

Version No. 047
Drugs, Poisons and Controlled Substances
Act 1981

Act No. 9719/1981

Version incorporating amendments as at 1 October 1998

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**Drugs, Poisons and Controlled Substances
Act 1981**

Act No. 9719/1981

Version incorporating amendments as at 1 October 1998

An Act to re-enact with Amendments the Law relating to Drugs,
Poisons and Controlled Substances, to amend the **Health Act
1958** and the **Crimes Act 1958** and for other purposes.

**BE IT ENACTED by the Queen's Most Excellent Majesty by
and with the advice and consent of the Legislative Council
and the Legislative Assembly of Victoria in this present
Parliament assembled and by the authority of the same as
follows (that is to say):**

1. *Short title and commencement*

- (1) This Act may be cited as the **Drugs, Poisons and
Controlled Substances Act 1981**.
- (2) The several provisions of this Act shall come into
operation on a day or on the respective days to be
fixed by proclamation or successive proclamations
of the Governor in Council published in the
Government Gazette.

* * * * *

S. 1(3)
amended by
No. 10002
ss 5(2)(a), 6(2),
7(2), 11(2),
repealed by
No. 101/1986
s. 55(1)(a).

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PART I—INTRODUCTORY AND TRANSITIONAL

2. Repeals and revocations

- (1) The Acts and enactments mentioned in the table to this sub-section, to the extent to which they are therein expressed to be repealed are hereby repealed accordingly.

TABLE

<i>Number of Act</i>	<i>Title of Act</i>	<i>Extent of Amendment or Repeal</i>
6889	Poisons Act 1962	So much as has not already been repealed.
7065	Statute Law Revision Act 1963	Items in Schedule relating to the Poisons Act 1962 .
7588	Poisons (Amendment) Act 1967	The whole.
7703	Abolition of Bailiwicks Act 1968	Item in Schedule relating to the Poisons Act 1962 .
8181	Statute Law Revision Act 1971	Item in Schedule relating to the Poisons Act 1962 .
8233	Poisons (Amendment) Act 1971	The whole.
8247	Crimes (Powers of Arrest) Act 1972	Item in Schedule relating to the Poisons Act 1962 .
8266	Poisons (Amendment) Act 1972	The whole.
8287	Dentists Act 1972	Section 45(2).
8424	Medical Practitioners (Amendment) Act 1973	Section 12.
8456	Poisons (Fees) Act 1973	The whole.
		<i>Extent of</i>

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<i>Number of Act</i>	<i>Title of Act</i>	<i>Amendment or Repeal</i>
8961	Poisons (Drugs of Addiction) Act 1977	The whole.
9023	Health Commission Act 1977	Item 16 of Part A of Schedule One.
9294	Poisons (Amendment) Act 1979	The whole.
9427	Statute Law Revision Act 1980	Item in Third Schedule relating to the Poisons Act 1962 .
9576	Crimes (Classification of Offences) Act 1981	Item in the Schedule relating to the Poisons Act 1962 .

- (2) All proclamations made under the **Poisons Act 1962** and amending any of the Schedules to that Act are revoked.

3. Savings

* * * * *

S. 3(1)
repealed by
No. 42/1993
s. 34.

- (2) On and from the commencement of this section in any order, proclamation, regulation, licence, permit, warrant, authority, Order in Council or other instrument or document made, issued or given under the **Poisons Act 1962** before the commencement of this section and deemed to have been made, issued or given under this Act or continued in force under this Act—
- (a) a reference to a pharmaceutical chemist shall be deemed and taken to be a reference to a pharmacist;

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S. 3(2)(b)
repealed by
No. 42/1993
s. 34.

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S. 3(3)
repealed by
No. 10087
s. 3(1).

* * * * *

S. 3(4)
amended by
No. 10087
s. 3(1).

(4) Subject to sub-section (2), nothing in this Act shall affect the continuity of status, operation or effect of any permit issued under section 11 of the **Poisons Act 1962** before the commencement of this section and in force immediately before that commencement, and that permit shall, on and from the date of commencement of this section, be deemed to have been issued under the provisions of this Act that corresponds to section 11 of the **Poisons Act 1962**.

