



Australian Capital Territory

# **Drugs of Dependence Act 1989**

**A1989-11**

**Republication No 25**

**Effective: 14 February 2009 – 26 February 2009**

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Last amendment made by A2008-36  
(republishing for amendments by A2008-26  
and A2008-36)

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 *Drugs of Dependence Act 1989* (including any amendment made under the *Legislation Act 2001*, part 11.3 (Editorial changes)) as in force on 14 February 2009. It also includes any amendment, repeal or expiry affecting the republished law to 14 February 2009.

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 includes 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.



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# Drugs of Dependence Act 1989

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## Drugs of Dependence Act 1989

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An Act to prohibit the sale, supply and possession of drugs of dependence and prohibited substances, and for related purposes

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## Part 1 Preliminary

### 1 Name of Act

This Act is the *Drugs of Dependence Act 1989*.

### 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 terms used in this Act, and includes references (*signpost definitions*) to other terms defined elsewhere in this Act.

For example, the signpost definition ‘*offence*, for part 11 (Enforcement)—see section 174.’ means that the term ‘offence’ is defined in that section for part 11.

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

## 4 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 162 (Cultivation of 1 or 2 cannabis plants).

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.

## 5 References to buprenorphine, cannabis or methadone

In this Act, a reference to buprenorphine, cannabis or methadone, includes a reference to—

- (a) an active principal of the substance; or
- (b) a preparation or admixture of the substance; or
- (c) a salt of the substance or active principal.

## Part 9 Treatment

### Division 9.1 Preliminary

#### **U** 121 Definitions for pt 9

In this part:

*approved treatment centre* means a hospital or other health facility conducted by the Territory, or a treatment centre in relation to which an approval under division 9.4 is in force.

*assessment order* means an order under section 122.

*director* means the Director, Alcohol and Drug Service under section 121A.

*member* means a member of a panel.

*offender* means a person referred to in section 122 (1).

*panel* means a treatment assessment panel established under division 9.3.

*proper officer* means—

- (a) in relation to the Supreme Court—the registrar of that court; and
- (b) in relation to the Magistrates Court or the Childrens Court—the registrar of that court.

*responsible officer* means—

- (a) in relation to an offender who is under 18 years old—the chief executive of the administrative unit responsible for the *Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility); or

- (b) in any other case—the chief executive of the administrative unit responsible for the *Crimes (Sentence Administration) Act 2005*.

*treatment order* means an order under section 123.

### **121A Director**

The chief executive must appoint a public servant as Director, Alcohol and Drug Service.

*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).

## **Division 9.2 Assessment orders and treatment orders**

### **122 Assessment orders**

- (1) If a court finds an offence against this Act or against any other law in force in the ACT proved against a person, the court may, having regard to whether the person may have been—
- (a) under the influence of a drug of dependence or a prohibited substance when he or she committed the offence; or
  - (b) motivated to commit the offence by a desire—
    - (i) to administer a drug of dependence or prohibited substance to himself or herself; or
    - (ii) to obtain such a drug or substance for administration to himself or herself; or
    - (iii) to obtain resources to enable him or her to obtain such a drug or substance for administration to himself or herself;

order the person to submit himself or herself for assessment by a panel and, if so required by the panel, for assessment at an approved treatment centre or centres.

- (2) A court shall only make an order under subsection (1)—
  - (a) with the consent of the offender; and
  - (b) before convicting or sentencing the offender, or otherwise disposing of the matter.
- (3) If a court makes an order under subsection (1) in relation to an offender, the proper officer of the court shall—
  - (a) write down the order in accordance with the form approved under section 205 (Approved forms) for this section; and
  - (b) give a copy of the order to the offender and to the director.

## 123 Treatment orders

- (1) In this section:  
*probation officer*, in relation to an offender, means a person authorised by the responsible officer to supervise the offender.
- (2) If—
  - (a) a court makes an assessment order in relation to an offender; and
  - (b) the panel by which the offender is assessed issues a recommendation that the offender undergo treatment at an approved treatment centre;

the court may make an order under subsection (3), taking into consideration the panel's assessment and recommendation, together with any relevant assessment from an approved treatment centre.

- (3) In the circumstances referred to in subsection (2), a court may, with the consent of the offender, order that the offender, during a period

of 2 years, or a shorter period that the court may specify in the order—

- (a) in accordance with the recommendation of the panel, submit himself or herself for the treatment specified in the order at the approved treatment centre specified in the order, or for any other treatment at that centre or any other centre, as directed from time to time by a panel under section 142 or 143, in accordance, in any case, with the reasonable requirements of the person in charge of the relevant centre; and
  - (b) comply with any other conditions the court specifies in the order.
- (4) If a court makes an order under subsection (3), without limiting the that subsection, a court may specify conditions in the order relating to—
- (a) the supervision by a probation officer of the offender; or
  - (b) the attendance by the offender at the relevant approved treatment centre; or
  - (c) the periodic attendance by the offender before a panel for review of the treatment being undergone by the offender.
- (5) Before making a treatment order, the court shall explain to the offender in relation to whom the order is to be made—
- (a) the effect that the proposed order would have; and
  - (b) the consequences of noncompliance with the order and of the commission of an offence against section 124 (2); and
  - (c) that the court has the power to review the order on the application of the director or of the offender.
- (6) If a court makes a treatment order, the proper officer of the court shall—

- (a) write down the order in accordance with the form approved under section 205 (Approved forms) for this section; and
- (b) give a copy of the order to the offender, the director and the responsible officer.

## 124 Offences—treatment orders

- (1) In this section:

*the court* means the court that made the relevant treatment order in relation to an offender referred to in this section.

- (2) An offender who, without reasonable excuse, refuses or fails—
- (a) to comply with a treatment order; or
  - (b) to inform the person in charge of the approved treatment centre attended by the offender under a treatment order of any change in the offender's address; or
  - (c) to appear before a panel called under section 142, 143 or 144 as required by a notice issued in accordance with section 146 (1); or
  - (d) if, under section 145 (3), a panel called under section 142, 143 or 144 requires the offender to attend an approved treatment centre for assessment—to appear at the centre in accordance with the notice given under section 145 (4);

commits an offence and shall be dealt with in accordance with this section.

- (3) If information is laid before the court that an offender has committed an offence against subsection (2), the court may—
- (a) issue a summons requiring the offender to appear, at a time and date to be fixed, before the court and to show cause why the offender should not be dealt with by the court under this section; or



- (b) if the information is laid on oath—issue a warrant for the arrest of the person to be brought before the court to be dealt with under this section.
- (4) If the offender fails to appear before a court in answer to a summons issued in accordance with subsection (3), the court shall adjourn the proceedings and may issue a warrant for the apprehension of the offender and for the offender to be brought before that court.
- (5) The court may, with the consent of an offender who appears or is brought before a court under this section, make an order that the offender submit himself or herself for assessment by a panel.
- (6) If a court makes an order under subsection (5) in relation to an offender, the proper officer of the court shall give a copy of the order to the director.
- (7) If an offender appears or is brought before a court under this section, and the court is satisfied that the offender has committed an offence against subsection (2), the court may make an order—
- (a) in accordance with the recommendation of a panel, if the offender and the person in charge of the relevant approved treatment centre consent—
- (i) extending the period during which the relevant treatment order is to remain in force, or otherwise varying the conditions of that order; or
- (ii) revoking the order referred to in subsection (1); or
- (b) imposing on the offender any penalty that the court would, if the offender had then been convicted of the original offence committed by the offender, then have been empowered to impose; or
- (c) that any security under any good behaviour order in relation to the original offence committed by the offender be forfeited.
- (8) If—

- (a) an offender appears or is brought before a court under this section; and
- (b) the court is satisfied that the offender has committed an offence against subsection (2), but is of the opinion that an order should not be made under subsection (7);

the court may decline to make such an order and instead admonish the offender in relation to that offence.

- (9) In making an order under subsection (7), or in declining under subsection (8) to make such an order, a court shall have regard to—
  - (a) the length of the period of compliance with the relevant treatment order; and
  - (b) any other orders made in relation to the original offence committed by the offender.

## **125 Further offences**

- (1) If, after a treatment order has been made by a court in relation to an offender, the offender is—
  - (a) convicted by the Supreme Court of an offence of the type referred to in section 122 (1); or
  - (b) is committed to the Supreme Court under subsection (3) (b);the Supreme Court may deal with the offender in relation to that order in like way as the firstmentioned court could deal with him or her under section 124 if he or she had committed an offence against section 124 (2).
- (2) The powers of the Supreme Court under subsection (1) are in addition to its powers to deal with the offender in relation to the offender's later offence referred to in subsection (1) (a).
- (3) If, after a treatment order has been made in relation to an offender, the offender is convicted by the Magistrates Court of an offence of

the type referred to in section 122 (1), then, in addition to dealing with the offender in relation to that offence, the court—

- (a) may, if the order was made by that court, deal with the offender in the like way as it could deal with him or her under section 124 if he or she had committed an offence against section 124 (2) in relation to the order; or
  - (b) shall, if the order was made by the Supreme Court, commit the offender to the Supreme Court to be dealt with in accordance with subsection (1).
- (4) If, under subsection (3) (b), the Magistrates Court commits an offender to the Supreme Court, the Magistrates Court may grant bail to the offender, on condition that he or she appears before the Supreme Court at a time and place to be fixed to be dealt with by the Supreme Court in accordance with subsection (1), or may direct that he or she be kept in the custody the Magistrates Court directs until he or she can be brought before the Supreme Court.

## **126 Apprehension of offender about to leave ACT**

- (1) If a magistrate, or a judge of the Supreme Court, is satisfied by information on oath that there are reasonable grounds for believing that an offender is about to leave the ACT with the intention of avoiding any of the requirements of an order under this division, the magistrate or judge may issue a warrant for the apprehension of the offender and for the offender to be brought before the Magistrates Court or the Supreme Court, as the case may be.
- (2) A warrant under subsection (1) shall—
  - (a) be in writing signed by the magistrate or judge issuing it; and
  - (b) be directed to all police officers or to a named police officer; and
  - (c) state shortly the matters of the information on which it is founded.

- (3) A person who has been apprehended under a warrant issued under this section shall be brought before the Magistrates Court, or the Supreme Court, as the case may be, as soon as practicable after he or she is taken into custody.

**127 Power of court if offender about to leave ACT**

- (1) If a court is satisfied that an offender brought before it under section 126 is about to leave the ACT with the intention of avoiding any of the requirements of an order under this division, the court shall—
- (a) if the court is the Magistrates Court and the order was made by the Supreme Court—remand the offender in custody to be brought before the Supreme Court; or
  - (b) in any other case—deal with the offender in like way as it could deal with him or her under section 124 if he or she had committed an offence against section 124 (2) in relation to the order.
- (2) If an offender is brought before the Supreme Court in the circumstances referred to in subsection (1) (a), the court may deal with the offender in like way as it could deal with him or her under section 124 if he or she had committed an offence against section 124 (2) in relation to the relevant order.

**129 Revocation and variation of periods of orders**

- (1) On the application of an offender in relation to whom a treatment order was made, or of the director in relation to a treatment order, the court that made that order may—
- (a) revoke the order; or
  - (b) with the consent of the relevant offender, vary the order by extending or reducing the period during which the order is to remain in force;

in accordance with the recommendation of a panel if, having regard to the circumstances that have arisen since the order was made, it appears to the court to be in the interests of justice to do so.

- (2) If, under subsection (1), a court revokes an order, the court may make any other order in relation to the relevant offender that it considers appropriate, being an order that the court would, if the offender were then before the court for sentence for the offence in relation to which the firstmentioned order was made, be empowered to make, and in making such an order the court shall have regard to—
  - (a) the length of the period or periods of compliance with the firstmentioned order; and
  - (b) any other orders made in relation to the original offence.
- (3) If an offender applies to a court under subsection (1), the proper officer of the court shall give a copy of the application and notice of the time and place fixed for the hearing of the application to the director.
- (4) The director shall not apply to a court under subsection (1) unless a panel has recommended that a treatment order be revoked or that the period during which the order is to remain in force be reduced or extended.
- (5) If the director applies to a court under subsection (1), the director shall give the proper officer of the court a copy of the relevant recommendation made by a panel.
- (6) If the director applies to a court under subsection (1), the court shall issue a summons to the offender to appear before it on the hearing of the application and, if he or she does not appear in answer to the summons, the court shall adjourn the hearing of the application and may issue a warrant for the apprehension of the offender and for the offender to be brought before the court.

## Division 9.3 Treatment assessment panels

### 130 Establishment

- (1) The Minister shall, in writing, establish the treatment assessment panels that are necessary for this part.
- (2) A panel shall consist of—
  - (a) a lawyer; and
  - (b) 2 other persons, each of whom has, in the opinion of the Minister, extensive knowledge of—
    - (i) the physical, psychological and social problems connected with the abuse of drugs of dependence or prohibited substances; or
    - (ii) the treatment of persons suffering from such problems; or
    - (iii) health education in relation to such problems.

### 131 Appointment of members

- (1) The Minister may, in writing signed by the Minister, appoint persons to be members of panels.
- (2) A person shall be appointed as a part-time member.
- (3) The Minister shall not appoint as a member a person who—
  - (a) has been convicted in Australia or elsewhere at any time within the previous 5 years of an offence punishable on conviction by imprisonment for not less than 1 year; or
  - (b) is otherwise not, in the opinion of the Minister based on reasonable grounds, a fit and proper person to be a member of a panel.

**132 Tenure of office**

A member holds office for the period, not exceeding 3 years, specified in the instrument of appointment, but is eligible for reappointment.

**133 Presiding member**

The Minister shall appoint 1 member of each panel to be the presiding member of that panel.

**134 Acting appointments**

- (1) The Minister may, in writing, appoint a person to act as the presiding member of a panel—

- (a) during a vacancy in the office of presiding member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when the presiding member is absent from duty or from the ACT or is, for any other reason, unable to exercise the functions of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (2) The Minister may, in writing, appoint a person to act as a member—

- (a) during a vacancy in the office of a member, whether or not an appointment has previously been made to the office; or
- (b) during any period, or during all periods, when a member is absent from duty or from the ACT or is, for any other reason, unable to exercise the functions of the office;

but a person appointed to act during a vacancy shall not continue so to act for more than 12 months.

- (3) The validity of anything done by a person purporting to act under this section shall not be called in question on the ground that the occasion for the appointment of the person had not arisen, that there

is a defect or irregularity in or in connection with the appointment, that the appointment had ceased to have effect or that the occasion for the person to act had not arisen or had ceased.

**136 Resignation**

A member may resign his or her office by writing signed by the member and delivered to the Minister.

**137 Suspension**

If, in the opinion of the Minister, based on reasonable grounds, circumstances exist that may lead to the termination of a member's appointment, the Minister may, by written notice to the member, suspend the appointment until—

- (a) the appointment is terminated under section 138; or
- (b) the Minister is satisfied on reasonable grounds that the appointment should not be terminated in those circumstances.

**138 Termination of appointment**

The Minister shall terminate the appointment of a member—

- (a) if the member is appointed in his or her capacity as a lawyer, and the member ceases to be a lawyer; or
- (b) for physical or mental incapacity; or
- (c) for misbehaviour; or
- (d) if, on 3 consecutive occasions, on notice from the presiding member of the panel to which the member was appointed, the member fails, without leave granted by the Minister, to make himself or herself available for a proposed meeting of the panel; or
- (e) the member is convicted, in Australia or elsewhere, of an offence punishable on conviction by imprisonment for not less than 1 year; or



- (f) the Minister becomes aware that the member has been convicted in Australia or elsewhere, at any time in the 5 years previous to the member's appointment, of an offence punishable on conviction by imprisonment for not less than 1 year.

### **139 Meetings of panels**

- (1) The presiding member of a panel shall call any meetings of the panel that are necessary for the efficient exercise of its functions.
- (2) A panel shall not meet in the absence of any member.
- (3) A meeting of a panel shall be conducted in private, in the presence of—
  - (a) if required or allowed by the panel—the relevant offender; and
  - (b) while the offender is present, a person (if any) nominated by the offender whose presence is agreed to by the panel; and
  - (c) any other person requested by the panel to be present.
- (4) If an offender is required to be present at a meeting of a panel, the panel shall, at the request of the offender, exclude any other person from the meeting except any person whose presence is considered by the panel to be necessary for the safety of the members of the panel and any other persons present.
- (5) The panel shall, at the request of the relevant offender, allow the offender to be present at a meeting of the panel while any other person is present.
- (6) At a meeting of a panel—
  - (a) the procedure shall be as determined by the panel; and
  - (b) all questions shall be decided by a majority of votes; and
  - (c) the presiding member has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

- (7) An offender who appears before a panel is not entitled to be represented by another person before the panel.
- (8) A panel shall keep a record of its meetings.

