, and includes a substance declared to be a poison under section 10.

*Note* The following Acts are also relevant to poisons and drugs:

- the *Drugs of Dependence Act 1989*
- the *Poisons and Drugs Act 1978*.

***poisonous substance*** means a substance (other than a substance that is a poison under the *Poisons and Drugs Act 1978*) the introduction of which into the body of a person by any route involves the risk of material departure from the normal health of the person, and includes a substance that is declared to be a poisonous substance under section 10.

***possession***—see section 19A (Extended meaning of *possession*).

*Note* For a general defence to possession, see s 19A.

***restricted substance*** means a substance declared to be a restricted substance under section 10.

***sell*** includes—

- (a) offer for sale; and
- (b) expose for sale; and
- (c) barter (or offer or expose for barter); and
- (d) exchange (or offer or expose for exchange); and
- (e) supply for value (or offer or expose to supply for value); and
- (f) supply for free (or offer or expose to supply for free) to gain or maintain custom, or otherwise for commercial gain; and
- (g) have in possession for sale.

## Endnotes

1 About the endnotes

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## Endnotes

### 1 About the endnotes

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

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

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

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

The endnotes also include a table of earlier republications.

### 2 Abbreviation key

am = amended	ord = ordinance
amdt = amendment	orig = original
ch = chapter	par = paragraph/subparagraph
cl = clause	pres = present
def = definition	prev = previous
dict = dictionary	(prev...) = previously
disallowed = disallowed by the Legislative Assembly	pt = part
div = division	r = rule/subrule
exp = expires/expired	reg = regulation/subregulation
Gaz = Gazette	renum = renumbered
hdg = heading	reloc = relocated
IA = Interpretation Act 1967	R[X] = Republication No
ins = inserted/added	RI = reissue
LA = Legislation Act 2001	s = section/subsection
LR = legislation register	sch = schedule
LRA = Legislation (Republication) Act 1996	sdiv = subdivision
mod = modified/modification	sub = substituted
o = order	SL = Subordinate Law
om = omitted/repealed	<u>underlining</u> = whole or part not commenced or to be expired

### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Poisons and Dangerous Drugs Ordinance 1933* No 37 (Cwlth).

It was renamed as the *Poisons Ordinance 1933* by the *Poisons (Amendment) Ordinance 1989*, s 5.

This Act was renamed the *Poisons Ordinance 1933* by the *Poisons (Amendment) Ordinance 1989* No 12, s 5.

The *Australian Capital Territory (Self-Government) Act 1988* (Cwlth), s 34 (4) converted most former Commonwealth ordinances in force in the ACT into ACT enactments. This allowed the ACT Legislative Assembly to amend and repeal the laws. This Act was converted into an ACT enactment on 11 May 1989 (self-government day).

As with most ordinances in force in the ACT, the name was changed from *Ordinance* to *Act* by the *Self-Government (Citation of Laws) Act 1989* No 21, s 5 on 11 May 1989 (self-government day).

Before 11 May 1989, ordinances commenced on their notification day unless otherwise stated (see *Seat of Government (Administration) Act 1910* (Cwlth), s 12).

#### Legislation before becoming Territory enactment

##### **Poisons Act 1933 No 37**

notified 21 December 1933

commenced 1 January 1934 (s 2 and Cwlth Gaz 1933 p 1926)

as amended by

##### **Poisons and Dangerous Drugs Ordinance 1936 No 24**

notified 25 June 1936

commenced 25 June 1936

##### **Ordinances Revision Ordinance 1938 No 35**

notified 15 December 1938

commenced 15 December 1938

##### **Poisons and Dangerous Drugs Ordinance 1954 No 13**

notified 10 June 1954

commenced 10 June 1954

## Endnotes

3 Legislation history

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**Poisons and Dangerous Drugs Ordinance 1963 No 1 sch 2**

notified 14 March 1963  
commenced 14 March 1963

**Ordinances Revision (Decimal Currency) Ordinance 1966 No 19**

notified 23 December 1966  
commenced 23 December 1966

**Poisons and Dangerous Drugs Ordinance 1967 No 32**

notified 29 September 1967  
commenced 29 September 1967

**Ordinances Revision (Health Commission) Ordinance 1975 No 17**

notified 1 July 1975  
commenced 1 July 1957

**Poisons and Dangerous Drugs Ordinance 1976 No 36**

notified 27 August 1976  
commenced 27 August 1976

**Poisons and Dangerous Drugs (Amendment) Ordinance 1978 No 9**

notified 16 March 1978  
commenced 16 March 1978

**Poisons and Dangerous Drugs (Amendment) Ordinance (No 2) 1978  
No 39**

notified 19 December 1978  
commenced 29 December 1978 (s 3 and Cwlth Gaz 1978 No S290)