S. 3(5)(6)
repealed by
No. 42/1993
s. 34.

* * * * *

(7) Except as is in this Act expressly or by necessary implication provided—

(a) all persons, things and circumstances appointed or created by or under the **Poisons Act 1962** or existing or continuing under that Act immediately before the commencement of this section shall under and subject to this Act continue to have the same status, operation and effect as they respectively would have had if that Act had not been repealed; and

(b) in particular and without limiting the generality of paragraph (a), the repeal of the **Poisons Act 1962** shall not disturb the

continuity of status, operation or effect of any order, proclamation, regulation, recommendation, certificate, proceeding, appointment, notification, writ, summons, award, judgment, decree, fee, suspension, revocation, renewal, enquiry, registration, document, panel, submission, remuneration, approval, disapproval, refusal, decision, report, investigation, requirement, forfeiture, direction, analysis, examination, liability or right made, effected, issued, granted, given, instituted, imposed, accrued, incurred or acquired or existing or continuing by or under the repealed Act before the commencement of this section.

* * * * *

S. 3(8)
repealed by
No. 42/1993
s. 34.

4. *Definitions*

(1) In this Act unless inconsistent with the context or subject-matter—

"authorized officer" means a person authorized by the Secretary under section 41 and any member of the police force;

S. 4(1) def. of
"authorized
officer"
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

"automatic machine" means any machine or mechanical device used or capable of being used for the purpose of selling or supplying goods without the personal manipulation or attention of the seller or supplier or his employé or other agent at the time of the sale or supply;

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S. 4(1) def. of "Chief General Manager" inserted by No. 10262 s. 4, substituted by No. 42/1993 s. 35(b), repealed by No. 46/1998 s. 7(Sch. 1). S. 4(1) def. of "Commission" repealed by No. 10262 s. 4.

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* * * * *

"Committee" means the Poisons Advisory Committee constituted under Division 3 of Part II;

S. 4(1) def. of "Commonwealth standard" inserted by No. 42/1993 s. 35(c).

"Commonwealth standard" means—

- (a) the document called "the Standard for the Uniform Scheduling of Drugs and Poisons", being recommendations of the Public Health Committee of the National Health and Medical Research Council, published by or by the authority of that Council; or
- (b) if the title, formulator or publisher of that document changes, a document prescribed to be the Commonwealth standard—

and, except in sections 12 to 12I, includes that standard as published or amended from time to time;

"compound" in relation to a poison or controlled substance means a medicament prepared in accordance with a formula and being a combination of—

- (a) a poison or controlled substance; and

(b) any other substance or substances—
in such a way that the poison or controlled
substance cannot be readily separated from
the other substance or substances, and "**to
compound**" and derivative expressions have
corresponding meanings;

* * * * * S. 4(1) def. of
"dangerous
poison"
repealed by
No. 42/1993
s. 35(a).

"**dentist**" means a person for the time being
registered as a dentist under the **Dentists Act
1972**;

* * * * * S. 4(1) def. of
"drug of
addiction"
repealed by
No. 42/1993
s. 35(a).

"**drug of dependence**" means a substance that
is—

- (a) a drug—
 - (i) specified in column 1 of Part 1 of
Schedule Eleven or added thereto
by regulations made under
section 12M; or
 - (ii) included in a class of drug
specified in column 1 of Part 1 of
Schedule Eleven or added thereto
by regulations made under
section 12M; or
- (b) any fresh or dried parts of any plant
specified in column 1 of Part 2 of
Schedule Eleven or added thereto by
regulations made under section 12M; or

S. 4(1) def. of
"drug of
dependence"
substituted by
No. 10002
s. 2(a),
amended by
No. 101/1986
s. 58(1)(a),
substituted by
No. 48/1997
s. 36(1)(a).