**140 General powers of panels**

For the purposes of exercising its functions under this division, a panel—

- (a) may make any inquiries that it considers desirable; and
- (b) may, with the consent of the relevant offender, obtain and consider medical reports about him or her; and
- (c) shall have regard to any information supplied to it orally or in writing by the offender, a police officer, a person in charge of an approved treatment centre, or the responsible officer.

**141 Referral for initial assessment**

- (1) On receipt of a copy of an assessment order, the director shall refer the matter to a panel.
- (2) A panel to which a matter is referred under subsection (1) shall assess—
  - (a) whether the relevant offender is a drug-dependent person in relation to any drug of dependence; and
  - (b) whether any treatment for such dependence would be suitable for the offender; and
  - (c) the type, geographical location and duration of any such treatment that would, accordingly, be desirable.
- (3) A panel must notify the director and the offender of an assessment made under subsection (2) and the reasons for the assessment and, in particular—

- (a) whether the panel recommends that the offender undergo any treatment at an approved treatment centre; and
- (b) if the panel so recommends—of the frequency with which the offender should be required to appear before the panel to enable the panel to monitor the progress of such treatment.

*Note* If a form is approved under s 205 (Approved forms) for a notice of assessment, the form must be used.

- (4) If a panel has received a notice under section 145 of an approved treatment centre's assessment of the offender, the presiding member shall, for the purpose of notifying the director and the offender, attach that notice to the notice issued under subsection (3).
- (5) If the director has received a notice under subsection (3) in relation to an offender, the director shall—
  - (a) sign the notice; and
  - (b) give that notice, together with any notice under section 145, to the proper officer of the court that made the relevant assessment order, and to the responsible officer.

## **142 Referral for variation of treatment**

- (1) A person who is—
  - (a) an offender attending an approved treatment centre under a treatment order; or
  - (b) in charge of the approved treatment centre that such an offender is attending;may apply to the director for consideration of a variation in the treatment being undergone by the relevant offender, other than a variation in the period of the treatment, to be referred to a panel.
- (2) An application under subsection (1) shall be in writing signed by the applicant, and shall specify the variation sought.

- (3) If the director—
- (a) receives an application in accordance with this section; or
  - (b) considers it necessary to do so;
- the director shall refer the matter to a panel for this section.
- (4) A panel shall, by writing signed by the presiding member stating the reasons for the decision—
- (a) in the terms sought by the applicant or, in the case referred to in subsection (3) (b), the director—direct that any treatment being undergone by an offender be varied in a specified way; or
  - (b) refuse to make the direction sought.
- (5) A panel may only make a direction referred to in subsection (4) (a) with the consent of—
- (a) the offender; and
  - (b) except if the panel directs that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
- (6) The presiding member of a panel shall give a copy of the instrument made under subsection (4), together with a copy of any notice under section 145 of an approved treatment centre’s assessment of the offender, to the offender, the director, the responsible officer, a police officer, and—
- (a) if the panel directs that the offender attend another approved treatment centre for treatment—the proper officer of the court that made the relevant treatment order and the person in charge of that other centre; or
  - (b) in any other case—the person in charge of the approved treatment centre the offender is currently attending.

**143 Referral for periodic review of treatment**

- (1) If the conditions of a treatment order require the attendance of an offender before a panel to review the treatment being undergone by the offender, the director shall refer the matter to a panel for that purpose.
- (2) A panel shall, by writing signed by the presiding member stating the reasons for the decision—
  - (a) direct that any treatment being undergone by the offender be varied in a specified way, but not so as to extend or reduce the period of treatment; or
  - (b) recommend that the period of the treatment be extended or reduced by a period specified in the instrument, or that the order be revoked; or
  - (c) recommend that no action be taken in relation to the treatment or the order.
- (3) The presiding member of a panel shall give a copy of the instrument made under subsection (2), together with a copy of any notice under section 145 of an approved treatment centre's assessment of the offender, to the offender, the responsible officer, a police officer, and—
  - (a) if the panel directs that the offender attend another approved treatment centre for treatment—the director, the proper officer of the court that made the relevant treatment order and the person in charge of that other centre; and
  - (b) if the panel does not direct that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending; and
  - (c) for a recommendation referred to in subsection (2) (b)—the director.

- (4) A panel may only make a direction referred to in subsection (2) (a) with the consent of—
- (a) the relevant offender; and
  - (b) if the panel does not direct that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
- (5) If a panel makes a recommendation referred to in subsection (2) (b), the director shall apply under section 129 to the relevant court for an order in terms of that recommendation.

#### **144 Referral for other purposes**

- (1) The director shall refer a matter to a panel—
- (a) on receipt of a copy of a court order under section 124 (5); or
  - (b) on receipt of a copy of an offender’s application for a court order under section 129; or
  - (c) on receipt of an application by the person in charge of an approved treatment centre that an offender is attending for treatment under a treatment order; or
  - (d) as the director considers necessary;
- for this section.
- (2) An application referred to in subsection (1) (c) by the person in charge of an approved treatment centre shall be in writing signed by that person, and shall specify the recommendation of the panel sought.
- (3) A panel shall, by writing signed by the presiding member stating the reasons for the decision, recommend, in relation to treatment being undergone by an offender under a treatment order—

- (a) that the period of the treatment be extended or reduced by a period specified in the instrument, or that the order be revoked; or
  - (b) in the case referred to in subsection (1) (a)—that the treatment be otherwise varied in the way specified in the instrument; or
  - (c) that no action be taken in relation to that treatment or the order.
- (4) If a matter is referred to a panel in the circumstances referred to in subsection (1) (b), (c) or (d), it shall only make a recommendation referred to in subsection (3) (a) or (b) in accordance with the terms sought by—
- (a) in the case referred to in subsection (1) (b)—the offender; or
  - (b) in the case referred to in subsection (1) (c)—the person in charge of the relevant approved treatment centre; or
  - (c) in the case referred to in subsection (1) (d)—the director.
- (5) The presiding member of a panel shall give a copy of the instrument made under subsection (3), together with a copy of any notice under section 145 of an approved treatment centre’s assessment of the offender, to the offender, the director, the responsible officer, a police officer, and—
- (a) in the case referred to in subsection (1) (a) or (b)—the proper officer of the relevant court; and
  - (b) if the panel recommends that the offender attend another approved treatment centre for treatment—the person in charge of that centre; and
  - (c) if the panel does not recommend that the offender attend another approved treatment centre for treatment—the person in charge of the approved treatment centre the offender is currently attending.
- (6) If a matter is referred to a panel in the circumstances referred to in subsection (1) (c) or (d), and the panel makes a recommendation

referred to in subsection (3) (a), the director shall apply under section 129 to the relevant court for an order in terms of that recommendation.

### **145 Assessment by treatment centres**

- (1) A panel shall not recommend that an offender undergo treatment at an approved treatment centre that the offender is not currently attending under a treatment order unless a notice of assessment has been issued in accordance with subsection (5) from the centre recommending treatment, being treatment that is available at the centre and is suitable for the offender.
- (2) A panel may, by written notice to the person in charge of an approved treatment centre, require that person to issue to the presiding member of the panel a notice of the centre's assessment of an offender within the period specified in the firstmentioned notice.
- (3) If a panel has issued a notice under subsection (2) to a person in charge of an approved treatment centre, at the request of that person the presiding member of the panel shall require the relevant offender to attend the centre for assessment at the date and time nominated by that person.
- (4) If the presiding member of a panel requires an offender to attend an approved treatment centre, the presiding member shall give the offender written notice of—
  - (a) the name and address of the centre; and
  - (b) the date and time nominated for the offender to attend the centre.
- (5) A notice of assessment from an approved treatment centre may only be issued by an officer of the centre authorised for the purpose by the person in charge of the centre.

*Note* If a form is approved under s 205 (Approved forms) for a notice of assessment, the form must be used.



- (6) If a notice of assessment from an approved treatment centre is not given to the presiding member of a panel within the period required under subsection (2), the presiding member shall report in writing accordingly to the director.

**146 Attendance for assessment before panels and at treatment centres**

- (1) If a matter in relation to an offender is referred to a panel under this division, the presiding member of the panel may give written notice to the offender requiring the offender to appear before the panel at the place, date and time fixed for the meeting and specified in the notice.
- (2) If an offender fails, without reasonable excuse, to appear before a panel as required by a notice given in accordance with subsection (1), the presiding member of the panel shall inform the director accordingly in writing.
- (3) If, under section 145 (3), a panel requires an offender to attend an approved treatment centre for assessment, and the offender fails, without reasonable excuse, to appear at the centre in accordance with the notice given under section 145 (4), the person in charge of the centre shall inform that presiding member and the director accordingly in writing.
- (4) If the director is informed under this section of the failure of an offender to appear before a panel, or at an approved treatment centre, the director shall accordingly—
- (a) orally inform a police officer immediately; and
  - (b) in writing, inform the proper officer of the court—
    - (i) for a matter referred to a panel under section 141 (1)—that made the relevant assessment order in relation to the offender; or

- (ii) in any other case—that made the relevant treatment order in relation to the offender.

#### **147 Treatment centre reports**

If an offender attends at an approved treatment centre for treatment under a treatment order made by a court, the person in charge of the centre shall—

- (a) report to the proper officer of that court—
  - (i) immediately on the occurrence of any breach of that order; and
  - (ii) on the termination of that treatment; and
- (b) send a copy of the reports referred to in paragraph (a) to the presiding member of the panel that made the assessment in relation to that offender and to the responsible officer; and
- (c) if required under the terms of the treatment order—at times specified in that order, report to the panel that made the relevant assessment in relation to that offender about the progress of the offender in undergoing that treatment.

### **Division 9.4 Approval of treatment centres**

#### **148 Definitions for div 9.4**

In this division:

*approval* means an approval granted under this division to conduct a treatment centre.

*approval holder* means a person to whom an approval is granted.

#### **149 Approval—application**

- (1) A person who proposes to conduct a treatment centre may apply to the Minister for an approval.

- (2) An application for an approval shall—
- (a) be in writing signed by the applicant; and
  - (b) specify—
    - (i) the full name and address of the applicant; and
    - (ii) if the applicant is a company—the full name and address of each director, and the secretary, of the company; and
    - (iii) if the applicant is an incorporated association within the meaning of the *Associations Incorporation Act 1991*—the full name and address of the public officer of the association; and
    - (iv) if the applicant is a body established under an ordinance or Act—the full name and address of any person with overall responsibility for the conduct of that body; and
    - (v) the proposed name and address of the treatment centre; and
    - (vi) the security arrangements that would be implemented at the premises of the treatment centre; and
    - (vii) the name, address, qualifications and experience of any person who is to supervise the treatment to be conducted at the proposed treatment centre; and
    - (viii) the treatment to be conducted at the proposed treatment centre and, in particular, whether it includes the administration or supply of methadone or buprenorphine.

*Note* A fee may be determined under s 204 (Determination of fees) for this section.

## **150 Approval—grant**

- (1) If, on an application in accordance with section 149, the Minister is satisfied that—

- (a) the applicant and, if the applicant is—
  - (i) a company—each director, and the secretary of the company; or
  - (ii) an incorporated association—the public officer of the association; or
  - (iii) a body established under an ordinance or Act—any person with overall responsibility for the conduct of that body;is a fit and proper person to conduct a treatment centre of the type, and at the premises, specified in the application; and
- (b) any person who is to supervise the treatment to be conducted at the proposed treatment centre—
  - (i) has training or experience appropriate to the supervision of; and
  - (ii) is a fit and proper person to supervise;treatment of the type specified in the application; and
- (c) the treatment to be conducted at the proposed treatment centre is suitable for persons such as those likely to be referred to the centre under this Act, or those likely to be voluntary participants in that treatment; and
- (d) the premises specified in the application are fit and proper premises for the conduct of a treatment centre of the type specified in the application;

the Minister shall grant an approval to the applicant to conduct a treatment centre of the type specified in the application at the premises specified in the application.

- (2) An approval shall specify—
  - (a) the full name and address—

- (i) of the approval holder; and
  - (ii) if the approval holder is a company—of each director, and of the secretary, of the company; and
  - (iii) if the approval holder is an incorporated association—of the public officer of the association; and
  - (iv) if the approval holder is a body established under an ordinance or Act—the full name and address of any person with overall responsibility for the conduct of that body; and
- (b) the name of any person who is to supervise the treatment to be conducted at the treatment centre; and
  - (c) the name and address of the approved treatment centre; and
  - (d) the conditions (if any) to which the approval is subject; and
  - (e) whether, and in what circumstances, the administration or supply of methadone to persons attending the centre for treatment is permitted; and
  - (f) the period for which the approval is granted; and
  - (g) the other particulars (if any) prescribed under the regulations.
- (3) The Minister shall, within 28 days after receiving an application in accordance with section 149, make a decision under subsection (1) granting or refusing to grant an approval to the applicant to conduct a treatment centre of the type, and at the premises, specified in the application.

## **151 Approval—conditions**

The conditions that may be specified in an approval shall include, but shall not be limited to, conditions—

- (a) relating to the administration or supply of methadone or buprenorphine to persons attending the treatment centre for treatment; and
- (b) that the approval holder provide a report to the Minister on or before 30 September of each year during which the centre operates, and within 4 weeks after the centre ceases to operate, which shall include details of—
  - (i) the number and qualifications of staff; and
  - (ii) the number of persons receiving treatment as residents, and as outpatients; and
  - (iii) the length and nature of the treatment being conducted; and
  - (iv) the types of drug dependence being treated at the centre; over the 12 months (or part of such period in the first and last year of operation of the centre) before 30 June of each year when the centre operates; and
  - (v) any other information the Minister believes on reasonable grounds to be relevant to the conduct of the centre, and that is specified in a written notice given to the approval holder by the Minister before 31 July in the year when the report is made; and
- (c) that the approval holder provide assessment reports in the way, and within the time, required under section 145.

## **152 Approval—variation and revocation of conditions**

- (1) On written application made by an approval holder, the Minister may, if the Minister believes on reasonable grounds that it is in the interests of patients or residents at the treatment centre to which the application relates, in writing—

- (a) vary, in a specified way, a condition to which the approval is subject; or
  - (b) revoke a condition to which the approval is subject; or
  - (c) make the approval subject to a specified condition.
- (2) If the Minister believes on reasonable grounds that, in the interests of patients or residents at an approved treatment centre—
- (a) a condition to which the approval is subject should be varied or revoked; or
  - (b) the approval should be made subject to a particular condition;
- the Minister may by written notice served on the approval holder, require the holder, within 28 days after the date of the notice, to show cause why that condition should not be varied in the way specified in the notice or revoked or why the approval should not be made subject to that particular condition, as the case requires.
- (3) If a notice under subsection (2) is served on an approval holder, the Minister may, after the end of 28 days after the date of the notice, and taking into account any representation made by the approval holder—
- (a) vary, in the way specified in the notice, the specified condition; or
  - (b) revoke the specified condition; or
  - (c) make the approval subject to the specified particular condition;
- as the case requires.
- (4) A decision of the Minister under subsection (3) shall take effect on the date of the notice referred to in subsection (3) or on a later date that may be specified in the notice for that purpose.

**153 Approval—surrender**

- (1) An approval holder may surrender the approval by giving written notice of surrender to the Minister.
- (2) The surrender of an approval takes effect on the date the notice of surrender is given or on a later date that may be specified in the notice for that purpose.

**154 Approval—cancellation**

- (1) If the Minister believes on reasonable grounds that—
  - (a) a requirement set out in section 150 (1) is no longer satisfied;  
or
  - (b) an approval holder has failed to comply with a condition to which the approval is subject;

the Minister may, by written notice served on the approval holder, require the holder, within 28 days after the date of the notice, to show cause why the approval should not be cancelled.