**Ordinances Revision Ordinance 1978 No 46**

notified 28 December 1978  
commenced 28 December 1978

**Poisons and Dangerous Drugs (Amendment) Ordinance 1981 No 20**

notified 28 August 1981  
commenced 28 August 1981

**Poisons and Dangerous Drugs (Amendment) Ordinance 1982 No 46**

notified 30 June 1982  
commenced 30 June 1982

**Magistrates Court Ordinance 1985 No 67 sch pt 1**

notified 19 December 1985

commenced 1 February 1986 (s 2 and Cwlth Gaz 1986 No G3)

**Community and Health Services (Consequential Provisions) Ordinance 1988 No 29 sch**

notified 30 June 1988

commenced 2 July 1988 (s 2)

**Poisons (Amendment) Ordinance 1989 No 12**

notified 15 March 1989

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

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

notified 10 May 1989 (Cwlth Gaz 1989 No S160)

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

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

**Legislation after becoming Territory enactment****Health Services (Consequential Provisions) Act 1990 No 63 sch 1**

notified 28 December 1990 (Gaz 1990 No S102)

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

sch 1 commenced 31 January 1991 (s 2 (2) and see Gaz 1991 No S4)

**Poisons (Amendment) Act 1993 No 9**

notified 1 March 1993

ss 1-3 commenced 1 March 1993

remainder commenced 31 March 1993 (s 2 (2) and Gaz 1993 No S53)

**Health (Consequential Provisions) Act 1993 No 14 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)

commenced 1 March 1993 (s 2)

## Endnotes

3 Legislation history

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**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 64**

notified 30 June 1994 (Gaz 1994 No S121)  
s 1, s 2 commenced 30 June 1994 (s 2 (1))  
sch 1 pt 64 commenced 1 July 1994 (s 2 (2) and Gaz 1994 No S142)

**Statutory Offices (Miscellaneous Provisions) Act 1994 No 97 sch pt 1**

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

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

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

**Statute Law Revision (Penalties) Act 1998 No 54 sch**

notified 27 November 1998 (Gaz 1998 No S207)  
s 1, s 2 commenced 27 November 1998 (s 2 (1))  
sch commenced 9 December 1998 (s 2 (2) and Gaz 1998 No 49)

**Health and Community Care Legislation Amendment Act 2000 No 28 pt 2 and sch 1**

notified 30 June 2000 (Gaz 2000 No S30)  
s 1, s 2 commenced 30 June 2000 (IA s 10B)  
pt 2 and sch 1 commenced 1 July 2000 (s 2)

**Legislation (Consequential Amendments) Act 2001 No 44 pt 287**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 287 commenced 12 September 2001 (s 2 and see Gaz see 2001 No S65)

**Statute Law Amendment Act 2002 (No 2) No 49 pt 3.13**

notified LR 20 December 2002  
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))  
pt 3.13 commenced 31 December 2002 (s 2 (2))



**Nurse Practitioners Legislation Amendment Act 2004 A2004-10 pt 6**

notified LR 19 March 2004

s 1, s 2 commenced 19 March 2004 (LA s 75 (1))

pt 6 awaiting commencement (s 2)*Note* default commencement under LA s 79: 19 September 2004**Criminal Code (Theft, Fraud, Bribery and Related Offences)  
Amendment Act 2004 A2004-15 sch 2 pt 2.68**

notified LR 26 March 2004

s 1, s 2 commenced 26 March 2004 (LA s 75 (1))

sch 2 pt 2.68 commenced 9 April 2004 (s 2 (1))