(c) a drug—

- (i) specified in column 1 of Part 3 of Schedule Eleven or added thereto by regulations made under section 12M; or
- (ii) included in a class of drug specified in column 1 of Part 3 of Schedule Eleven or added thereto by regulations made under section 12M—

and includes—

- (d) any form of a drug specified in column 1 of Part 1 or column 1 of Part 3 of Schedule Eleven, whether natural or synthetic, and the salts, derivatives and isomers of that drug and any salt of those derivatives and isomers; and
- (e) any—

- (i) drug specified in, or drug included in a class of drug specified in column 1 of Part 1 or column 1 of Part 3 of Schedule Eleven, whether natural or synthetic; or
- (ii) salts, derivatives or isomers of a drug specified in column 1 of Part 1 or column 1 of Part 3 of Schedule Eleven; or
- (iii) any salt of any derivative or isomer mentioned in subparagraph (ii)—

contained in or mixed with another substance;

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* * * * *

S. 4(1) def. of "hazardous substance" repealed by No. 42/1993 s. 35(a).

"heroin" means diacetyl morphine (also known as diamorphine) and its salts;

* * * * *

S. 4(1) def. of "industrial and agricultural poison" repealed by No. 42/1993 s. 35(a).

"label"—

S. 4(1) def. of "label" amended by No. 42/1993 s. 35(d).

(a) in section 27A, means a statement in writing on a container of a poison or controlled substance; and

(b) in any other case—

includes any tag brand mark or statement in writing on or attached to or used in connexion with any container or package containing any poison or controlled substance; and "labelled" has a corresponding interpretation;

"licence" means a valid and unexpired licence under any Part of this Act or under the regulations;

S. 4(1) def. of "licence" amended by No. 10002 s. 5(2)(b).

"licensee" means the person named in a licence;

"manufacture" includes the process of refining, manipulating and mixing any poison or controlled substance (including a poison or controlled substance in the raw state); and

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"manufacturer" has a corresponding interpretation;

S. 4(1) def. of "medical practitioner" repealed by No. 23/1994 s. 118(Sch. 1 item 17.1(a)).

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S. 4(1) def. of "medicinal poison" repealed by No. 42/1993 s. 35(a).

* * * * *

S. 4(1) def. of "narcotic plant" repealed by No. 10002 s. 2(b).

* * * * *

"Order in Council" means an Order made by the Governor in Council published in the Government Gazette;

"pharmacist" means a person for the time being registered as a pharmacist under the **Pharmacists Act 1974**;

S. 4(1) def. of "poison or controlled substance" substituted by No. 42/1993 s. 35(e).

"poison or controlled substance" means—

- (a) a Schedule 1 poison; or
- (b) a Schedule 2 poison; or
- (c) a Schedule 3 poison; or
- (d) a Schedule 4 poison; or
- (e) a Schedule 5 poison; or
- (f) a Schedule 6 poison; or
- (g) a Schedule 7 poison; or
- (h) a Schedule 8 poison; or
- (i) a Schedule 9 poison; or

(j) a regulated poison other than a Schedule 7 poison;

"Poisons Code" means the Poisons Code prepared under section 12 as amended or substituted and in force from time to time;

S. 4(1) def. of "Poisons Code" inserted by No. 42/1993 s. 35(f), amended by No. 68/1996 s. 9.

"Poisons List" means the Poisons List in the Poisons Code;

S. 4(1) def. of "Poisons List" inserted by No. 42/1993

* * * * *

s. 35(f). S. 4(1) def. of "potent substance" repealed by No. 42/1993 s. 35(a).

"prescribed" means prescribed by this Act or the regulations;

"proclamation" means proclamation of the Governor in Council;

"registered medical practitioner" means a registered medical practitioner within the meaning of the **Medical Practice Act 1994**;

S. 4(1) def. of "registered medical practitioner" inserted by No. 23/1994 s. 118(Sch. 1 item 17.1(b)).

"registered optometrist" means a registered optometrist within the meaning of the **Optometrists Registration Act 1996**;

S. 4(1) def. of "registered optometrist" inserted by No. 56/1996 s. 100(1).

"regulated poison" means—

- (a) a Schedule 7 poison; or
- (b) a substance included in the Poisons Code in the list of substances that are not for general sale by retail;

S. 4(1) def. of "regulated poison" inserted by No. 42/1993 s. 35(g).

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"Regulations" means Regulations made under this Act or any corresponding previous enactment;

S. 4(1) def. of "restricted substance" repealed by No. 42/1993 s. 35(a).

* * * * *

S. 4(1) def. of "Schedule 1 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 1 Poison" means a substance in Schedule 1 in the Poisons List;

S. 4(1) def. of "Schedule 2 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 2 Poison" means a substance in Schedule 2 in the Poisons List;