- (2) If a notice under subsection (1) has been served on an approval holder, the Minister may, after the end of the 28 days after the date of the notice, and taking into account any representation made by the holder, cancel the approval.
- (3) The cancellation of an approval under this section takes effect on the date the notice of cancellation is given under section 198, or on a later date that may be specified in the notice for that purpose.

**155 Approval—emergency cancellation**

- (1) Notwithstanding section 154, if the Minister believes on reasonable grounds that circumstances exist in relation to approved premises that give rise to an immediate risk of danger to the health or safety of patients, residents or staff at those premises, the Minister may cancel the approval.



- (2) If an approval has been cancelled under subsection (1), the person who was the holder of the approval may apply to the Minister in writing for the restoration of the approval on the ground that, because of a specified change in circumstances that has occurred since that date of the cancellation, it is proper that the approval should be restored.
- (3) On an application made under subsection (2), the Minister may, if satisfied on reasonable grounds that, because of the change in circumstances specified in the application, the approval to which the application relates should be restored, restore the approval accordingly.

#### **156 Alternative arrangements on cancellation**

- (1) If the Minister cancels an approval, or if an approval is surrendered under section 153, the director shall—
  - (a) make alternative arrangements for a person undergoing treatment at the treatment centre in question under a treatment order; and
  - (b) advise other persons undergoing treatment at the centre of alternative places where that treatment may be continued.
- (2) If the director makes alternative arrangements for a person referred to in subsection (1) (a), the director shall accordingly advise—
  - (a) the panel that made the assessment in relation to that person; and
  - (b) the responsible officer; and
  - (c) a police officer; and
  - (d) the proper officer of the court that made the relevant treatment order.

**157 Approval—duration**

An approval shall remain in force, unless sooner surrendered or cancelled, for 12 months beginning on the date when the approval was granted.

**158 Approval—renewal**

- (1) An approval holder may, before the end of the term of the approval, apply to the Minister for its renewal.
- (2) An application for the renewal of an approval shall be in writing and shall be lodged with the Minister.
- (3) On application for the renewal of an approval, the Minister shall renew the approval for a further period of 12 months, beginning on the day immediately following the day when, apart from its renewal, the approval would have ended.

**159 Return of approval to Minister**

On ceasing to be an approval holder, a person shall not, without reasonable excuse, fail to return the approval to the Minister.

Maximum penalty: 20 penalty units.

## Part 10                      Offences

### 162                      Cultivation of 1 or 2 cannabis plants

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

Maximum penalty: 1 penalty unit.

- (2) In this section:

*artificially cultivate* means—

- (a) hydroponically cultivate; or
- (b) cultivate with the application of an artificial source of light or heat.

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

### 164                      Sale or supply

- (1) In this section:

*prohibited substance* does not include cannabis.

- (2) A person shall not—

- (a) sell or supply a drug of dependence to any person; or
- (b) participate in the sale or supply of a drug of dependence to any person; or
- (c) possess a drug of dependence for the purpose of sale or supply to any person.

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

- (3) A person shall not—

- (a) sell or supply a prohibited substance to any person; or
- (b) participate in the sale or supply of a prohibited substance to any person; or
- (c) possess a prohibited substance for the purpose of sale or supply to any person.

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

- (4) Subsection (2) does not apply if the person is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008*, or another territory law, to sell or supply the drug of dependence.
- (5) Subsection (3) does not apply if the person is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008*, or another territory law, to sell or supply the prohibited substance.

**169 Possessing drugs of dependence**

- (1) A person shall not possess a drug of dependence.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

- (2) Subsection (1) does not apply if the person is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008*, or another territory law, to possess the drug of dependence.

**171 Possessing prohibited substances**

- (1) A person shall not possess a prohibited substance.

Maximum penalty:

- (a) if the offence relates to a quantity of cannabis not exceeding 25g in mass—1 penalty unit; or
  - (b) in any other case—50 penalty units, imprisonment for 2 years or both.
- (2) Subsection (1) does not apply if the person is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008*, or another territory law, to possess the prohibited substance.

### **171A Offence notices**

- (1) If a police officer reasonably believes that a person has committed a simple cannabis offence, he or she may serve an offence notice on that person.
- (2) If an offence notice is served on a child and the police officer serving the notice reasonably believes that the child is residing with a person who stands in loco parentis to that child, the police officer shall serve a copy of the notice on that person.
- (3) An offence notice shall—
- (a) specify the nature of the alleged simple cannabis offence; and
  - (b) specify the date and time when and place where the simple cannabis offence is alleged to have been committed; and
  - (c) contain a statement to the effect that, if the alleged offender pays the prescribed penalty for the alleged offence within 60 days after the date of service of the notice, no further action will be taken in relation to that offence; and
  - (d) specify the amount of the prescribed penalty; and
  - (e) specify the place where and how the prescribed penalty may be paid; and
  - (f) state that—
    - (i) unless a court orders otherwise, the government analyst may, under section 193C (Destruction of cannabis

- without court order), destroy seized cannabis without a court order; and
- (ii) the alleged offender may apply to the Magistrates Court, under section 193D (Order for preservation of cannabis), for an order for the preservation of cannabis to which the offence relates; and
- (g) contain any other particulars prescribed under the regulations.
- (4) If the prescribed penalty is paid in accordance with the offence notice—
- (a) any liability of the person in relation to the alleged simple cannabis offence shall be deemed to be discharged; and
- (b) no further proceedings shall be taken in relation to the alleged simple cannabis offence; and
- (c) the person shall not be regarded as having been convicted of the alleged simple cannabis offence.
- (5) Any substance, equipment or object seized under any Act in connection with the alleged simple cannabis offence that would have been liable to forfeiture in the event of a conviction shall, on payment of the prescribed penalty in accordance with the offence notice, be forfeited to the Territory.
- (6) Subject to subsection (4), nothing in this section shall be construed as affecting the institution or prosecution of proceedings for a simple cannabis offence.
- (7) In this section:
- child* means a person who is under 18 years old on the date of the alleged offence.

*simple cannabis offence* means—

- (a) an offence against section 162 (Cultivation of 1 or 2 cannabis plants); or

*Note* Section 162 does not cover artificial cultivation of cannabis plants.

- (b) an offence against section 171 (1) of possessing not more than 25g of cannabis; or

- (c) an offence against the *Medicines, Poisons and Therapeutic Goods Act 2008*, section 37 (2) (Administering certain declared substances) of administering, or causing or permitting to be administered, to oneself cannabis.

- (8) In relation to a simple cannabis offence, the prescribed penalty is \$100.

### **171B Cannabis offences—notification of right to apply for preservation order**

- (1) This section applies if a police officer seizes cannabis under this Act or another Territory law.
- (2) As soon as practicable after seizing the cannabis, the police officer must give to each relevant person a written statement to the following effect:

‘You have been arrested for/charged with/may be charged with\* an offence/offences\* against the *Drugs of Dependence Act 1989*/Criminal Code, chapter 6 (Serious drug offences)\* relating to seized cannabis. Unless a court orders otherwise, the government analyst may destroy seized cannabis without a court order. You have the right, under the *Drugs of Dependence Act 1989*, section 193D, to apply to the Magistrates Court for an order for the preservation of the seized cannabis. If you do not make an application within 24 hours, the cannabis may be destroyed and only a sample preserved.’

\* *Omit any alternative that is not relevant*

(3) In this section:

*relevant person* means—

- (a) a person arrested for, or charged with, an offence against this Act or the Criminal Code, chapter 6 (Serious drug offences) in relation to the seized cannabis; or
- (b) a person who, to the knowledge or in the belief of the police officer, is likely to be charged with an offence against this Act or the Criminal Code, chapter 6 (Serious drug offences) in relation to the seized cannabis.



## **Part 11                      Enforcement**

### **Division 11.1              Preliminary**

#### **174              Interpretation for pt 11**

- (1) In this part:

*offence* means an offence against this Act or the Criminal Code, chapter 6 (Serious drug offences).

*Note*      A reference to an Act includes a reference to the statutory instruments made or in force under the Act, including regulations (see *Legislation Act 2001*, s 104).

- (2) For this part, a thing is *connected* with a particular offence if—
- (a) the offence has been committed in relation to it; or
  - (b) it will afford evidence of the commission of the offence; or
  - (c) it was used, or it is intended to be used, for the purpose of committing the offence; or
  - (d) after the commission of the offence, it was used for the purpose of taking steps to avoid the detection of the offence or the apprehension of the offender; or
  - (e) it was in the possession or under the control of the offender at the time of his or her apprehension in circumstances that make it likely that it was—
    - (i) used for the purpose of committing the offence; or
    - (ii) after the commission of the offence, used or intended to be used for the purpose of taking steps to avoid the detection of the offence or the apprehension of the offender.

- (3) A reference in this part to an *offence* includes a reference to an offence that there are reasonable grounds for believing has been, or will be, committed.
- (4) If a person is authorised under this part to enter premises or a place, and enters those premises or that place, a reference to the occupier of such premises or such a place includes a reference to a person reasonably believed by the authorised person to be the occupier, or to be in charge, of those premises or that place.

## Division 11.2 Inspection

### 176 Treatment centre inspectors—appointment

- (1) The Minister may, by writing signed by the Minister, appoint persons to be treatment centre inspectors for this Act.
- (2) The Minister shall only appoint as a treatment centre inspector a person who, in the opinion of the Minister, has extensive knowledge of—
  - (a) the physical, psychological and social problems connected with the abuse of drugs of dependence and prohibited substances; or
  - (b) the treatment of persons suffering from such problems; or
  - (c) health education in relation to such problems.
- (3) The Minister issue to a treatment centre inspector an identity card that specifies the name and appointment of the inspector and on which appears a recent photograph of the inspector.
- (4) On ceasing to be a treatment centre inspector, a person shall not fail, without reasonable excuse, to return his or her identity card to the Minister.

Maximum penalty (subsection (4)): 1 penalty unit.

**179      Inspection—premises of approved treatment centres**

(1) In this section:

*approved treatment centre*—see section 121.

*treatment* means treatment of persons for drug dependence.

(2) A treatment centre inspector may, at any reasonable hour of the day or night, with the assistance and by the force that is necessary and reasonable, enter the premises of an approved treatment centre, and may—

- (a) inspect the premises and any facilities provided at, or equipment used at, the premises for, or in connection with, the provision of treatment or accommodation at the centre; or
- (b) inspect any prescribed book, record, or document kept on the premises relating to such treatment or accommodation, or otherwise relating to the conduct of the centre in relation to patients referred to the centre under division 9.3; or
- (c) require the occupier of the premises to produce any prescribed book, record or document, or to give to the inspector any prescribed information in his or her possession relating to such treatment or accommodation or otherwise relating to the conduct of the centre in relation to such patients;

for the purpose of ensuring that there are no grounds for cancellation, under section 154 or 155, of the centre's approval.

**180      Production of identity card**

A treatment centre inspector must not remain at premises entered under this division if the inspector does not produce his or her identity card when asked by the occupier.

**181 Failing to comply with requirement of inspector**

A person shall not, without reasonable excuse, fail to comply with a reasonable requirement of a treatment centre inspector who has—

- (a) entered premises in accordance with this Act; and
- (b) complied with any requirement under section 180 to produce his or her identity card.

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

**Division 11.3 Search, seizure and analysis**

**182 Definitions for div 11.3**

In this division:

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

- (a) a controlled drug;
- (b) a controlled plant;
- (c) a controlled precursor.

*place* includes vacant land, premises, a vehicle, a vessel or an aircraft.

**184 Search and seizure**

- (1) A police officer may search a person or the clothing that is being worn by, or property in the immediate control of, a person and may seize any thing that he or she suspects on reasonable grounds to be connected with an offence that is found in the course of the search, if, and only if, the search and seizure is made by the police officer—
  - (a) after obtaining the consent of the person to the search in accordance with section 185; or

- (b) in accordance with section 186 on taking the person into lawful custody in relation to an offence; or
  - (c) under a warrant issued under section 187; or
  - (d) in circumstances of seriousness and urgency, in accordance with section 188; or
  - (e) under an order made by a court; or
  - (f) otherwise under a provision of a law in force in the ACT.
- (2) A police officer may enter any place, and may search for and seize any thing that he or she suspects on reasonable grounds to be connected with an offence that is found on or in the place if, and only if, the search and seizure is made by the police officer—
- (a) after obtaining the consent of the occupier of the place to the entry in accordance with section 185; or
  - (b) under a warrant issued under section 187; or
  - (c) in circumstances of seriousness and urgency, in accordance with section 188; or
  - (d) under an order made by a court; or
  - (e) otherwise under a provision of a law in force in the ACT.

## **185 Consent to search**

- (1) Before obtaining the consent of a person for section 184 a police officer shall inform the person that he or she may refuse to give his or her consent.
- (2) A police officer who obtains the consent of a person for section 184 shall ask the person to sign an acknowledgment—
  - (a) that the person has been informed that he or she may refuse to give his or her consent; and
  - (b) that the person has given his or her consent; and

(c) of the date and time when the person gave his or her consent.

- (3) If it is material, in any proceedings, for a court to be satisfied of the consent of a person for section 184 and an acknowledgment in accordance with subsection (2) has not been produced in evidence, the court shall presume, unless the contrary is proved, that the person did not give the consent, but that presumption is rebuttable.

## **186 Searches of arrested persons**

- (1) A police officer may, on lawfully taking a person into custody in relation to an offence, search the person or the clothing that he or she is wearing and any property under his or her immediate control, if the police officer suspects on reasonable grounds that it is necessary to do so—
- (a) for the purpose of ascertaining whether there is on the person or in his or her clothing or in that property a thing connected with the offence; or
- (b) for the purpose of preventing the concealment, loss or destruction of evidence of, or relating to, the offence.
- (2) A police officer may seize any thing that he or she suspects on reasonable grounds is a thing connected with an offence found as a result of a search in accordance with subsection (1).

## **187 Search warrants**

- (1) In this section:
- issuing officer* means—
- (a) a judge, the registrar or a deputy registrar of the Supreme Court; or
- (b) a magistrate; or

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

*private place* does not include a place ordinarily private that is for the time being—

- (a) used for a public purpose; or
  - (b) a place of common resort; or
  - (c) open to the public, on the payment of money or otherwise.
- (2) If an information on oath is laid before an issuing officer alleging that there are reasonable grounds for suspecting that, on the day when, or a day within 28 days after the date when, the information is laid, there is or will be a thing or things of a particular kind connected with a particular offence on, or in the clothing that is being worn by, or in any property in the apparent control of, a particular person and the information sets out those grounds, the issuing officer may issue a search warrant authorising each police officer named in the warrant, with the assistance, and by the force, that is necessary and reasonable—
- (a) to enter any place the police officer believes on reasonable grounds to be occupied by the person; and
  - (b) to search the person, or the clothing that is being worn by, or property in the apparent control of, the person; and
  - (c) to seize any such clothing or property that the police officer believes on reasonable grounds to be connected with the offence.
- (3) If an information on oath is laid before an issuing officer alleging that there are reasonable grounds for suspecting that, on the day when, or a day within 28 days after the date when, the information is laid, there is or will be at or in any place a thing or things of a particular kind connected with a particular offence, and the information sets out those grounds, the issuing officer may issue a

search warrant authorising each police officer named in the warrant, with the assistance, and by the force, that is necessary and reasonable to—

- (a) enter any place named or described in the warrant; and
  - (b) search the place for things of that kind; and
  - (c) if the place is a private place—to search any person found at or in the place, or any person whom he or she reasonably believes to be about to enter or to have recently left the place, and the clothing that the person is wearing, or property in the apparent control of the person, if the police officer believes there are reasonable grounds for suspecting that things of that kind may be on the person or in the clothing that the person is wearing or in property in the apparent control of the person; and
  - (d) to seize any thing of that kind found as a result of any entry or search referred to in paragraph (a), (b) or (c) that he or she believes on reasonable grounds to be connected with that offence.
- (4) An issuing officer shall not issue a warrant under this section unless—
- (a) the informant or some other person has given to the issuing officer, either orally or by affidavit, the further information (if any) the issuing officer requires about the grounds on which the issue of the warrant is being sought; and
  - (b) the issuing officer is satisfied that there are reasonable grounds for issuing the warrant.
- (5) An issuing officer may issue a warrant under subsection (2) or (3) subject to conditions limiting the powers set out in the relevant subsection.
- (6) A warrant issued under this section shall state or set out—



- (a) the purpose for which the warrant is issued, including a reference to the nature of the offence in relation to which the entry and search are authorised; and
  - (b) whether the entry or search is authorised to be made at any time of the day or night or during specified hours of the day or night; and
  - (c) a description of the kind of things authorised to be seized; and
  - (d) any conditions to which the warrant is subject; and
  - (e) if the warrant is issued under subsection (2)—a way of identifying each person specified in the warrant by—
    - (i) name; or
    - (ii) description; or
    - (iii) a photograph of the person attached to the warrant; and
  - (f) a date, not later than 28 days after the date of issue of the warrant, when the warrant will cease to have effect.
- (7) If, in the course of searching in accordance with a warrant issued under this section for things connected with a particular offence, being things of a kind specified in the warrant, a police officer finds any thing that he or she believes on reasonable grounds to be connected with the offence although not of a kind specified in the warrant, or to be connected with any other offence, and he or she believes on reasonable grounds that it is necessary to seize that thing to prevent its concealment, loss, destruction or use in committing, continuing or repeating either offence the warrant shall be deemed to authorise him or her to seize that thing.