**4 Amendment history****Title**

title am 1989 No 12 s 4

**Name of Act**s 1 am 1989 No 12 s 5  
sub 2000 No 28 s 3 sch 1**Dictionary**s 2 orig s 2 om 2000 No 28 s 3 sch 1  
(prev s 5 (1)) am 1967 No 32 s 5; 1978 No 39; 1993 No 9 sch;  
2000 No 28 sch 1  
renum 2000 No 28 s 3 sch 1  
am 2001 No 44 amdt 1.3216, amdt 1.3217  
sub 2002 No 49 amdt 3.100  
def **analyst** ins 1994 No 97 sch 1  
om 2002 No 49 amdt 3.100  
def **authorised person** am 1975 No 17 s 15; 1990 No 63 sch  
1; 1993 No 14 sch 1  
sub 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100  
def **biological preparation** ins 1989 No 12 s 6  
om 2002 No 49 amdt 3.100  
def **board** ins 1990 No 63 sch 1  
om 1993 No 14 sch 1  
def **chief health officer** ins 1997 No 70 sch 1  
om 2000 No 28 sch 1  
def **coca leaves** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100  
def **commissioner** ins 1975 No 17 s 15  
om 1988 No 29 sch  
def **container** om 1993 No 9 s 4  
om 2002 No 49 amdt 3.100

## Endnotes

### 4 Amendment history

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- def **crude cocaine** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **determined fee** ins 1989 No 12 s 6  
om 2001 No 44 amdt 1.3218
- def **director-general** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **drugs and poisons standard** ins 2000 No 28 s 4  
om 2002 No 49 amdt 3.100
- def **general manager** ins 1988 No 29 sch  
om 1990 No 63 sch 1
- def **Indian hemp** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **label** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **manufacture** om 1989 No 12 s 6  
om 2002 No 49 amdt 3.100
- def **medical officer of health** ins 1990 No 63 sch 1  
om 1997 No 70 sch 1
- def **medicinal opium** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **methylated spirit** om 1993 No 9 s 4  
om 2002 No 49 amdt 3.100
- def **narcotic drug** om 1989 No 12 s 6  
om 2002 No 49 amdt 3.100
- def **package** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **poison** am 1993 No 9 s 4  
sub 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100
- def **poisonous substance** am 1993 No 9 s 4  
sub 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100
- def **poisons register** om 1993 No 9 s 4  
om 2002 No 49 amdt 3.100
- def **prepared opium** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **raw opium** om 1978 No 39 s 4  
om 2002 No 49 amdt 3.100
- def **registered dentist** om 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100
- def **registered medical practitioner** om 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100
- def **registered pharmacist** om 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100
- def **registered veterinary surgeon** om 2000 No 28 sch 1  
om 2002 No 49 amdt 3.100

def **restricted substance** ins 1978 No 39 s 4  
 am 1989 No 12 s 6  
 om 2002 No 49 amdt 3.100  
 def **sell** ins 2000 No 28 sch 1  
 om 2002 No 49 amdt 3.100  
 def **sells** om 2000 No 28 sch 1  
 om 2002 No 49 amdt 3.100  
 def **service** ins 1988 No 29 sch  
 om 1990 No 63 sch 1  
 def **this Act** om 2001 No 44 amdt 1.3218  
 om 2002 No 49 amdt 3.100  
 def **the board** om 1974 No 17 s 15  
 om 2002 No 49 amdt 3.100  
 def **the director** ins 1967 No 32 s 5  
 om 1975 No 17 s 15  
 def **the Minister** om 1978 No 46 sch  
 om 2002 No 49 amdt 3.100

**Notes**

s 3 hdg ins 2000 No 28 s 3 sch 1  
 s 3 orig s 3 om 2000 No 28 s 3 sch 1  
 (prev s 5 (2)) renum 2000 No 28 s 3 sch 1  
 sub 2002 No 49 amdt 3.100

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

s 3A ins A2004-10 s 15

**Application of Act to Territory**

s 4 orig s 4 am 1963 No 1 s 3; 1967 No 32 s 2  
 om 1976 No 36 s 2  
 (prev s 7) am 1938 No 35 sch 2; 1967 No 32 s 4; 1975 No 17  
 s 15; 1988 No 29 sch; 1990 No 63 sch 1; 1993 No 9 sch  
 sub 1993 No 14 sch 1  
 renum R6 LRA (see 2000 No 28 s 3 sch 1)  
 sub 2002 No 49 amdt 3.101

**Licences to sell poisons and other substances**

s 5 (prev s 8) am 1975 No 17 s 15; 1978 No 39 s 4; 1982 No 46;  
 1988 No 29 sch; 1989 No 12 s 7; 1990 No 63 sch 1; 1993 No  
 14 sch 1; 1997 No 70 sch 1  
 renum R6 LRA (see 2000 No 28 s 3 sch 1)  
 am 2001 No 44 amdt 1.3219, amdt 1.3220