S. 4(1) def. of "Schedule 3 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 3 Poison" means a substance in Schedule 3 in the Poisons List;

S. 4(1) def. of "Schedule 4 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 4 Poison" means a substance in Schedule 4 in the Poisons List;

S. 4(1) def. of "Schedule 5 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 5 Poison" means a substance in Schedule 5 in the Poisons List;

S. 4(1) def. of "Schedule 6 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 6 Poison" means a substance in Schedule 6 in the Poisons List;

"Schedule 7 Poison" means a substance in Schedule 7 in the Poisons List;

S. 4(1) def. of "Schedule 7 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 8 Poison" means a substance in Schedule 8 in the Poisons List;

S. 4(1) def. of "Schedule 8 Poison" inserted by No. 42/1993 s. 35(h).

"Schedule 9 Poison" means a substance in Schedule 9 in the Poisons List;

S. 4(1) def. of "Schedule 9 Poison" inserted by No. 42/1993 s. 35(h).

"Secretary" has the same meaning as in the **Health Act 1958**;

S. 4(1) def. of "Secretary" inserted by No. 46/1998 s. 7(Sch. 1).

"sell" means sell, whether by—

- (a) wholesale or retail or otherwise, barter, exchange, deal in, agree to sell, offer or expose for sale, keep or have in possession for sale, send forward, deliver or receive for or for the purpose of sale or in the course of sale; and
- (b) authorize, direct, allow, cause, suffer, permit or attempt any of the acts or things mentioned in paragraph (a)—

and **"sale"** and each of the other derivatives of **"sell"** have corresponding meanings;

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S. 4(1) def. of "special poison" repealed by No. 42/1993 s. 35(a).

* * * * *

S. 4(1) def. of "substance" amended by No. 48/1997 s. 36(1)(b).

"substance" includes material, preparation, extract and admixture;

"supply" means—

- (a) supply, provide, give or deliver, whether or not for fee, reward or consideration or in expectation of fee, reward or consideration;
- (b) agree or offer for the purpose of supply as defined in paragraph (a), expose for the purpose of supply as so defined, keep or have in possession for the purpose of supply as so defined, send forward or receive for the purpose of supply as so defined; and
- (c) authorize, direct, cause, allow, suffer, permit or attempt to do any of the acts or things mentioned in paragraph (a) or paragraph (b)—

and the derivatives of "supply" shall have corresponding meanings;

S. 4(1) def. of "therapeutic use" inserted by No. 42/1993 s. 35(i).

"therapeutic use" means use in or in connection with—

- (a) the preventing, diagnosing, curing or alleviating of a disease, ailment, defect or injury in human beings or animals; or

- (b) influencing, inhibiting, or modifying of a physiological process in human beings or animals; or
- (c) the testing of the susceptibility of human beings or animals to a disease or ailment;

"veterinary practitioner" means a veterinary practitioner registered under the **Veterinary Practice Act 1997**;

S. 4(1) def. of "veterinary practitioner" inserted by No. 58/1997 s. 96(Sch. item 3.1).

* * * * *

S. 4(1) def. of "veterinary surgeon" repealed by No. 58/1997 s. 96(Sch. item 3.1).

"wholesale" means—

- (a) sale or supply for the purposes of resale;
- (b) sale or supply to a person for the purposes of supply by that person to another person; and
- (c) sale or supply for the purposes of use in connexion with a trade, business, profession or industry;

"wholesale dealer" means a person who sells or supplies by wholesale.

- (2) A reference in this Act to **"manufacture"** does not include a reference to the process of refining, manipulating and mixing a poison or controlled substance, where the process is carried out by a pharmacist in the lawful practise of his profession in—

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- (a) premises used for sale by retail; or
- (b) a hospital pharmacy department—
in which the pharmacist manufactures
preparations of poisons or controlled substances
for sale or distribution only from those premises
or from such other premises as may be owned and
operated by that pharmacist selling by retail.

* * * * *

S. 4(3)
inserted by
No. 10002
s. 8(2),
repealed by
No. 48/1997
s. 36(2).

4A. Act does not apply to certain processed products

- (1) This Act does not apply to—
 - (a) a processed fibre product made from
cannabis if the product—
 - (i) does not contain more than 0·1 per cent
of tetrahydrocannabinol; and
 - (ii) does not contain whole cannabis seeds;
and
 - (iii) is in a form not suitable for ingestion,
smoking or inhaling purposes; or
 - (b) a processed product made from cannabis
seeds if the product—
 - (i) does not contain more than 0·001 per
cent of tetrahydrocannabinol; and
 - (ii) does not contain whole cannabis seeds.