## **188 Searches in emergencies**

- (1) A police officer may only exercise a power under this section if the police officer believes, on reasonable grounds—

- (a) that it is necessary to do so to prevent the concealment, loss or destruction of any thing connected with an offence; and
  - (b) that the circumstances are of such seriousness and urgency as to require the immediate exercise of the power without the authority of a warrant issued under section 187 or of an order of a court.
- (2) A police officer may—
- (a) search a person or the clothing that is being worn by, and property in the apparent control of, a person suspected by the police officer to be carrying any thing connected with an offence; or
  - (b) enter any place at or in which the police officer believes on reasonable grounds that any thing connected with an offence is situated; and
  - (c) seize any such thing that he or she finds in the course of that search, or at or in the place.
- (3) A police officer who believes on reasonable grounds that a person is, without lawful authority or reasonable excuse, carrying any thing connected with an offence may, for this section, detain that person.
- (4) A police officer who believes on reasonable grounds that any thing connected with an offence is on or in a vehicle, vessel or aircraft may, for this section, stop that vehicle, vessel or aircraft.

## **189 Clothing and body searches**

- (1) If a police officer is authorised under this division to search the clothing that a person is wearing, the police officer may remove, or require the person to remove, any clothing that the person is wearing.
- (2) A person shall not be searched under this division except by a police officer of the same sex.

- (3) However, if a transgender or intersex person is searched, the person may require that the search be conducted by either a male or a female.

*Note 1* For the meaning of *transgender person* see Legislation Act, s 169A.

*Note 2* For the meaning of *intersex person*, see Legislation Act, s 169B.

- (4) If the transgender or intersex person requires that the search be conducted by a male, the person is taken, for this section, to be male.
- (5) If the transgender or intersex person requires that the search be conducted by a female, the person is taken, for this section, to be female.
- (6) Nothing in this division authorises a police officer to conduct an internal body search.

## **190 Forfeiture of drugs and substances**

- (1) If a police officer believes, on reasonable grounds, that a substance seized under this division is, or contains, a drug of dependence, prohibited substance or chapter 6 substance in relation to which an offence has been committed, the substance seized is forfeited to the Territory.
- (2) If a police officer believes, on reasonable grounds, that a substance seized under this division, other than a substance referred to in subsection (1), is, or contains, a drug of dependence, prohibited substance or chapter 6 substance, that substance is forfeited to the Territory at the end of 30 days from the date of its seizure.
- (3) Subsection (2) does not apply if—
- (a) within 30 days after the date of the seizure the chief police officer has received written notice from a person that the person claims the relevant substance; and
  - (b) the chief police officer is satisfied that the claimant is entitled to the lawful possession of that substance.

- (4) If subsection (2) applies, the chief health officer shall dispose of the substance referred to in that subsection as soon as possible after the end of 30 days from the date of its seizure.

**191 Analysis**

If a substance is forfeited to the Territory under section 190 (1), the person who seized the substance shall cause it to be given to an analyst.

**193 Notification by defendants—analyst’s evidence**

After service of a copy of an analyst’s certificate on a defendant in proceedings for an offence, the defendant may, within 5 days, notify the director of public prosecutions in writing whether the defendant intends to call the analyst who issued the certificate to give evidence in the proceeding.

**Division 11.4 Disposal of seized substances,  
compensation and recovery**

**193A Definitions for div 11.4**

In this division:

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

- (a) a controlled drug;
- (b) a controlled plant;
- (c) a controlled precursor.

*protocol* means the seized cannabis plants protocol or the seized cannabis product protocol.

*seized cannabis plant* means a cannabis plant that is a seized substance.

*seized cannabis plants protocol* means the protocol determined under section 193B (1) (a) (Protocols for destruction etc of cannabis).

*seized cannabis product* means cannabis, other than in the form of a cannabis plant, that is a seized substance.

*seized cannabis product protocol* means the protocol determined under section 193B (1) (b) (Protocols for destruction etc of cannabis).

*seized substance* means a substance seized under division 11.3 or another Territory law.

### **193B Protocols for destruction etc of cannabis**

- (1) The government analyst may, in writing, determine the following protocols:
  - (a) a protocol that sets out methods and procedures for—
    - (i) the handling and destruction of seized cannabis plants;  
and
    - (ii) the preservation of samples of seized cannabis plants;
  - (b) a protocol that sets out methods and procedures for—
    - (i) the handling and destruction of seized cannabis product;  
and
    - (ii) the preservation of samples of seized cannabis product.
- (2) The government analyst may determine a protocol only if the protocol has been approved, in writing, by the chief health officer and the director of public prosecutions.
- (3) A determination is a disallowable instrument.

*Note* A disallowable instrument must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.

**193C Destruction of cannabis without court order**

- (1) The government analyst may, without a court order, destroy seized cannabis plants in accordance with the seized cannabis plants protocol.
- (2) Before destroying seized cannabis plants under subsection (1), the government analyst must preserve samples of the plants in accordance with seized cannabis plants protocol.
- (3) The government analyst may, without a court order, destroy seized cannabis product in accordance with the seized cannabis product protocol.
- (4) Before destroying seized cannabis product under subsection (3), the government analyst must preserve a sample of the product in accordance with the seized cannabis product protocol.
- (5) The government analyst must not destroy seized cannabis plants or seized cannabis product within 24 hours after the plants or product are given to the analyst under section 191 (Analysis).
- (6) The government analyst must not destroy seized cannabis plants or seized cannabis product—
  - (a) contrary to a protocol; or
  - (b) contrary to a court order of which the analyst has notice; or
  - (c) if the analyst has notice of an application under section 193D in relation to the plants or product—until the application is finally decided.
- (7) The government analyst must not destroy a sample preserved under subsection (2) or (4)—
  - (a) without the written consent of the director of public prosecutions; or
  - (b) contrary to a court order of which the analyst has notice.

### **193D Order for preservation of cannabis**

- (1) A person may apply to the Magistrates Court for an order for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) if the person—
  - (a) has been charged with an offence in relation to the seized cannabis; or
  - (b) believes, on reasonable grounds, that he or she is likely to be charged with an offence in relation to the seized cannabis.
- (2) The applicant must give notice of the application to the director of public prosecutions and the government analyst.
- (3) Without limiting how notice of the application may be given, the applicant may give notice by telephone or fax.
- (4) If the Magistrates Court considers that a temporary order should be made to prevent the imminent destruction of the seized cannabis, the court may make an order for the preservation of the seized cannabis for a stated period.
- (5) The Magistrates Court may make an order under subsection (4) even if notice of the application has not been given to the director of public prosecutions or the government analyst.
- (6) The Magistrates Court may make an order for the preservation of the seized cannabis, or a part or quantity of the seized cannabis.

### **193E Amendment and revocation of cannabis preservation**

- (1) This section applies if the Magistrates Court has made an order under section 193D for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) or a part or quantity of the seized cannabis.
- (2) The director of public prosecutions or the government analyst may apply to the Magistrates Court for the amendment or revocation of the order.

- (3) The applicant must, if practicable, give written notice of the application to—
  - (a) each person who has been charged with an offence relating to the seized cannabis; and
  - (b) each person who, to the knowledge or in the belief of the applicant, is likely to be charged with an offence relating to the seized cannabis.
- (4) For subsection (3), a notice may be given to a person by giving it to a solicitor acting for the person in a proceeding, or expected proceeding, relating to the seized cannabis.
- (5) The Magistrates Court may amend the order on application under subsection (2) if satisfied that the amendment—
  - (a) is in the public interest; and
  - (b) would not prejudice the proper interests of anyone mentioned in subsection (3) (a) or (b).
- (6) The Magistrates Court must revoke the order on application under subsection (2) if satisfied that—
  - (a) all proceedings begun for offences in relation to the seized cannabis have been finalised; and
  - (b) no other proceedings for offences in relation to the seized cannabis are likely to be brought.
- (7) However, the Magistrates Court must not revoke the order under subsection (6) if it appears to the court that the public interest requires the order to remain in effect.
- (8) The director of public prosecutions or the government analyst may make more than 1 application under this section in relation to an order under section 193D.



## **193F Making of orders about preservation of cannabis**

- (1) This section applies to the making of an order under section 193D (Order for preservation of cannabis), or an order under that section as amended under section 193E (Amendment and revocation of cannabis preservation), for the preservation of seized cannabis plants or seized cannabis product (the *seized cannabis*) or a part or quantity of the seized cannabis.
- (2) The order must not affect a requirement for the preservation of—
  - (a) if the order relates to seized cannabis plants—a sample of the plants required under the seized cannabis plants protocol; or
  - (b) if the order relates to seized cannabis product—a sample of the product required under the seized cannabis product protocol.
- (3) In deciding whether the order should require, or continue to require, the preservation of the seized cannabis to a greater extent than required by the relevant protocol, the Magistrates Court must take account of the following matters:
  - (a) the matters mentioned in any analyst's certificate in relation to the seized cannabis;
  - (b) how long the seized cannabis is likely to be kept;
  - (c) the extent (if any) to which facilities are available for the secure keeping of the seized cannabis during that period;
  - (d) the health and safety of people working in or near the place where the seized cannabis is, or will be, kept;
  - (e) the number of people (if any) charged with offences in relation to the seized cannabis;
  - (f) the likelihood that anyone else will be charged with offences in relation to the seized cannabis;
  - (g) when the hearing of any charge for an offence in relation to the seized cannabis is likely to take place;

- (h) any other relevant matter (including, in particular, the interests of justice).

**194 Disposal of seized substances other than cannabis on order of magistrate**

- (1) This section does not apply to cannabis.
- (2) On receiving a notification from an analyst about a seized substance that the analyst has identified as being or containing a drug of dependence, prohibited substance or chapter 6 substance, the director of public prosecutions may apply to a magistrate in accordance with section 194A for an order that a specified quantity of the substance be disposed of.
- (3) The director of public prosecutions shall only specify a quantity under subsection (2) that would leave a quantity of the seized substance remaining at least sufficient to enable the substance to be analysed twice.
- (4) The director of public prosecutions shall give a copy of an application to—
  - (a) the person from whom the substance was seized, if that person is identifiable; and
  - (b) any person who the director of public prosecutions believes on reasonable grounds to have had an interest in the substance immediately before its seizure; and
  - (c) each defendant in proceedings for an offence in relation to the substance, or the defendant's lawyer on the record in the proceedings.
- (5) On an application in accordance with this section, if a magistrate is satisfied—
  - (a) that each person referred to in subsection (4) has been given a reasonable opportunity to be heard; and

- (b) that no person notified of the application disputes the total weight of the seized substance as stated in the application; and
- (c) that no person who has not been notified of the application is likely to be charged with an offence in relation to that substance;

the magistrate shall order the government analyst to dispose of the quantity of the seized substance specified in the application.

- (6) The government analyst shall comply with an order of the magistrate under subsection (5).
- (7) If a magistrate has refused to make an order, the director of public prosecutions may make a further application in accordance with this section.

#### **194A Applications under s 194**

An application under section 194 (2) in relation to a seized substance shall—

- (a) state the circumstances in which the substance was seized; and
- (b) specify the quantity of the substance to be kept or disposed of, as the case requires; and
- (c) for an application under section 194 (2)—specify the quantity of the substance sufficient to enable it to be analysed twice; and
- (d) include any further information relevant to the application, including information about facilities for the secure retention of the substance; and
- (e) be accompanied by an analyst's certificate in relation to the substance.

## 195 Final disposal of seized substances

- (1) If an analyst has identified a seized substance as being or containing a drug of dependence, prohibited substance or chapter 6 substance, the government analyst shall dispose of any remaining quantity of the substance—
  - (a) if, within 3 months of the seizure, proceedings are instituted for an offence in relation to the substance—after those proceedings are completed; or
  - (b) in any other case—at the end of 3 months after the date of the seizure.
- (2) However, the government analyst need not dispose of a substance when required to under subsection (1) if the analyst—
  - (a) tells the chief health officer in writing that the analyst intends to use the substance as a reference under the *Public Health Act 1997*, section 15AA (Analysts and assistants—authority to handle drugs etc); and
  - (b) removes from the substance any information that links the substance to an offence or prosecution or to a person from whom it was seized.

## 196 Compensation for seizure

If, after the relevant period referred to in section 195—

- (a) a seized substance referred to in that section has been completely disposed of; and
- (b) no offence in relation to the substance has been found proved;

the Territory shall pay to the person who was entitled to the immediate, lawful possession of the substance immediately before its seizure an amount equal to the value of the substance at the time of payment.

**197 Seized property**

- (1) If property has been seized under division 11.3, the person who possessed that property immediately before its seizure may recover the property—
  - (a) if, within 3 months of the seizure, proceedings are instituted for an offence in relation to which the property could, in the opinion of the chief police officer or the director of public prosecutions, provide evidence—after those proceedings are completed; or
  - (b) in any other case—at the end of 3 months after the date of seizure.
- (2) This section does not apply in relation to a substance that an analyst has identified as being, or containing, a drug of dependence, prohibited substance or chapter 6 substance.

## Part 12 Notification and review of decisions

### 198 Meaning of *reviewable decision*—pt 12

In this part:

*reviewable decision* means a decision mentioned in schedule 1, column 3 under a provision of this Act mentioned in column 2 in relation to the decision.

### 198A Reviewable decision notices

If a person makes a reviewable decision, the person must give a reviewable decision notice to each entity mentioned in schedule 1, column 4 in relation to the decision.

*Note 1* The person must also take reasonable steps to give a reviewable decision notice to any other person whose interests are affected by the decision (see *ACT Civil and Administrative Tribunal Act 2008*, s 67A).

*Note 2* The requirements for reviewable decision notices are prescribed under the *ACT Civil and Administrative Tribunal Act 2008*.

### 199 Applications for review

The following may apply to the ACAT for a review of a reviewable decision:

- (a) an entity mentioned in schedule 1, column 4 in relation to the decision;
- (b) any other person whose interests are affected by the decision.

*Note* If a form is approved under the *ACT Civil and Administrative Tribunal Act 2008* for the application, the form must be used.

## Part 13                      Miscellaneous

### 201                      Secrecy

- (1) This section applies to a treatment centre inspector, an analyst or any other person who is, or has been, engaged in exercising powers or duties under this Act.
- (2) A person to whom this section applies shall not, either directly or indirectly, except in the exercise of a power or a duty under this Act—
  - (a) make a record of, or divulge or communicate to any person, any information acquired by the firstmentioned person about a manufacturing or trade process or the affairs of another person; or
  - (b) produce to a person a document produced to, or otherwise acquired by, the firstmentioned person;because of the exercise of those powers or duties.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.
- (3) Nothing in this section applies in relation to the giving of information—
  - (a) to a treatment assessment panel established under division 9.3; or
  - (b) about a person if the giving of the information is necessary to remove a threat to the life or health of the person; or
  - (c) to a police officer in answer to a lawful request by the police officer while acting in the course of his or her duty; or
  - (d) to a court, by way of the production of a document or otherwise, in accordance with a subpoena; or

- (e) to a person, relating to the personal affairs of the person requesting the information.

**204            Determination of fees**

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

*Note*        The *Legislation Act 2001* 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 2001*.