## Endnotes

### 4 Amendment history

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#### **Appointment of analysts**

s 6 orig s 6 am 1975 No 17 sch 1  
om 1988 No 29 sch  
(prev s 9) am 1936 No 24  
sub 1978 No 39 s 5  
am 1985 No 67 sch pt 1  
sub 1994 No 97 sch 1  
am 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
sub 2002 No 49 amdt 3.102

#### **Evidence of analysis**

s 7 (prev s 9A) ins 1994 No 97 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

#### **Powers of inspection**

s 8 (prev s 10) am 1967 No 32 s 5; 1978 No 39 sch; 1981 No 20;  
1989 No 12 s 8  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am 2002 No 49 amdt 3.103

#### **Calculation of percentages**

s 9 (prev s 11) sub 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

#### **Declaration of substances by Minister**

s 10 (prev s 12) am 1989 No 12 s 9; 1989 No 38 sch 1; 2000 No 28  
s 5  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am 2001 No 44 amdt 1.3221, amdt 1.3222; 2002 No 49 amdt  
3.104

#### **General provisions relating to the sale of poisons and poisonous substances**

pt 3 hdg am 1989 No 12 s 10

#### **Sale of poisons and poisonous substances**

s 11 (prev s 13) am 1978 No 39 sch; 1993 No 9 sch; 1998 No 54  
sch; 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am 2002 No 49 amdt 3.105

#### **Hawking poisons and poisonous substances an offence**

s 12 (prev s 14) am 1996 No 19 sch 1; 1978 No 39 sch; 1998 No  
54 sch  
sub 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

#### **Pharmacists may manufacture poison and poisonous substances**

s 13 (prev s 16) am 1978 No 39 sch; 1993 No 9 sch; 2000 No 28 s  
3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

**Storage of poisons**

s 14 (prev s 17) am 1989 No 12 s 11; 1998 No 54 sch; 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

**Sale or supply from vending machines prohibited**

s 15 orig s 15 om 1978 No 39 s 7  
(prev s 19) am 1978 No 39 sch; 1998 No 54 sch  
sub 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
sub 2002 No 49 amdt 3.106

**Biological preparations and restricted substances**

pt 4 hdg orig pt 4 om 1993 No 9 s 5  
prev hdg pt 7 ins 1963 No 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)

**Sale etc of biological preparations and restricted substances**

s 16 (prev s 40) sub 1963 No 1; 1989 No 12 s 13  
am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 38 sch 1  
pt 64; 1998 No 54 sch; 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
sub A2004-10 s 16

**Miscellaneous**

pt 5 hdg (orig pt 5) om 1989 No 12 s 12  
(prev pt 8) renum R6 LRA (see 2000 No 28 s 3 sch 1)

**Offences in relation to the sale of poisons etc**

s 17 (prev s 43) am 1978 No 39 sch; 1993 No 9 sch; 1998 No 54 sch  
sub 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am A2004-15 amdt 2.145

**Penalty where offence is due to inadvertence**

s 18 orig s 18 am 1978 No 39 sch  
om 1993 No 9 s 5  
(prev s 45) am 1996 No 19 sch 1; 1998 No 54 sch; 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am A2004-10 s 17

**Averment of prosecution**

s 19 (prev s 52) renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am 2002 No 49 amdt 3.107

**Extended meaning of *possession***

s 19A ins 2002 No 49 amdt 3.108

## Endnotes

### 4 Amendment history

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#### **Power of Minister to determine fees**

s 20 orig s 20 om 1978 No 39 s 7  
(prev s 53A) ins 1989 No 12 s 14  
am 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
sub 2001 No 44 amdt 1.3223

#### **Approved forms**

s 20A ins 2001 No 44 amdt 1.3223  
am 2002 No 49 amdt 3.109

#### **Appointment of authorised people**

s 21 orig s 21 om 1993 No 9 s 5  
(prev s 53B) ins 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
sub 2002 No 49 amdt 3.110

#### **Regulation-making power**

s 22 hdg (prev s 54 hdg) sub 2000 No 28 s 3 sch 1  
s 22 (prev s 54) am 1966 No 19 sch 1; 1989 No 12 s 15; 1998 No  
54 sch; 2000 No 28 s 3 sch 1  
renum R6 LRA (see 2000 No 28 s 3 sch 1)  
am 2001 No 44 amdts 1.3224-1.3228; A2004-10 s 18