- (2) In this section—

"cannabis" means a plant or any part of a plant
of the genus *Cannabis L*, whether fresh or
dried;

"processed" means treated by mechanical, chemical or other artificial means but does not include—

- (a) harvesting; or
- (b) the natural process of decay.

5. Meaning of "possession"

Without restricting the meaning of the word **"possession"**, any substance shall be deemed for the purposes of this Act to be in the possession of a person so long as it is upon any land or premises occupied by him or is used, enjoyed or controlled by him in any place whatsoever, unless the person satisfies the court to the contrary.

S. 5
amended by
No. 10002
s. 3(a)(b).

6. Meaning of "corresponding law"

- (1) In this Act the expression **"corresponding law"** means any law stated in a certificate purporting to be issued by or on behalf of the Government of—
- (a) any British possession (including any territory which is under Her Majesty's protection or which is governed under a trusteeship agreement by the Government of any part of Her Majesty's dominions) outside Victoria; or
 - (b) any foreign country (including any protectorate thereof or any territory which is governed under a trusteeship agreement by the Government thereof)—

to be a law providing for the control and regulation in that possession or country of the manufacture sale use export or import of drugs in accordance with the provisions of—

- (i) the International Opium Convention signed at The Hague on the twenty-third day of

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January One thousand nine hundred and twelve; or

- (ii) the Convention which is referred to as the Geneva Convention in the preamble to the Act of the Parliament of the United Kingdom known as the Dangerous Drugs Act 1925 and as having been signed on behalf of His Majesty on the nineteenth day of February One thousand nine hundred and twenty-five; or
- (iii) the Single Convention on Narcotic Drugs, 1961 signed at New York on the thirtieth day of March One thousand nine hundred and sixty-one.

- (2) Any statement in a certificate mentioned in sub-section (1) as to the effect of the law mentioned in the certificate or any statement in a certificate mentioned in sub-section (1) that any facts constitute an offence against that law shall be conclusive.

S. 7
amended by
Nos 12/1987
s. 36(5)(a),
97/1987
s. 181(2),
23/1994
s. 118(Sch. 1
item 17.2),
46/1992
s. 78(1)(a)(b).

7. *Act not to derogate from provisions of certain other Acts*

This Act shall be read and construed as being in aid and not in derogation of the **Health Act 1958**, the **Wildlife Act 1975**, the **Liquor Control Act 1987**, the **Medical Practice Act 1994**, the **Pharmacists Act 1974**, the **Veterinary Surgeons Act 1958**, the **Dentists Act 1972**, the **Alcoholics and Drug-dependent Persons Act 1968** and the **Agricultural and Veterinary Chemicals Act 1992**.

8. *References in other Acts*

In any Act other than this Act and in any rule regulation or by-law made under any Act other than this Act—

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s. 9

* * * * *

S. 8(a)
repealed by
No. 42/1993
s. 36.

(b) a reference to a dangerous drug within the meaning of the **Poisons Act 1958** which was by virtue of section 3(3) of the **Poisons Act 1962** deemed to have been a reference to a specified drug within the meaning of the **Poisons Act 1962** shall, notwithstanding anything in section 3(3) of that Act, be deemed to be a reference to a drug of dependence within the meaning of section 4 of this Act.

9. Revocation of proclamation etc.

(1) An Order in Council made for the purposes of this Act may be amended varied or revoked by Order in Council.

* * * * *

S. 9(2)
amended by
No. 10002
s. 16(a)(b),
repealed by
No. 42/1993
s. 37(a).

(3) A proclamation made for the purposes of this Act—

S. 9(3)
amended by
No. 42/1993
s. 37(b).

- (a) shall be published in the Government Gazette; and
- (b) may be amended varied or revoked by proclamation published in the Government Gazette.