**205            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.
- (3) An approved form is a notifiable instrument.

*Note*        A notifiable instrument must be notified under the *Legislation Act 2001*.

- (4) For subsection (2), if a note in an approved form suggests or requires the insertion of information in a blank space, the form is properly completed only if the information is inserted as suggested or required.

**206            Regulation-making power**

The Executive may make regulations for this Act.

*Note*        Regulations must be notified, and presented to the Legislative Assembly, under the *Legislation Act 2001*.



## Schedule 1 Reviewable decisions

(see pt 12)

column 1 item	column 2 section	column 3 decision	column 4 entity
1	150	refuse to grant approval to conduct treatment centre	applicant for approval
2	150	grant approval to conduct treatment centre subject to conditions	applicant for approval
3	152	vary, revoke or refuse to vary or revoke condition on approval to conduct treatment centre	person who holds approval
4	154	cancel approval to conduct treatment centre	person who held approval
5	155	refuse to restore approval to conduct treatment centre	person who held approval

## Dictionary

(see s 2)

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

*Note 2* For example, the Legislation Act, dict, pt 1, defines the following terms:

- ACAT
- chief police officer
- intersex person (see s 169B)
- police officer.

**analyst** means an analyst under the *Public Health Act 1997*, section 15 who is authorised under that Act to exercise a function under this Act.

*Note* **Analyst** includes the government analyst (see *Public Health Act 1997*, dict).

**analyst's certificate** means a certificate under the *Public Health Act 1997*, section 135A.

**approval**, for division 9.4 (Approval of treatment centres)—see section 148.

**approval holder**, for division 9.4 (Approval of treatment centres)—see section 148.

**approved treatment centre**, for part 9 (Treatment)—see section 121.

**assessment order**, for part 9 (Treatment)—see section 121.

**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.

***drug-dependent person***, in relation to a drug of dependence or prohibited substance, means a person with a condition—

- (a) who, as a result of the administration of the drug or substance, demonstrates, in relation to the person's use of the drug or substance—
  - (i) impaired control; or
  - (ii) drug-seeking behaviour that suggests impaired control; and
- (b) who, as a result of the cessation of the administration of the drug or substance, is likely to experience symptoms of mental or physical distress or disorder.

**drug of dependence** means a substance prescribed by regulation as a drug of dependence.

**government analyst** means the government analyst under the *Public Health Act 1997*, section 15 (b).

**hospital**—see the *Medicines, Poisons and Therapeutic Goods Act 2008*, dictionary.

**member**, for part 9 (Treatment)—see section 121.

**mental condition** does not include drug dependence.

**occupier**, for part 11 (Enforcement)—see section 174 (4).

**offence**, for part 11 (Enforcement)—see section 174.

**offender**, for part 9 (Treatment)—see section 121.

**opioid dependency treatment centre** means a treatment centre or other facility where treatment, including the supply and administration of methadone or buprenorphine, is provided to drug-dependent people for their drug dependency—

- (a) if the facility is—
  - (i) conducted by the Territory; or
  - (ii) approved under division 9.4, as a treatment centre of that type; and
- (b) whether or not the main purpose of the facility is to provide treatment for drug-dependent people.

**panel**, for part 9 (Treatment)—see section 121.

**physical condition**—

- (a) means—
  - (i) a physical disease, illness, ailment, defect or injury; or
  - (ii) pregnancy; or

(iii) a physical state that may be changed by surgery in the course of professional medical practice; but

(b) does not include drug dependence.

**place**, for division 11.3 (Search, seizure and analysis)—see section 182.

**prohibited substance** means a substance prescribed by regulation as a prohibited substance.

**proper officer**, for part 9 (Treatment)—see section 121.

**protocol**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**responsible officer**, for part 9 (Treatment)—see section 121.

**reviewable decision**, for part 12 (Notification and review of decisions)—see section 198.

**seized cannabis plant**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**seized cannabis plants protocol**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**seized cannabis product**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**seized cannabis product protocol**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**seized substance**, for division 11.4 (Disposal of seized substances, compensation and recovery)—see section 193A.

**sell** includes offer or expose for sale.

**supply** includes offer to supply but does not include administer.

***treatment***, in relation to the treatment of a person for drug dependence, means treatment, therapy or a program that is aimed at assisting the person in relation to that dependence, and includes—

- (a) medical treatment or therapy or an education or rehabilitation program; and
- (b) in relation to the treatment of a person with methadone or buprenorphine at an opioid dependency treatment centre—
  - (i) the administration of methadone or buprenorphine to the person at the centre; or
  - (ii) the supply of methadone or buprenorphine to the person at the centre for self-administration at the centre or elsewhere.

***treatment centre***—

- (a) means—
  - (i) a hospital, nursing home, hostel or other institution that ordinarily provides treatment for people who are drug-dependent in relation to any drug of dependence; or
  - (ii) premises where a pharmacist practices pharmacy; or
  - (iii) premises where a doctor practices medicine; but
- (b) does not include a hospital or other health facility conducted by the Territory.

***treatment centre inspector*** means a person appointed as a treatment centre inspector under section 176.

***treatment order***, for part 9 (Treatment)—see section 121.

## 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
def = definition	pres = present
dict = dictionary	prev = previous
disallowed = disallowed by the Legislative Assembly	(prev...) = previously
div = division	pt = part
exp = expires/expired	r = rule/subrule
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

## Endnotes

3 Legislation history

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### 3 Legislation history

This Act was originally a Commonwealth ordinance—the *Drugs of Dependence Ordinance 1989* No 11 (Cwlth).

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).

After 11 May 1989 and before 10 November 1999, Acts commenced on their notification day unless otherwise stated (see *Australian Capital Territory (Self-Government) Act 1988* (Cwlth) s 25).

#### Legislation before becoming Territory enactment

##### **Drugs of Dependence Act 1989 No 11**

notified 15 March 1989

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

as amended by

##### **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 Gaz 1991 No S4)



**Drugs of Dependence (Amendment) Act 1991 No 5**

notified 1 March 1991 (Gaz 1991 No S7)  
ss 1-3 commenced 1 March 1991 (s 2 (1))  
remainder commenced 15 March 1991 (s 2 (2) and Gaz 1991 No S16)

**Magistrates and Coroner's Courts (Registrar) Act 1991 No 44 s 7 (2) and sch 1**

notified 20 September 1991 (Gaz 1991 No S95)  
s 1, s 2 commenced 20 September 1991 (s 2 (1))  
s 7 (2) and sch 1 commenced 25 September 1991 (s 2 (2) and Gaz 1991 No S103)

**Drugs of Dependence (Amendment) Act 1992 No 52**

notified 18 September 1992 (Gaz 1992 No S158)  
commenced 18 September 1992

**Drugs of Dependence (Amendment) Act (No 2) 1992 No 61**

notified 30 October 1992 (Gaz 1992 No S183)  
commenced 30 October 1992

**Drugs of Dependence (Amendment) Act (No 3) 1992 No 62**

notified 30 October 1992 (Gaz 1992 No S183)  
commenced 30 October 1992

**Statute Law Revision (Miscellaneous Provisions) Act 1993 No 1 sch 1**

notified 1 March 1993 (Gaz 1993 No S23)  
commenced 1 March 1993

**Drugs of Dependence (Amendment) Act 1993 No 7**

notified 25 February 1993 (Gaz 1993 No S22)  
ss 1-3 commenced 25 February 1993 (s 2 (1))  
remainder commenced 3 March 1993 (s 2 (2) and Gaz 1993 No S33)

**Drugs of Dependence (Amendment) Act (No 2) 1993 No 10**

notified 1 March 1993 (Gaz 1993 No S23)  
ss 1-3 commenced 1 March 1993 (s 2 (1))  
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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**Drugs of Dependence (Amendment) Act (No 3) 1993 No 45**

notified 27 August 1993 (Gaz 1993 No S165)  
s 1, s 2 commenced 27 August 1993 (s 2 (1))  
remainder commenced 20 September 1993 (s 2 (2) and Gaz 1993 No S190)

**Public Sector Management (Consequential and Transitional Provisions) Act 1994 No 38 sch 1 pt 29**

notified 30 June 1994 (Gaz 1994 No S121)  
s 1, s 2 commenced 30 June 1994 (s 2 (1))  
sch 1 pt 29 commenced 1 July 1994 (s 2 (2) and Gaz 1994 S142)

**Administrative Appeals (Consequential Amendments) Act 1994 No 60 sch 1**

notified 11 October 1994 (Gaz 1994 No S197)  
s 1, s 2 commenced 11 October 1994 (s 2 (1))  
sch 1 commenced 14 November 1994 (s 2 (2) and Gaz 1994 No S250)

**Drugs of Dependence (Amendment) Act 1994 No 74**

notified 1 November 1994 (Gaz 1994 No S229)  
commenced 1 November 1994 (s 2)

**Drugs of Dependence (Amendment) Act (No 2) 1994 No 90**

notified 15 December 1994 (Gaz 1994 No S280)  
commenced 15 December 1994 (s 2)

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

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

**Drugs of Dependence (Amendment) Act 1995 No 31**

notified 3 October 1995 (Gaz 1995 No S243)  
commenced 3 October 1995 (s 2)

**Statute Law Revision Act 1995 No 46 sch**

notified 18 December 1995 (Gaz 1995 No S306)  
amds commenced 18 December 1995 (s 2)

**Health and Community Care Services (Consequential Provisions) Act 1996 No 35 sch**

notified 1 July 1996 (Gaz 1996 No S130)  
commenced 1 July 1996 (s 2)

**Remuneration Tribunal (Consequential Amendments) Act 1997 No 41 sch 1 (as am by Act 2002 No 49 amdt 3.222)**

notified 19 September 1997 (Gaz 1997 No S264)  
commenced 24 September 1997 (s 2 as am by Act 2002 No 49 amdt 3.222)

**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)

**Drugs of Dependence (Amendment) Act 1997 No 75**

notified 25 November 1997 (Gaz 1997 No S360)  
commenced 25 November 1997 (s 2)

**Legal Practitioners (Consequential Amendments) Act 1997 No 96 sch 1**

notified 1 December 1997 (Gaz 1997 No S380)  
s 1, s 2 commenced 1 December 1997 (s 2 (1))  
sch 1 commenced 1 June 1998 (s 2 (2))

**Drugs of Dependence (Amendment) Act (No 2) 1997 No 127**

notified 24 December 1997 (Gaz 1997 No S420)  
commenced 24 December 1997 (s 2)

**Drugs of Dependence (Amendment) Act 1999 No 23**

notified 14 April 1999 (Gaz 1999 No S16)  
commenced 14 April 1999 (s 2)

**Statute Law Amendment Act 2001 No 11 sch 1**

notified 29 March 2001 (Gaz 2001 No 13)  
commenced 29 March 2001 (s 2)

## Endnotes

3 Legislation history

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**Legislation (Consequential Amendments) Act 2001 No 44 pt 113**

notified 26 July 2001 (Gaz 2001 No 30)  
s 1, s 2 commenced 26 July 2001 (IA s 10B)  
pt 113 commenced 12 September 2001 (s 2 and see Gaz 2001 No S65)

**Drugs of Dependence Amendment Act 2001 No 48**

notified 12 July 2001 (Gaz 2001 No 28)  
s 1, s 2 commenced 12 July 2001 (IA s 10B)  
remainder (ss 3-21) commenced 23 October 2001 (s 2 and CN 2001 No 5)

**Statute Law Amendment Act 2001 (No 2) 2001 No 56 pt 3.17**

notified 5 September 2001 (Gaz 2001 No S65)  
commenced 5 September 2001 (s 2 (1))

**Drugs of Dependence Amendment Act 2001 (No 2) No 98**

notified LR 20 December 2001  
commenced 20 December 2001 (s 2)

**Drugs of Dependence Amendment Act 2002 No 12**

notified LR 23 May 2002  
s 1, s 2 commenced 23 May 2002 (LA s 75)  
remainder commenced 24 May 2002 (s 2)

**Health and Community Care Services (Repeal and Consequential Amendments) Act 2002 No 47 pt 1.1**

notified LR 20 December 2002  
s 1, s 2 commenced 20 December 2002 (LA s 75 (1))  
pt 1.1 commenced 31 December 2002 (s 2)

**Statute Law Amendment Act 2002 (No 2) No 49 amdt 3.222**

notified LR 20 December 2002  
s 1, s 2 taken to have commenced 7 October 1994 (LA s 75 (2))  
amdt 3.222 commenced 24 September 1997 (s 2 (3))

*Note* This Act only amends the Remuneration Tribunal (Consequential Amendments) Act 1997 No 41.

**Legislation (Gay, Lesbian and Transgender) Amendment Act 2003 A2003-14 sch pt 1.14**

notified LR 27 March 2003  
s 1, s 2 commenced 27 March 2003 (LA s 75 (1))  
sch pt 1.14 commenced 28 March 2003 (s 2)

**Criminal Code (Theft, Fraud, Bribery and Related Offences) Amendment Act 2004 A2004-15 sch 1 pt 1.10, sch 2 pt 2.28**

notified LR 26 March 2004  
s 1, s 2 commenced 26 March 2004 (LA s 75 (1))  
sch 1 pt 1.10, sch 2 pt 2.28 commenced 9 April 2004 (s 2 (1))

**Health Professionals Legislation Amendment Act 2004 A2004-39 sch 4 pt 4.2, sch 5 pt 5.7, sch 6 pt 6.4, sch 8 pt 8.1, sch 11A pt 11A.2 (as am by A2005-28 amdt 1.61)**

notified LR 8 July 2004  
s 1, s 2 commenced 8 July 2004 (LA s 75 (1))  
sch 5 pt 5.7 commenced 7 July 2005 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 and CN2005-11)  
sch 6 pt 6.4 commenced 17 January 2006 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1; A2006-27 s 12) and CN2006-2)  
sch 4 pt 4.2, sch 8 pt 8.1, sch 11A pt 11A.2 commenced 9 January 2007 (s 2 and see Health Professionals Act 2004 A2004-38, s 2 (as am by A2005-28 amdt 1.1; A2006-27 s 12))

**Statute Law Amendment Act 2004 A2004-42 sch 1 pt 1.1, sch 3 pt 3.8**

notified LR 11 August 2004  
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))  
sch 1 pt 1.1, sch 3 pt 3.8 commenced 25 August 2004 (s 2 (1))

**Hemp Fibre Industry Facilitation Act 2004 A2004-48 pt 6**

notified LR 16 August 2004  
s 1, s 2 commenced 16 August 2004 (LA s 75 (1))  
pt 6 commenced 16 February 2005 (s 2 and LA s 79)

**Drugs of Dependence (Syringe Vending Machines) Amendment Act 2004 A2004-55**

notified LR 11 August 2004  
s 1, s 2 commenced 11 August 2004 (LA s 75 (1))  
remainder commenced 12 August 2004 (s 2)

## Endnotes

3 Legislation history

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### **Criminal Code (Serious Drug Offences) Amendment Act 2004 A2004-56 sch 1 pt 1.3**

notified LR 6 September 2004  
s 1, s 2 commenced 6 September 2004 (LA s 75 (1))  
sch 1 pt 1.3 commenced 6 March 2005 (s 2 and LA s 79)

### **Justice and Community Safety Legislation Amendment Act 2005 A2005-5 pt 6**

notified LR 23 February 2005  
s 1, s 2 commenced 23 February 2005 (LA s 75 (1))  
pt 6 commenced 6 March 2005 (s 2 (1) and see Criminal Code  
(Serious Drug Offences) Amendment Act 2004 A2004-56 s 2 and  
LA s 79)

### **Health Legislation Amendment Act 2005 A2005-28 amdt 1.61**

notified LR 6 July 2005  
s 1, s 2 commenced 6 July 2005 (LA s 75 (1))  
amdt 1.61 commenced 9 January 2007 (LA s 79A and A2004-39)

*Note* This Act only amends the Health Professionals Legislation  
Amendment Act A2004-39.