#### **Persons unable to sign name not to be sold poisons**

s 23 om 1993 No 9 s 4

#### **Sale by post**

s 24 om 1993 No 9 s 4

#### **Sales to registered medical practitioners etc**

s 25 om 1993 No 9 s 4

#### **Arsenic and strychnine**

s 26 am 1976 No 36 s 3  
om 1993 No 9 s 4

#### **Non-application of this part to medical prescriptions etc**

s 27 am 1978 No 39 sch  
om 1993 No 9 s 4

#### **Application of part to wholesalers**

s 28 om 1993 No 9 s 4

#### **Permits to manufacture narcotic drugs**

s 29 am 1966 No 19 sch 1; 1975 No 17 sch 1; 1988 No 29 sch  
om 1989 No 12 s 12

#### **Smoking opium, an offence**

s 30 om 1978 No 39 s 7

**Possession of opium, an offence**

s 31 om 1978 No 39 s 7

**Entries to be made in narcotic drugs register**

s 32 om 1978 No 39 s 7

**Premises may be searched**

s 33 am 1975 No 17 sch  
om 1978 No 39 s 7

**Forfeiture of drugs seized**

s 34 om 1978 No 39 s 7

**Possession of narcotic drugs**

s 35 om 1978 No 39 s 7

**Forging medical prescription an offence**

s 36 om 1978 No 39 s 7

**Obtaining narcotic drugs by fraud**

s 37 om 1978 No 39 s 7

s 38 om 1978 No 39 s 7

**Poisonous substances**

s 39 am 1978 No 39 sch; 1993 No 9 sch  
om 1998 No 54 sch

**Declaration of restricted substances**

s 40A ins 1954 No 13  
sub 1963 No 1 s 3  
om 1989 No 12 s 13

**Restrictions on supply of biological preparations etc**

s 40B ins 1963 No 1 s 3  
am 1966 No 19 sch 1; 1975 No 17 s 15; 1978 No 9 s 2; 1988  
No 29 sch  
om 1989 No 12 s 13

**Supply of biological preparations and restricted substances to be made only be certain persons**

s 40C ins 1963 No 1 s 3  
am 1966 No 19 sch 1; 1975 No 17 s 15; 1988 No 29 sch  
om 1989 No 12 s 13

**Hallucinogenic Substances**

pt 7A hdg ins 1967 No 32  
om 1978 No 39 s 7

**Prohibition of manufacture etc of hallucinogenic substances**

s 40D ins 1967 No 32  
am 1975 No 17 sch 1  
om 1978 No 39 s 7

## Endnotes

### 4 Amendment history

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#### **Authorities**

s 40E ins 1967 No 32  
am 1975 No 17 sch 1  
om 1978 No 39 s 7

#### **Drinking methylated spirit an offence**

s 41 om 1993 No 9 s 5

#### **Selling methylated spirit for drinking purposes**

s 42 om 1993 No 9 s 5

#### **Containers to be used for medicines, etc**

s 44 om 1978 No 39

#### **Penalties for offences in relation to narcotic drugs**

s 46 am 1966 No 19 sch 1; 1967 No 32 s 7  
om 1978 No 39

#### **Offences by companies**

s 47 am 1967 No 32 s 8  
om 1978 No 39

#### **Burden of proof**

s 48 am 1993 No 9 sch  
om 2000 No 28 s 3 sch 1

#### **Forgery of documents signatures, etc**

s 49 am 1998 No 54 sch  
om 2000 No 28 s 3 sch 1

#### **Bribery etc of officers**

s 50 am 1966 No 19 sch 1; 1993 No 9 sch; 1998 No 54 sch  
om 2000 No 28 s 3 sch 1

#### **Aiding and abetting**

s 51 om 2000 No 28 s 3 sch 1

#### **Penalty for offences for which no penalty prescribed**

s 53 am 1966 No 19 sch 1; 1967 No 32 s 9; 1978 No 39 s 7  
om 1998 No 54 sch

#### **Schedule**

sch ins 1967 No 32 s 10  
om 1978 No 39 s 7



**Dictionary**

dict

ins 2002 No 49 amdt 3.111  
def **analyst** ins 2002 No 49 amdt 3.111  
def **authorised person** ins 2002 No 49 amdt 3.111  
def **biological preparation** ins 2002 No 49 amdt 3.111  
def **drugs and poisons standard** ins 2002 No 49 amdt 3.111  
def **licence** ins 2002 No 49 amdt 3.111  
def **poison** ins 2002 No 49 amdt 3.111  
def **poisonous substance** ins 2002 No 49 amdt 3.111  
def **possession** ins 2002 No 49 amdt 3.111  
def **restricted substance** ins 2002 No 49 amdt 3.111  
def **sell** ins 2002 No 49 amdt 3.111