* * * * *

S. 10
repealed by
No. 10002
s. 5(2)(c).

11. Act to bind the Crown

- (1) This Act shall bind the Crown in right of the State of Victoria and, so far as the legislative power of the Parliament permits, shall also bind the Crown in all its other capacities.
- (2) Insofar as the Crown in any relevant capacity is bound by this Act, a reference in this Act to a person includes a reference to the Crown in that capacity.

S. 11(3)
repealed by
No. 101/1986
s. 55(1)(b).

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S. 11(4)
repealed by
No. 10002
s. 5(2)(c).

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PART II—POISONS AND CONTROLLED SUBSTANCES

Division 1—Classification

12. *Poisons Code*

- (1) The Minister may prepare a Poisons Code.
- (2) The Poisons Code must contain—
 - (a) a Poisons List; and
 - (b) any provisions (including appendices) of the Commonwealth standard concerning the labelling, storing, packaging or advertising of poisons or controlled substances that the Minister considers are in a form suitable for inclusion in the Code; and
 - (c) any provisions (including appendices) of the Commonwealth standard relating to the interpretation of provisions included in the Code under paragraph (a) or (b).

S. 12
substituted by
No. 42/1993
s. 38.

12A. *The Poisons List*

- (1) The Poisons List must contain—
 - (a) 9 Schedules; and
 - (b) a list of any of the substances in those Schedules or the Appendices to the Commonwealth standard that are not for general sale by retail but can only be supplied to persons specifically authorised by this Act or the Regulations, or with a permit or warrant under this Act, to obtain them; and
 - (c) a list of exemptions from those Schedules.
- (2) The headings of the 9 Schedules are set out in the table at the end of this section but those headings may be amended in accordance with section 12E.

S. 12A
inserted by
No. 42/1993
s. 38.

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- (3) The Poisons List may specify—
- (a) the substances to be included in any Schedule in the list by incorporating by reference the substances in the Schedule in the Commonwealth standard with a heading corresponding as nearly as practicable with the heading to the Schedule in the Poisons List; and
 - (b) any substance in the list of substances that are not for general sale by retail by incorporating by reference any provisions (including appendices) in the Commonwealth standard relating to that matter, and any provision of that standard relating to the interpretation of any part of the standard so incorporated; and
 - (c) any substances in the list of exemptions by incorporating by reference any provisions (including appendices) in the Commonwealth standard relating to substances that are wholly or partially exempted from the standard.
- (4) In this Act a reference to a substance in a particular Schedule in the Poisons List excludes that substance to the extent that it is included in the list of exceptions under sub-section (1)(c).

S. 12A Table amended by No. 23/1994 s. 118(Sch. 1 item 17.3), 46/1998 s. 7(Sch. 1).

TABLE

<i>Schedule No.</i>	<i>Heading</i>
1.	Poisons of plant origin of such danger to health as to warrant their being available only from registered medical practitioners, pharmacists or veterinary surgeons.
2.	Poisons for therapeutic use that should be available to the public only from pharmacies; or where there is no pharmacy service available, from persons

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<i>Schedule No.</i>	<i>Heading</i>
	licensed to sell or supply Schedule 2 poisons.
3.	Poisons for therapeutic use that are dangerous or are so liable to abuse as to warrant their availability to the public being restricted to supply by pharmacists or registered medical practitioners, dentists or veterinary surgeons.
4.	Poisons that should, in the public interest, be restricted to medical, dental or veterinary prescription or supply, together with substances or preparations intended for therapeutic use, the safety or efficacy of which requires further evaluation.
5.	Poisons of a hazardous nature that must be readily available to the public but require caution in handling, storage and use.
6.	Poisons that must be available to the public but are of a more hazardous or poisonous nature than those classified in Schedule 5.
7.	Poisons which require special precautions in manufacture, handling, storage or use, or special individual regulations regarding labelling or availability.
8.	Poisons to which the restrictions recommended for drugs of dependence by the 1980 Australian Royal Commission of Inquiry into Drugs should apply.
9.	Poisons which are drugs of abuse, the manufacture, possession, sale or use of which should be prohibited by law except for amounts which may be necessary for medical or scientific research conducted with the approval of the Secretary.