### **Sentencing Legislation Amendment Act 2006 A2006-23 sch 1 pt 1.15**

notified LR 18 May 2006  
s 1, s 2 commenced 18 May 2006 (LA s 75 (1))  
sch 1 pt 1.15 commenced 2 June 2006 (s 2 (1) and see Crimes  
(Sentence Administration) Act 2005 A2005-59 s 2, Crimes  
(Sentencing) Act 2005 A2005-58, s 2 and LA s 79)

### **Health Legislation Amendment Act 2006 (No 2) A2006-46 sch 2 pt 2.4**

notified LR 17 November 2006  
s 1, s 2 commenced 17 November 2006 (LA s 75 (1))  
sch 2 pt 2.4 commenced 18 November 2006 (s 2 (1))

### **Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 4 pt 4.13**

notified LR 17 July 2008  
s 1, s 2 commenced 17 July 2008 (LA s 75 (1))  
sch 4 pt 4.13 commences 27 February 2009 (s 2 (5) and see Children  
and Young People Act 2008 A2008-19, s 2 and CN2008-13)

**Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26 sch 2 pt 2.9**

notified LR 14 August 2008  
 s 1, s 2 commenced 14 August 2008 (LA s 75 (1))  
 sch 2 pt 2.9 commenced 14 February 2009 (s 2 and LA s 79)

**ACT Civil and Administrative Tribunal Legislation Amendment Act 2008 A2008-36 sch 1 pt 1.21**

notified LR 4 September 2008  
 s 1, s 2 commenced 4 September 2008 (LA s 75 (1))  
 sch 1 pt 1.21 commenced 14 February 2009 (s 2 (5) and see Medicines, Poisons and Therapeutic Goods Act 2008 A2008-26, s 2 and LA s 79)

**4 Amendment history****Long title**

long title sub A2008-26 amdt 2.20

**Dictionary**

s 2 om 2001 No 44 amdt 1.1187  
 ins A2008-26 amdt 2.21

**Notes**

s 3 am 1993 No 1 sch 1; 1993 No 10 s 4; 2001 No 44 amdt 1.1190; 2001 No 48 amdt 1.3; A2006-46 amdt 2.6  
 sub A2008-26 amdt 2.21  
 def **analyst** om A2008-26 amdt 2.21  
 def **board** ins 1990 No 63 sch 1  
 om 1993 No 14 sch 1  
 def **cannabis** om A2008-26 amdt 2.21  
 def **cannabis fibre** om A2008-26 amdt 2.21  
 def **cannabis oil** om A2008-26 amdt 2.21  
 def **cannabis plant** om A2008-26 amdt 2.21  
 def **cannabis resin** om A2008-26 amdt 2.21  
 def **central store** om A2008-26 amdt 2.21  
 def **chief executive** ins 1993 No 63 sch 1  
 om 1993 No 14 sch 1  
 def **chief health officer** ins 1997 No 70 sch 1  
 om R6 LA  
 def **chief pharmacist** om A2008-26 amdt 2.21  
 def **class 1 institution** om A2008-26 amdt 2.21  
 def **class 2 institution** om A2008-26 amdt 2.21  
 def **community pharmacy** om A2008-26 amdt 2.21  
 def **dentist** om A2004-39 amdt 4.2

## Endnotes

4 Amendment history

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- def **determined fee** om 2001 No 44 amdt 1.1188
- def **director** ins 1994 No 74 s 4  
am 1996 No 35 sch  
sub 2002 No 47 amdt 1.1  
om A2008-26 amdt 2.21
- def **dispensary** om A2008-26 amdt 2.21
- def **drug dependence** om A2008-26 amdt 2.21
- def **drug-dependent person** om A2008-26 amdt 2.21
- def **drug inspector** om A2008-26 amdt 2.21
- def **drug of dependence** sub 1993 No 10 s 4; A2005-5 s 21  
om A2008-26 amdt 2.21
- def **enrolled nurse** sub A2004-39 amdt 6.4  
om A2006-46 amdt 2.7
- def **general manager** om 1993 No 63 sch 1
- def **government analyst** ins 1993 No 7 s 4  
sub 1994 No 97 sch  
om A2008-26 amdt 2.21
- def **hospital** om A2008-26 amdt 2.21
- def **institution** om A2008-26 amdt 2.21
- def **intern** sub 2001 No 11 amdt 1.1  
am A2004-42 amdt 3.44  
sub A2004-39 amdt 5.10  
om A2008-26 amdt 2.21
- def **manufacture** om A2008-26 amdt 2.21
- def **manufacturer's licence** om A2008-26 amdt 2.21
- def **medical officer of health** om 1997 No 70 sch 1
- def **medical practitioner** om A2004-39 amdt 5.11
- def **mental condition** om A2008-26 amdt 2.21
- def **methadone program treatment centre** am 1990  
No 63 sch 1  
sub 1992 No 61 s 3  
am 1993 No 14 sch 1  
sub 1993 No 45 s 4  
om 2001 No 48 amdt 1.1
- def **nurse** sub A2004-39 amdt 6.5  
om A2006-46 amdt 2.7
- def **opioid dependency treatment centre** ins 2001 No 48 s 4  
om A2008-26 amdt 2.21
- def **pharmacist** om A2004-39 amdt 8.1
- def **physical condition** om A2008-26 amdt 2.21
- def **prescription** sub 1993 No 10 s 4; A2005-5 s 22  
om A2008-26 amdt 2.21
- def **prohibited substance** om A2008-26 amdt 2.21
- def **reconciliation amount** ins 2001 No 44 amdt 1.1189  
om 1989 No 11 s 209  
ins 2001 No 48 s 4  
om A2008-26 amdt 2.21



def **register** om A2008-26 amdt 2.21  
 def **requisition** om A2008-26 amdt 2.21  
 def **sell** om A2008-26 amdt 2.21  
 def **sell by wholesale** om A2008-26 amdt 2.21  
 def **service** om 1993 No 63 sch 1  
 def **supply** om A2008-26 amdt 2.21  
 def **syringe** om A2008-26 amdt 2.21  
 def **treatment** ins 1995 No 31 s 5  
     am 2001 No 48 s 5  
     om A2008-26 amdt 2.21  
 def **treatment centre** ins 1992 No 62 s 3  
     am 1993 No 14 sch 1; 1996 No 35 sch; 2002 No 47  
     amdt 1.2; A2004-42 amdt 3.44  
     om A2008-26 amdt 2.21  
 def **treatment centre inspector** om A2008-26 amdt 2.21  
 def **tribunal** am 1989 No 38 sch 1  
     om 1994 No 60 sch 1  
 def **veterinary surgeon** om A2004-39 amdt 11A.2 (as am by  
     A2005-28 amdt 1.61)  
 def **ward** am 2001 No 48 amdt 1.2  
     om A2008-26 amdt 2.21  
 def **wholesaler's licence** om A2008-26 amdt 2.21

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

s 3AA                      ins A2004-56 amdt 1.9  
                               om A2008-26 amdt 2.21

**Director**

s 3A                        reloc and renum as s 121A

**Manufacture**

pt 2 hdg                   om A2008-26 amdt 2.24

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

s 4                         om A2008-26 amdt 2.24  
                               ins A2008-26 amdt 2.23  
                               def **drug of dependence** sub 1993 No 10 s 5; A2005-5 s 23  
                                   om A2008-26 amdt 2.24  
                               def **licensed premises** om A2008-26 amdt 2.24  
                               def **licensee** om A2008-26 amdt 2.24

**References to buprenorphine, cannabis or methadone**

s 5                         am 1990 No 63 sch 1; 1993 No 14 sch 1; 2001 No 44  
                                   amdt 1.1191  
                               om A2008-26 amdt 2.24  
                               ins A2008-26 amdt 2.23

**Manufacturer's licence—grant**

s 6                         am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.31  
                               om A2008-26 amdt 2.24

## Endnotes

### 4 Amendment history

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#### **Manufacturer's licence—conditions**

s 7 om A2008-26 amdt 2.24

#### **Manufacturer's licence—variation of conditions**

s 8 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1;  
2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Manufacturer's licence—amendment**

s 9 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1;  
2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Manufacturer's licence—surrender**

s 10 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Manufacturer's licence—cancellation**

s 11 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.32  
om A2008-26 amdt 2.24

#### **Reports of dealings—manufacturers**

s 12 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Manufacturer's licence—duration**

s 13 om A2008-26 amdt 2.24

#### **Manufacturer's licence—renewal**

s 14 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2001 No 44  
amdt 1.1192  
om A2008-26 amdt 2.24

#### **Offences—manufacturers**

s 15 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Disposal of by-products**

s 16 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Return of licence to chief health officer**

s 17 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Wholesale**

pt 3 hdg om A2008-26 amdt 2.24

#### **Definitions for pt 3**

s 18 om A2008-26 amdt 2.24  
def **licensed premises** om A2008-26 amdt 2.24  
def **licensee** om A2008-26 amdt 2.24

**Wholesaler's licence—application**

s 19 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2001 No 44  
amdt 1.1193  
om A2008-26 amdt 2.24

**Wholesaler's licence—grant**

s 20 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.33  
om A2008-26 amdt 2.24

**Wholesaler's licence—conditions**

s 21 om A2008-26 amdt 2.24

**Wholesaler's licence—variation of conditions**

s 22 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1;  
2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Wholesaler's licence—change of address**

s 23 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Wholesaler's licence—surrender**

s 24 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

**Wholesaler's licence—cancellation**

s 25 am 1990 No 63 sch 1; 1993 No 1 sch 1; 1993 No 14 sch 1;  
A2004-42 amdt 3.34  
om A2008-26 amdt 2.24

**Reports of dealings—wholesalers**

s 26 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Wholesaler's licence—duration**

s 27 om A2008-26 amdt 2.24

**Wholesaler's licence—renewal**

s 28 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2001 No 44  
amdt 1.1194  
om A2008-26 amdt 2.24

**Offences—wholesalers**

s 29 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Return of licence to chief health officer**

s 30 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Research, education and first aid**

pt 4 hdg om A2008-26 amdt 2.24

## Endnotes

### 4 Amendment history

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#### **Authorisation for research or education**

div 4.1 hdg (prev pt 4 div 1 hdg) renum R6 LA  
om A2008-26 amdt 2.24

#### **Definitions for div 4.1**

s 31 am 1990 No 63 sch 1; 1993 No 14 sch 1  
om A2008-26 amdt 2.24  
def **authorisation** om A2008-26 amdt 2.24  
def **authorised person** om A2008-26 amdt 2.24  
def **clinical trial protocol** om A2008-26 amdt 2.24  
def **institution** om A2008-26 amdt 2.24  
def **program** om A2008-26 amdt 2.24  
def **recognised educational institution** om A2008-26  
amdt 2.24  
def **recognised research institution** om A2008-26 amdt 2.24  
def **use** om A2008-26 amdt 2.24

#### **Authorisation (research or education)—application**

s 32 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2001 No 44  
amds 1.1195-1.1197  
om A2008-26 amdt 2.24

#### **Authorisation (research or education)—grant**

s 33 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Authorisation (research or education)—conditions**

s 34 om A2008-26 amdt 2.24

#### **Authorisation (research or education)—variation of conditions**

s 35 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1;  
2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Authorisation (research or education)—surrender**

s 36 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Authorisation (research or education)—cancellation**

s 37 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Authorisation (research or education)—duration**

s 38 om A2008-26 amdt 2.24

#### **Authorisation (research or education)—renewal**

s 39 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2001 No 44  
amdt 1.1198  
om A2008-26 amdt 2.24

**Return of authorisation to chief health officer**

s 40 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**First-aid kits**

div 4.2 hdg (prev pt 4 div 2 hdg) renum R6 LA  
om A2008-26 amdt 2.24

**Definitions for div 4.2**

s 41 om A2008-26 amdt 2.24  
def **authorisation** om A2008-26 amdt 2.24  
def **authorised person** om A2008-26 amdt 2.24

**Authorisation (first-aid)—application**

s 42 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2001 No 44  
amds 1.1199-1.1201  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—grant**

s 43 am 1990 No 63 sch 1; 1997 No 70 sch 1; A2006-46 amdt 2.8  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—conditions**

s 44 om A2008-26 amdt 2.24

**Authorisation (first-aid)—variation of conditions**

s 45 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—change of address**

s 46 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—surrender**

s 47 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—cancellation**

s 48 am 1990 No 63 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.24

**Authorisation (first-aid)—duration**

s 49 om A2008-26 amdt 2.24

**Authorisation (first-aid)—renewal**

s 50 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2001 No 44  
amds 1.1202-1.1204  
om A2008-26 amdt 2.24

**Return of authorisation to chief health officer**

s 51 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

## Endnotes

### 4 Amendment history

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#### **Orders and delivery**

pt 5 hdg om A2008-26 amdt 2.24

#### **Application of pt 5**

s 52 hdg sub A2004-42 amdt 3.35

s 52 om A2008-26 amdt 2.24

#### **Written orders**

s 53 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Delivery**

s 54 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Notification of drug inspector**

s 55 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Supply and administration**

pt 6 hdg om A2008-26 amdt 2.24

#### **Interpretation for part 6**

div 6.1 hdg (prev pt 6 div 1 hdg) renum R6 LA  
om A2008-26 amdt 2.24

#### **Definitions for pt 6**

s 56 hdg sub A2004-42 amdt 3.36

s 56 om A2008-26 amdt 2.24

def **amphetamine** om A2008-26 amdt 2.24

def **doctor** am A2004-42 amdt 3.44

om A2008-26 amdt 2.24

#### **Prescriptions**

div 6.2 hdg (prev pt 6 div 2 hdg) renum R6 LA  
om A2008-26 amdt 2.24

#### **Issue of prescriptions**

s 57 am 1993 No 1 sch 1; 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

#### **Prescribing drugs of dependence**

s 58 am 1997 No 70 sch 1; 1999 No 23 s 4; 2001 No 48 amdt 1.4;  
2001 No 98 s 4, s 5; R7 LA (see 2001 No 98 s 16)  
sub 2002 No 12 s 4  
om A2008-26 amdt 2.24

#### **Methadone or buprenorphine**

s 59 hdg sub 2001 No 48 amdt 1.5

s 59 am 1997 No 70 sch 1; 2001 No 48 amdts 1.6-1.8; 2001 No 98  
s 6; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Morphine**

s 59A ins 1999 No 23 s 5  
am A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Written prescriptions**

s 60 am 1997 No 70 sch 1; 2001 No 98 s 7; R7 LA (see 2001  
No 98 s 16); 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Prescriptions issued orally**

s 61 am 2002 No 12 sch 1; A2004-42 amdt 3.44; A2006-46  
amdt 2.9, amdt 2.10  
om A2008-26 amdt 2.24

**Requisitions**

div 6.3 hdg (prev pt 6 div 3 hdg) renum R6 LA  
om A2008-26 amdt 2.24

**Requisitions generally**

s 62 am 1997 No 75 s 4; 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Written requisitions**

s 63 am 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Requisitions issued orally**

s 64 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1;  
A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Approval of prescriptions**

div 6.4 hdg (prev pt 6 div 4 hdg) renum R6 LA  
om A2008-26 amdt 2.24

**Definitions for div 6.4**

s 65 om A2008-26 amdt 2.24  
def **chairperson** om A2008-26 amdt 2.24  
def **committee** om A2008-26 amdt 2.24  
def **doctor** am A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Drugs advisory committee—establishment**

s 66 am A2004-42 amdt 3.37, amdt 3.44  
om A2008-26 amdt 2.24

**Termination of appointment**

s 67 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

## Endnotes

### 4 Amendment history

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#### **Application for approval**

s 68 am 1997 No 70 sch 1; 2001 No 98 ss 8-12, 2002 No 12 s 5  
om A2008-26 amdt 2.24

#### **Powers of chief health officer**

s 69 am 1997 No 70 sch 1; 2001 No 98 s 13; 2002 No 12 s 6  
om A2008-26 amdt 2.24

#### **Powers of committee**

s 70 am 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Variation and revocation of approvals**

s 71 am 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Review of decisions of chief health officer**

s 72 am 1997 No 70 sch 1  
om A2008-26 amdt 2.24

#### **Form of approvals**

s 73 am 1997 No 70 sch 1; 2001 No 98 s 14  
om A2008-26 amdt 2.24

#### **Date of effect of approvals**

s 74 am 1997 No 70 sch 1; 2001 No 98 s 15  
om A2008-26 amdt 2.24

#### **Transitional**

s 75 am 1997 No 70 sch 1  
om A2004-42 amdt 3.38

#### **Validation of chief health officer's approvals**

s 75A ins 2002 No 12 s 7  
exp 24 May 2002 (s 75A (2))