## Endnotes

### 5 Earlier republications

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#### 5 Earlier republications

Some earlier republications were not numbered. The number in column 1 refers to the publication order.

Since 12 September 2001 every authorised republication has been published in electronic pdf format on the ACT legislation register. A selection of authorised republications have also been published in printed format. These republications are marked with an asterisk (\*) in column 1. Except for the footer, electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1990 No 63	28 February 1991
2	Act 1993 N0 14	30 April 1993
3	Act 1994 No 97	30 November 1996
4	Act 1998 No 54	1 March 1999
5	Act 2000 No 28	14 August 2000
6	Act 2001 No 44	6 December 2001
7	A2002-49	31 December 2002

#### 6 Renumbered provisions

This Act was renumbered under the *Legislation (Republication) Act 1996*, in R5 (see 2000 No 28). Details of renumbered provisions are shown in endnote 4 (Amendment history). For a table showing the renumbered provisions, see R6

**7 Uncommenced amendments**

The following amendments have not been included in this republication because they were uncommenced at the republication date:

**Nurse Practitioners Legislation Amendment Act 2004  
A2004-10 pt 6****Part 6 Poisons Act 1933****14 Legislation amended—pt 6**

This part amends the *Poisons Act 1933*.

**15 New section 3A**

*in part 1, insert*

**3A Offences against Act—application of Criminal Code etc**

Other legislation applies in relation to offences against this Act.

*Note 1 Criminal Code*

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

- s 16 (Sale etc of biological preparations and restricted substances).

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

*Note 2 Penalty units*

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

**16 Section 16**

*substitute*

**16 Sale etc of biological preparations and restricted substances**

- (1) A person commits an offence if—
- (a) the person sells or otherwise supplies to, or dispenses for, someone else a biological preparation or restricted substance; and
  - (b) the other person is not an eligible receiver; and
  - (c) the person is reckless about whether the other person is an eligible receiver.

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

- (2) A person commits an offence if—
- (a) the person sells or otherwise supplies a biological preparation or restricted substance; and
  - (b) the person is not—
    - (i) a doctor; or
    - (ii) an authorised nurse practitioner; or
    - (iii) a dentist; or
    - (iv) a pharmacist; or
    - (v) a veterinary surgeon; or
    - (vi) the holder of a licence to sell or otherwise supply the preparation or substance; or
    - (vii) a public employee who is authorised in writing by the Minister for this section.

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

- (3) Absolute liability applies to subsection (2) (b) (i) to (v).

- (4) Strict liability applies to subsection (2) (b) (vi) and (vii).
- (5) In this section:

***authorised nurse practitioner*** means a nurse practitioner who is the occupant of a nurse practitioner position acting within the scope of practice for the position, if the scope of practice for the position includes prescribing stated biological preparations or restricted substances (however described).

***eligible receiver***, in relation to a biological preparation or restricted substance, means—

- (a) a doctor; or
- (b) an authorised nurse practitioner; or
- (c) a dentist; or
- (d) a pharmacist; or
- (e) a veterinary surgeon; or
- (f) the holder of a licence to sell the preparation or substance; or
- (g) a public employee who is authorised in writing by the Minister for this section; or
- (h) a person who presents a prescription authorising the supply of the preparation or substance to the person or someone else for whom the person is acting.

***nurse practitioner position***—see the *Health Act 1993*, section 37B (2).

***prescription*** means a prescription, given by a doctor, authorised nurse practitioner, dentist or veterinary surgeon, that complies with the regulations.

***scope of practice***—see the *Health Act 1993*, section 37B (2).

## Endnotes

7 Uncommenced amendments

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**17** **Maximum penalty where offence is due to inadvertence**  
**Section 18 (b)**

*omit*

issued by doctors

**18** **Regulation-making power**  
**Section 22 (2) (i)**

*substitute*

- (i) the issue of prescriptions;

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