#### **Supply**

div 6.5 hdg (prev pt 6 div 5 hdg) renum R6 LA  
om A2008-26 amdt 2.24

#### **Definitions for div 6.5**

s 76 om A2008-26 amdt 2.24  
def **licensee** om A2008-26 amdt 2.24  
def **order** om A2008-26 amdt 2.24

#### **Method of supply**

s 77 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

#### **Supply on order**

s 78 am 2001 No 48 amdt 1.9; 2002 No 12 sch 1; A2004-42  
amdt 1.1, amdt 3.44



om A2008-26 amdt 2.24

**Supply on requisition**

s 79 am 1997 No 75 s 5; 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.24

**Supply on prescription**

s 80 am 1993 No 45 s 5; 1996 No 35 sch; 2001 No 48 amdt 1.10;  
2002 No 12 sch 1; 2002 No 47 amdt 1.4; A2004-42  
amdt 3.44  
om A2008-26 amdt 2.24

**Restrictions on supply**

s 81 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Forged prescriptions, requisitions and orders**

s 82 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Supplying dextromoramide and hydromorphone**

s 83 am 2002 No 12 sch 1  
om A2008-26 amdt 2.24

**Administration**

div 6.6 hdg (prev pt 6 div 6 hdg) renum R6 LA  
om A2008-26 amdt 2.24

**Administration—witnesses**

s 84 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1993 No 45 s 6;  
1996 No 35 sch; 2001 No 48 amdt 1.11; 2002 No 12 sch 1;  
2002 No 47 amdt 1.5; A2004-42 amdt 3.44; A2006-46  
amdt 2.10  
om A2008-26 amdt 2.24

**Supply of syringes**

pt 7 hdg om A2008-26 amdt 2.38

**Supply of syringes by approved people**

div 7.1 hdg ins A2004-55 s 4  
om A2008-26 amdt 2.38

**Definitions for div 7.1**

s 85 hdg sub A2004-55 s 5  
s 85 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-55 s 5  
om A2008-26 amdt 2.38  
def **approval** om A2008-26 amdt 2.38  
def **approved person** om A2008-26 amdt 2.38  
def **health worker** om A2008-26 amdt 2.38  
def **course of instruction** om A2008-26 amdt 2.38

## Endnotes

4 Amendment history

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### **Distribution of syringes—approval**

s 86 am 1990 No 63 sch 1; 1997 No 70 sch 1; A2004-42 amdt 3.44;  
A2006-46 amdt 2.11  
reloc to Public Health Act 1997 s 66C by A2008-26 amdt 2.25

### **Approval—surrender**

s 87 am 1990 No 63 sch 1; 1997 No 70 sch 1  
reloc to Public Health Act 1997 s 66D by A2008-26 amdt 2.25

### **Approval—cancellation**

s 88 am 1990 No 63 sch 1; 1997 No 70 sch 1; A2008-26 amdt 2.26,  
amdt 2.27  
reloc to Public Health Act 1997 s 66E by A2008-26 amdt 2.29

### **Approval—duration**

s 89 am A2008-26 amdt 2.28  
reloc to Public Health Act 1997 s 66F by A2008-26 amdt 2.29

### **Approval—renewal**

s 90 am 1990 No 63 sch 1; 1997 No 70 sch 1  
reloc to Public Health Act 1997 s 66G by A2008-26 amdt 2.30

### **Approval—production to police**

s 91 am 2002 No 12 sch 1  
reloc to Public Health Act 1997 s 66H by A2008-26 amdt 2.30

### **Approval—lending to another person**

s 92 am 2002 No 12 sch 1  
reloc to Public Health Act 1997 s 66I by A2008-26 amdt 2.30

### **Approval—no liability for ancillary offences**

s 93 hdg sub A2004-55 s 6  
s 93 am 1993 No 1 sch 1; A2004-55 s 7; A2008-26 amdt 2.31  
reloc to Public Health Act 1997 s 66J by A2008-26 amdt 2.32

### **Return of approval to chief health officer**

s 94 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
reloc to Public Health Act 1997 s 66K by A2008-26 amdt 2.33

### **Supply of syringes by vending machine**

div 7.2 hdg ins A2004-55 s 8  
om A2008-26 amdt 2.38

### **Definitions for div 7.2**

s 94A ins A2004-55 s 8  
om A2008-26 amdt 2.38  
def **approved person** ins A2004-55 s 8  
om A2008-26 amdt 2.38  
def **vending machine** ins A2004-55 s 8  
om A2008-26 amdt 2.38

def **vending machine approval** ins A2004-55 s 8  
om A2008-26 amdt 2.38

**Application for vending machine approval**

s 94B ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66M by A2008-26 amdt 2.34

**Further information for vending machine approval application**

s 94C ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66N by A2008-26 amdt 2.34

**Decision about vending machine approval application**

s 94D ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66O by A2008-26 amdt 2.34

**Vending machine approval—conditions**

s 94E ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66P by A2008-26 amdt 2.34

**Vending machine approval—surrender**

s 94F ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66Q by A2008-26 amdt 2.34

**Vending machine approval—cancellation**

s 94G ins A2004-55 s 8  
am A2008-26 amdt 2.35  
reloc to Public Health Act 1997 s 66R by A2008-26 amdt 2.36

**Vending machine approval—return on surrender or cancellation**

s 94H ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66S by A2008-26 amdt 2.37

**Vending machine approval—no liability for ancillary offences**

s 94I ins A2004-55 s 8  
reloc to Public Health Act 1997 s 66T by A2008-26 amdt 2.37

**Records, safekeeping and disposal**

pt 8 hdg om A2008-26 amdt 2.39

**Records of drugs of dependence**

div 8.1 hdg (prev pt 8 div 1 hdg) renum R6 LA  
om A2008-26 amdt 2.39

**Definitions for div 8.1**

s 95 om A2008-26 amdt 2.39  
def **drug register** om A2008-26 amdt 2.39  
def **first-aid register** om A2008-26 amdt 2.39  
def **licensee** om A2008-26 amdt 2.39  
def **order** om A2008-26 amdt 2.39  
def **prescribed person** sub 1992 No 61 s 4  
am 2001 No 48 amdt 1.12; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

## Endnotes

### 4 Amendment history

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def **ward** sub 1992 No 61 s 4  
am 2001 No 48 amdt 1.12  
om A2008-26 amdt 2.39  
def **ward register** om A2008-26 amdt 2.39

#### **Orders**

s 96 am 2002 No 12 sch 1; A2004-42 amdt 3.39  
om A2008-26 amdt 2.39

#### **Prescriptions and requisitions**

s 97 am 2002 No 12 sch 1; A2004-42 amdt 3.39  
om A2008-26 amdt 2.39

#### **Supply of information to chief health officer**

s 98 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Drug registers**

s 99 am 2001 No 44 amdt 1.1205; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Entries in drug registers**

s 100 am 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Ward registers**

s 101 sub 1993 No 45 s 7; 2001 No 44 amdt 1.1206, amdt 1.1207;  
2001 No 48 amdt 1.13, amdt 1.14; 2001 No 48 s 6; R6 LA  
(see 2001 No 48 s 7); 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Entries in ward drugs of dependence registers**

s 102 am 1993 No 45 s 8; 1997 No 75 s 6; R7 LA (see 2001 No 98  
s 16); 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Entries in ward methadone registers**

s 102A ins 1993 No 45 s 9; 2001 No 44 amdt 1.1208  
am A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Entries in ward buprenorphine registers**

s 102B ins 2001 No 48 s 8  
am A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **First-aid registers**

s 103 am 1993 No 1 sch 1; 2001 No 44 amdt 1.1209; 2002 No 12  
sch 1  
om A2008-26 amdt 2.39

**Entries in first-aid registers**

s 104 am 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Record of disposal**

s 105 am 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Registers—general provisions**

s 106 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1;  
1997 No 75 s 7; 2001 No 44 amdt 1.1210; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**False entries in registers**

s 107 am 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Patients records**

s 108 am 1992 No 61 s 5; 2001 No 48 amdt 1.15; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Transfer of control of pharmacies**

s 109 am 2001 No 44 amdt 1.1211; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Safekeeping of drugs of dependence**

div 8.2 hdg (prev pt 8 div 2 hdg) renum R6 LA  
om A2008-26 amdt 2.39

**Definitions for div 8.2**

s 110 om A2008-26 amdt 2.39  
def **drug cabinet** om A2008-26 amdt 2.39  
def **key safe** om A2008-26 amdt 2.39  
def **licensee** om A2008-26 amdt 2.39  
def **safe** om A2008-26 amdt 2.39  
def **strong room** om A2008-26 amdt 2.39  
def **vault** om A2008-26 amdt 2.39

**Safekeeping by manufacturers and wholesalers**

s 111 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Safekeeping by chief pharmacists**

s 112 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

**Safekeeping by doctors, dentists and veterinary surgeons**

s 113 am 1993 No 1 sch 1; 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

## Endnotes

### 4 Amendment history

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#### **Safekeeping by other persons**

s 114 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2001 No 48  
amdt 1.16; 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Safekeeping at institutions**

s 115 am 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Loss or theft of a drug of dependence**

s 116 am 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Access to combinations and keys of drug receptacles**

s 117 am 1997 No 75 s 8; 2001 No 48 amdt 1.17; 2002 No 12 sch 1;  
A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Safekeeping—general**

s 118 am 1997 No 75 s 9; 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.39

#### **Inspection—class 1 institutions**

div 8.3 hdg (prev pt 8 div 3 hdg) renum R6 LA  
om A2008-26 amdt 2.39

#### **Inspection of records and storage facilities**

s 119 am 2002 No 12 sch 1  
om A2008-26 amdt 2.39

#### **Disposal of drugs of dependence**

div 8.4 hdg (prev pt 8 div 4 hdg) renum R6 LA  
om A2008-26 amdt 2.39

#### **Procedure for disposal**

s 120 am 1990 No 63 sch 1; 1993 No 1 sch 1; 1993 No 14 sch 1;  
1997 No 70 sch 1; 1997 No 75 s 10; R7 LA (see 2001 No 98  
s 16); 2002 No 12 sch 1; A2004-42 amdt 3.40, amdt 3.44;  
A2006-46 amdt 2.12  
om A2008-26 amdt 2.39

#### **Preliminary**

div 9.1 hdg (prev pt 9 div 1 hdg) renum R6 LA

#### **Definitions for pt 9**

s 121 def **approved treatment centre** am A1990-63 sch 1;  
A1993-14 sch 1; A1996-35 sch; A2002-47 amdt 1.6  
def **director** ins A2008-26 amdt 2.40  
def **proper office** am A1991-44 sch 1

def **responsible officer** am A1994-97 sch 1; A1999-64 sch 2  
 sub A2006-23 amdt 1.176  
 am A2008-20 amdt 4.36  
 def **treatment** om A1995-31 s 6  
 def **treatment centre** am A1990-63 sch 1  
 om A1992-62 s 4

**Director**

s 121A (prev s 3A) ins 1994 No 74 s 5  
 am 1996 No 35 sch  
 sub 2002 No 47 amdt 1.3  
 reloc and renum as s 121A A2008-26 amdt 2.22

**Assessment orders and treatment orders**

div 9.2 hdg (prev pt 9 div 2 hdg) renum R6 LA

**Assessment orders**

s 122 am 1990 No 63 sch 1; 1994 No 74 s 6; 2001 No 44  
 amdt 1.1212

**Treatment orders**

s 123 am 1990 No 63 sch 1; 1993 No 1 sch 1; 1993 No 14 sch 1;  
 1994 No 74 s 9; 2001 No 44 amdt 1.1213; A2004-42  
 amdt 3.41; A2006-23 amdt 1.177; ss renum R21 LA (see  
 A2006-23 amdt 1.178)

**Offences—treatment orders**

s 124 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9;  
 A2006-23 amdt 1.179

**Further offences**

s 125 am A2006-23 amdt 1.180

**Power of court if offender about to leave ACT**

s 127 am A2004-42 amdt 3.42

**Power of court if offender apprehended under div 9.2**

s 128 om A2006-23 amdt 1.181

**Revocation and variation of periods of orders**

s 129 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9

**Treatment assessment panels**

div 9.3 hdg (prev pt 9 div 3 hdg) renum R6 LA

**Establishment**

s 130 am 1990 No 63 sch 1; 1993 No 1 sch 1; 1993 No 14 sch 1;  
 1995 No 46 sch; 1997 No 96 sch 1

**Appointment of members**

s 131 am 1990 No 63 sch 1; 1993 No 14 sch 1

## Endnotes

### 4 Amendment history

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#### **Presiding member**

s 133 am 1990 No 63 sch 1; 1993 No 14 sch 1

#### **Acting appointments**

s 134 am 1990 No 63 sch 1; 1993 No 14 sch 1

#### **Remuneration and allowances**

s 135 om 1997 No 41 sch 1

#### **Resignation**

s 136 am 1990 No 63 sch 1; 1993 No 14 sch 1

#### **Suspension**

s 137 am 1990 No 63 sch 1; 1993 No 14 sch 1

#### **Termination of appointment**

s 138 am 1990 No 63 sch 1; 1993 No 14 sch 1

#### **Referral for initial assessment**

s 141 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9;  
2001 No 44 amdt 1.1214, amdt 1.1215

#### **Referral for variation of treatment**

s 142 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9

#### **Referral for periodic review of treatment**

s 143 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9

#### **Referral for other purposes**

s 144 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9

#### **Assessment by treatment centres**

s 145 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 9;  
2001 No 44 amdt 1.1216

#### **Attendance for assessment before panels and at treatment centres**

s 146 am 1994 No 74 s 9

#### **Treatment centre reports**

s 147 am 1993 No 1 sch 1

#### **Approval of treatment centre**

div 9.4 hdg (prev pt 9 div 4 hdg) renum R6 LA

#### **Approval—application**

s 149 am 1990 No 63 sch 1; 1992 No 62 s 5; 1993 No 14 sch 1;  
1995 No 31 s 7; 2001 No 44 amdt 1.1217-1.1219; 2001  
No 48 amdt 1.18

#### **Approval—grant**

s 150 am 1990 No 63 sch 1; 1992 No 61 s 6; 1993 No 14 sch 1;  
1995 No 31 s 8; 1996 No 35 sch; 2002 No 47 amdt 1.7,  
amdt 1.8



**Approval—conditions**

s 151 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1995 No 31 s 9;  
2001 No 48 amdt 1.19

**Approval—variation and revocation of conditions**

s 152 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.43

**Approval—surrender**

s 153 am 1990 No 63 sch 1; 1993 No 14 sch 1

**Approval—cancellation**

s 154 am 1990 No 63 sch 1; 1993 No 14 sch 1

**Approval—emergency cancellation**

s 155 am 1990 No 63 sch 1; 1993 No 14 sch 1

**Alternative arrangements on cancellation**

s 156 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1994 No 74 s 7

**Approval—renewal**

s 158 am 1990 No 63 sch 1; 1993 No 14 sch 1

**Return of approval to Minister**

s 159 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2002 No 12 sch 1

**Interpretation for pt 10**

s 160 am R7 LA (see 2001 No 98 s 16)  
om A2008-26 amdt 2.41  
def **commercial quantity** sub 1993 No 10 s 6  
om A2004-56 amdt 1.10  
def **exempt person** am 1990 No 63 sch 1; 1993 No 1 sch 1;  
1993 No 14 sch 1; A2004-42 amdt 1.2, amdt 3.44; A2006-46  
amdt 2.13  
om A2008-26 amdt 2.41  
def **manufacturer's licence** om A2008-26 amdt 2.41  
def **premises** om A2008-26 amdt 2.41  
def **student midwife** ins A2006-46 amdt 2.14  
om A2008-26 amdt 2.41  
def **student nurse** ins A2006-46 amdt 2.14  
om A2008-26 amdt 2.41  
def **trafficable quantity** sub 1993 No 10 s 6  
om A2004-56 amdt 1.10

**Manufacture**

s 161 am 2002 No 12 sch 1; A2004-56 amdt 1.11, amdt 1.12  
om A2008-26 amdt 2.41

**Cultivation of 1 or 2 cannabis plants**

s 162 am 2002 No 12 sch 1; A2004-48 s 63  
sub A2004-56 amdt 1.13

## Endnotes

### 4 Amendment history

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#### **Wholesale**

s 163 am 2002 No 12 sch 1  
om A2004-56 amdt 1.14

#### **Sale or supply**

s 164 am 1995 No 31 s 10; 1996 No 35 sch; 2001 No 48 s 9; 2001  
No 48 amdt 1.20; R6 LA (see 2001 No 48 s 10, amdt 1.21);  
2002 No 12 sch 1; 2002 No 47 amdt 1.9; A2004-42 amdt 1.3,  
amdt 3.44; A2004-56 amdt 1.15, amdt 1.16; A2008-26  
amdt 2.42

#### **Sale or supply—cannabis**

s 165 am 2002 No 12 sch 1; A2004-48 s 64; ss renum R17 LA (see  
A2004-48 s 65)  
om A2004-56 amdt 1.17

#### **Advertising drugs or prohibited substances**

s 166 am 2002 No 12 sch 1; A2004-42 amdt 3.44  
om A2008-26 amdt 2.43

#### **False representation to obtain prescription**

s 167 hdg sub A2004-56 amdt 1.18  
s 167 am 2002 No 12 sch 1; A2004-42 amdt 3.44; am A2004-56  
amdt 1.19; ss renum R18 LA (see A2004-56 amdt 1.20)  
om A2008-26 amdt 2.43

#### **False representation as to drug or substance**

s 168 am 2002 No 12 sch 1  
om A2008-26 amdt 2.43

#### **Possessing drugs of dependence**

s 169 hdg sub A2008-26 amdt 2.44  
s 169 am 2002 No 12 sch 1; A2004-42 amdt 3.44; A2008-26  
amdt 2.45

#### **Possession and administration of drugs—exemptions**

s 170 am 1993 No 45 s 10; 1997 No 75 s 11; 2001 No 48 amdt 1.22;  
R7 LA (see 2001 No 98 s 16); A2004-42 amdt 1.4,  
amdt 3.44; A2006-46 amdt 2.15, amdt 2.16  
om A2008-26 amdt 2.46

#### **Possessing prohibited substances**

s 171 hdg sub A2008-26 amdt 2.47  
s 171 am 1997 No 75 s 12; R7 LA (see 2001 No 98 s 16); 2002  
No 12 sch 1; A2004-42 amdt 3.44; A2004-48 s 66; pars  
renum R17 LA (see A2004-48 s 67); A2006-46 amdt 2.17;  
A2008-26 amdt 2.48

**Offence notices**

s 171A ins 1992 No 52 s 3  
am 1994 No 90 s 4; 2001 No 48 s 11; A2004-56 amdt 1.21;  
A2008-26 amdt 2.49

**Cannabis offences—notification of right to apply for preservation order**

s 171B ins 2001 No 48 s 12  
am A2004-56 amdts 1.22-1.25

**Liability of corporations**

s 172 am 2001 No 44 amdt 1.1220; 2001 No 56 amdt 3.251  
om A2004-15 amdt 1.11

**Surrender and revocation of exemptions**

s 173 am 1990 No 63 sch 1; 1993 No 14 sch 1; A2004-42 amdt 3.44;  
A2006-46 amdt 2.18  
om A2008-26 amdt 2.50

**Evidentiary certificate**

s 173A ins 1993 No 10 s 7  
om A2008-26 amdt 2.50

**Preliminary**

div 11.1 hdg (prev pt 11 div 1 hdg) renum R6 LA

**Interpretation for pt 11**

s 174 am 2001 No 44 amdt 1.1221; A2004-56 amdt 1.26

**Inspection**

div 11.2 hdg (prev pt 11 div 2 hdg) renum R6 LA

**Drug inspectors—appointment**

s 175 am 1990 No 63 sch 1; 1997 No 70 sch 1; 2002 No 12 sch 1  
om A2008-26 amdt 2.51

**Treatment centre inspectors—appointment**

s 176 am 1990 No 63 sch 1; 1993 No 14 sch 1; 2002 No 12 sch 1

**Inspection—manufacturers and wholesalers**

s 177 am 2002 No 12 sch 1  
om A2008-26 amdt 2.52

**Inspection—prescribed premises**

s 178 am A2004-42 amdt 3.44  
om A2008-26 amdt 2.52

**Inspection—premises of approved treatment centres**

s 179 am 1995 No 31 s 11

**Production of identity card**

s 180 sub A2008-26 amdt 2.53

## Endnotes

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#### **Failing to comply with requirement of inspector**

s 181 hdg sub A2004-15 amdt 2.60  
s 181 am 2002 No 12 sch 1; A2004-15 amdt 2.61; A2008-26  
amdt 2.54

#### **Search, seizure and analysis**

div 11.3 hdg (prev pt 11 div 3 hdg) renum R6 LA

#### **Definitions for div 11.3**

s 182 def **chapter 6 substance** ins A2004-56 amdt 1.27

#### **Analysts**

s 183 am 1990 No 63 sch 1; 1997 No 70 sch 1; A2004-56 amdt 1.28  
om A2008-26 amdt 2.55

#### **Government analyst**

s 183A ins 1993 No 7 s 5  
sub 1994 No 97 sch  
am 1997 No 127 s 4; R7 LA (see 2001 No 98 s 16)  
om A2008-26 amdt 2.55

#### **Analysts**

s 183B ins 1993 No 7 s 5  
om 1994 No 97 sch

#### **Search and seizure**

s 184 am A2004-56 amdt 1.29

#### **Searches of arrested persons**

s 186 am A2004-56 amdt 1.30

#### **Search warrants**

s 187 am A2004-56 amdts 1.31-1.38

#### **Clothing and body searches**

s 189 am A2003-14 amdt 1.55; ss renum R12 LA (see A2003-14  
amdt 1.56)

#### **Forfeiture of drugs and substances**

s 190 am 1989 No 38 sch 1; 1990 No 63 sch 1; 1997 No 70 sch 1;  
A2004-56 amdt 1.39; A2008-26 amdt 2.56, amdt 2.57

#### **Analysis**

s 191 am 1989 No 38 sch 1

#### **Analysts' certificates**

s 192 am 1997 No 96 sch 1  
om A2008-26 amdt 2.58

#### **Notification by defendants—analyst's evidence**

s 193 am A2008-26 amdt 2.59

**Disposal of seized substances, compensation and recovery**

div 11.4 hdg (prev pt 11 div 4 hdg) ins 1993 No 7 s 6  
renum R6 LA

**Definitions for div 11.4**

s 193A ins 1993 No 7 s 6  
def **chapter 6 substance** ins A2004-56 amdt 1.40  
def **protocol** ins 2001 No 48 s 13  
def **seized cannabis** om 2001 No 48 s 14  
def **seized cannabis plant** ins 2001 No 48 s 13  
def **seized cannabis plants protocol** ins 2001 No 48 s 13  
def **seized cannabis product** ins 2001 No 48 s 13  
def **seized cannabis product protocol** ins 2001 No 48 s 13  
def **seized substance** sub A2004-56 amdt 1.41  
def **trafficable quantity** om 2001 No 48 s 14

**Protocols for destruction etc of cannabis**

s 193B ins 1993 No 7 s 6  
sub 2001 No 48 s 15

**Destruction of cannabis without court order**

s 193C ins 1993 No 7 s 6  
sub 2001 No 48 s 15

**Order for preservation of cannabis**

s 193D ins 1993 No 7 s 6  
sub 2001 No 48 s 15  
am A2004-56 amdt 1.42

**Amendment and revocation of cannabis preservation**

s 193E ins 1993 No 7 s 6  
sub 2001 No 48 s 15  
am A2004-56 amdt 1.43

**Making of orders about preservation of cannabis**

s 193F ins 2001 No 48 s 15  
am A2004-56 amdt 1.44; A2008-26 amdt 2.60

**Disposal of seized substances other than cannabis on order of magistrate**

s 194 am 1990 No 63 sch 1; 1993 No 7 s 7; 1997 No 96 sch 1; 2001  
No 48 s 16, s 17; R6 LA (see 2001 No 48 s 18); A2004-56  
amdt 1.45

**Applications under s 194**

s 194A hdg sub 2001 No 48 s 19  
s 194A ins 1993 No 7 s 8  
am 2001 No 48 s 20; A2008-26 amdt 2.61

**Final disposal of seized substances**

s 195 am 1990 No 63 sch 1; 1993 No 7 s 9; A2004-56 amdt 1.46;  
A2008-26 amdt 2.62

## Endnotes

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### **Compensation for seizure**

s 196 am 1989 No 38 sch; 1993 No 7 s 10

### **Seized property**

s 197 am 1993 No 7 s 11; A2004-56 amdt 1.47; A2008-26 amdt 2.63

### **Notification and review of decisions**

pt 12 hdg sub A2004-55 s 9; A2008-36 amdt 1.258

### **Meaning of *reviewable decision*—pt 12**

s 198 am 1989 No 38 sch 1; 1990 No 63 sch 1; 1993 No 14 sch 1;  
1994 No 60 sch 1; R7 LA (see 2001 No 98 s 16)  
sub A2004-55 s 9; A2008-36 amdt 1.258

### **Reviewable decision notices**

s 198A ins A2004-55 s 9  
sub A2008-36 amdt 1.258

### **Applications for review**

s 199 am 1994 No 60 sch 1  
sub A2004-55 s 9; A2008-36 amdt 1.258

### **Possession by officials**

s 200 am 1989 No 38 sch 1; 1990 No 63 sch 1;  
sub 1993 No 14 sch 1  
am 1994 No 38 sch 1 pt 29  
om A2008-26 amdt 2.64

### **Secrecy**

s 201 am 2002 No 12 sch 1; A2008-26 amdt 2.65

### **Annual report**

s 202 am 1989 No 38 sch 1; 1990 No 63 sch 1  
om 1993 No 14 sch 1

### **Delegation of powers**

s 203 am 1990 No 63 sch 1; 1993 No 14 sch 1; 1997 No 70 sch 1  
om A2008-26 amdt 2.66

### **Determination of fees**

s 204 sub 2001 No 44 amdt 1.222

### **Approved forms**

s 205 ins 2001 No 44 amdt 1.1222  
ss (5)-(8) exp 12 September 2002 (s 205 (8))

### **Regulation-making power**

s 206 am 1989 No 38 sch 1  
sub 2001 No 44 amdt 1.1222

### **Transitional provisions**

pt 14 hdg ins 2001 No 48 s 21  
om R16 LA

**Provisions for Drugs of Dependence Amendment Act 2001**

s 207 ins 2001 No 48 s 21  
exp 23 October 2004 (s 207 (4))

**Transitional provisions about approved forms**

s 208 ins 2001 No 48 s 21  
exp 23 October 2001 (s 208 (5))

**Transitional provisions about *reconciliation amount***

s 209 ins 2001 No 48 s 21  
exp 24 October 2001 (s 209 (3))

**Reviewable decisions**

sch 1 am 1991 No 5 s 4  
om 1993 No 10 s 8  
(prev sch 5) renum R14 LA (see A2004-55 s 11)  
om A2004-56 amdt 1.48  
ins A2008-36 amdt 1.259

**Reviewable decisions**

sch 2 am 1991 No 5 s 5  
om 1993 No 10 s 8  
(prev sch 6) ins A2004-55 s 10  
renum R14 LA (see A2004-55 s 11)  
am A2008-26 amdt 2.67  
om A2008-36 amdt 1.259

**Drugs of dependence—manufacturing**

sch 3 om 1993 No 10 s 8

**Forms**

sch 4 am 1990 No 63 sch 1; 1993 No 1 sch 1; 1993 No 14 sch 1;  
1993 No 45 s 11; 1994 No 74 s 8; 1997 No 70 sch 1; 1997  
No 75 s 13  
om 2001 No 44 amdt 1.1223

**Prohibited plants**

sch 5 renum as sch 1

**Reviewable decisions**

sch 6 renum as sch 2

**Dictionary**

dict ins A2008-26 amdt 2.68  
am A2008-36 amdt 1.260  
def **analyst** ins A2008-26 amdt 2.68  
def **analyst's certificate** ins A2008-26 amdt 2.68  
def **approval** ins A2008-26 amdt 2.68  
def **approval holder** ins A2008-26 amdt 2.68  
def **approved treatment centre** ins A2008-26 amdt 2.68  
def **assessment order** ins A2008-26 amdt 2.68

## Endnotes

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def **cannabis** ins A2008-26 amdt 2.68  
def **cannabis fibre** ins A2008-26 amdt 2.68  
def **cannabis plant** ins A2008-26 amdt 2.68  
def **cannabis resin** ins A2008-26 amdt 2.68  
def **chapter 6 substance** ins A2008-26 amdt 2.68  
def **connected** ins A2008-26 amdt 2.68  
def **director** ins A2008-26 amdt 2.68  
def **drug dependence** ins A2008-26 amdt 2.68  
def **drug-dependent person** ins A2008-26 amdt 2.68  
def **drug of dependence** ins A2008-26 amdt 2.68  
def **government analyst** ins A2008-26 amdt 2.68  
def **hospital** ins A2008-26 amdt 2.68  
def **member** ins A2008-26 amdt 2.68  
def **mental condition** ins A2008-26 amdt 2.68  
def **occupier** ins A2008-26 amdt 2.68  
def **offence** ins A2008-26 amdt 2.68  
def **offender** ins A2008-26 amdt 2.68  
def **opioid dependency treatment centre** ins A2008-26  
amdt 2.68  
def **panel** ins A2008-26 amdt 2.68  
def **physical condition** ins A2008-26 amdt 2.68  
def **place** ins A2008-26 amdt 2.68  
def **prohibited substance** ins A2008-26 amdt 2.68  
def **proper officer** ins A2008-26 amdt 2.68  
def **protocol** ins A2008-26 amdt 2.68  
def **responsible officer** ins A2008-26 amdt 2.68  
def **reviewable decision** ins A2008-36 amdt 1.261  
def **seized cannabis plant** ins A2008-26 amdt 2.68  
def **seized cannabis plants protocol** ins A2008-26 amdt 2.68  
def **seized cannabis product** ins A2008-26 amdt 2.68  
def **seized cannabis product protocol** ins A2008-26  
amdt 2.68  
def **seized substance** ins A2008-26 amdt 2.68  
def **sell** ins A2008-26 amdt 2.68  
def **supply** ins A2008-26 amdt 2.68  
def **treatment** ins A2008-26 amdt 2.68  
def **treatment centre** ins A2008-26 amdt 2.68  
def **treatment centre inspector** ins A2008-26 amdt 2.68  
def **treatment order** ins A2008-26 amdt 2.68



## 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. Electronic and printed versions of an authorised republication are identical.

Republication No	Amendments to	Republication date
1	Act 1993 No 14	31 July 1993
2	Act 1994 No 97	31 January 1995
3	Act 1994 No 97	30 June 1995
4	Act 1996 No 35	30 November 1996
5	Act 1997 No 127	31 January 1999
6	Act 2001 No 56	23 October 2001
7*	Act 2001 No 98	21 December 2001
8	Act 2002 No 12	24 May 2002
9	Act 2002 No 12	25 May 2002
10	Act 2002 No 12	13 September 2002
11	Act 2002 No 47	31 December 2002
11 (RI)	Act 2002 No 49 ‡	10 February 2003
12	A2003-14	28 March 2003
13	A2004-15	9 April 2004
14	A2004-55	12 August 2004
15	A2004-55	25 August 2004
16	<u>A2004-56</u>	24 October 2004
17	<u>A2004-56</u>	16 February 2005
18*	A2005-5	6 March 2005

## Endnotes

6 Uncommenced amendments

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Republication No	Amendments to	Republication date
19	A2005-5	7 July 2005
20	A2005-28	17 January 2006
21	A2006-23	2 June 2006
22	A2006-23	16 June 2006
23	A2006-46	18 November 2006
24	A2006-46	9 January 2007

‡ includes retrospective amendments by Act 2002 No 49

## 6 Uncommenced amendments

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

<b>Children and Young People (Consequential Amendments) Act 2008 A2008-20 sch 4 pt 4.13</b>
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## Part 4.13 Drugs of Dependence Act 1989

### [4.36] Section 121, definition of *responsible officer*, paragraph (a)

*omit*

*Children and Young People Act 1999*, chapter 2 (General objects, principles and parental responsibility)

*substitute*

*Children and Young People Act 2008*

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