S. 12B
inserted by
No. 42/1993
s. 38.

12B. Requirements for labelling and other matters

Without limiting section 12(2)(b), in determining for the purposes of that provision whether a provision of the Commonwealth standard is suitable for inclusion in the Poisons Code, the matters which the Minister may take into account include but are not limited to—

- (a) whether the provision applies to the State or an individual;
- (b) whether the provision is in the form of a recommendation or suggestion, rather than an obligation;
- (c) whether the provision is in terms sufficiently certain to enable it to be understood and complied with.

S. 12C
inserted by
No. 42/1993
s. 38.

12C. What if the Poisons Code conflicts with the Act or regulations?

If there is an inconsistency between the Poisons Code and a provision of this Act or the regulations, the provision of this Act or the regulations prevails.

S. 12D
inserted by
No. 42/1993
s. 38.

12D. Incorporation of the Commonwealth standard

- (1) Any part of the Commonwealth standard to be incorporated by reference in the Poisons Code may be so incorporated as in force at a particular time or from time to time.
- (2) To the extent that it is incorporated by reference in the Poisons Code, the Commonwealth standard forms part of that Code.
- (3) Subject to sub-section (4), if any part of the Commonwealth standard, as in force from time to time, is incorporated by reference in the Poisons Code the part so incorporated must be taken to

include that part as amended, varied, remade or superseded from time to time.

- (4) If part of the Commonwealth standard, as in force from time to time, is incorporated by reference in the Poisons Code and that part is amended, varied, remade or superseded, then until the date fixed under section 12K as the date on which the new matter takes effect the matter so incorporated must be taken not to have been so amended, varied, remade or superseded.

12E. Amendment of Code

S. 12E
inserted by
No. 42/1993
s. 38.

- (1) The Minister may at any time amend the Poisons Code—
- (a) to correct—
- (i) a clerical error or an error arising from an accidental slip or omission; or
 - (ii) an evident material mistake in the description of the Commonwealth standard or a provision of that standard; or
- (b) if the Code incorporates a part of the Commonwealth standard as in force at a particular date—
- (i) to change that date; or
 - (ii) to provide that the part of the Commonwealth standard is incorporated as in force from time to time; or
- (c) if part of the Commonwealth standard is incorporated as in force from time to time to provide that the part is incorporated as in force at a particular time; or
- (d) to alter the heading to any of the Schedules in the Poisons List so that it corresponds

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more closely with the heading of the appropriate Schedule in the Commonwealth standard; or

- (e) if a standard is prescribed for the purpose of paragraph (b) of the definition of "**Commonwealth standard**" in section 4(1), to give effect to that new standard.

S. 12E(1A)
inserted by
No. 68/1996
s. 10(1).

- (1A) To ensure consistency with the Commonwealth standard, the Minister may at any time—

- (a) amend the Poisons Code; or
(b) revoke and substitute the Poisons Code.

S. 12E(2)
amended by
No. 68/1996
s. 10(2).

- (2) The provisions of this Act applying to the preparation, notification, tabling and availability of the Poisons Code apply to an amendment to or revocation and substitution of that Code.

S. 12F
inserted by
No. 42/1993
s. 38.

12F. *Status of the Poisons Code*

- (1) The Poisons Code is not a statutory rule for the purposes of the **Subordinate Legislation Act 1962**.
- (2) The Poisons Code is a subordinate instrument for the purposes of the **Interpretation of Legislation Act 1984** except section 32 of that Act.

S. 12F(3)
repealed by
No. 68/1996
s. 11.

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S. 12G
inserted by
No. 42/1993
s. 38.

12G. *Procedure for preparation of the Poisons Code*

- (1) As soon as possible after preparing the Poisons Code, the Minister must publish notice of its preparation in a daily newspaper circulating generally throughout Victoria.

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- (2) The Minister may do anything else he or she considers appropriate to bring the preparation of the Code to the attention of the public.
 - (3) After complying with sub-sections (1) and (2) the Minister must publish notices of the preparation of the Code in the Government Gazette.
 - (4) A notice under this section must—
 - (a) give a brief and general description of the content of the Code; and
 - (b) fix a date, being a date on or after the date of publication of the notice in the Government Gazette, on which the Code takes effect; and
 - (c) state where and when the Code is available for inspection by members of the public; and
 - (d) give details of where, when and from whom a copy of the Code can be obtained.

12H. *Tabling before Parliament*

- (1) The Minister must cause a copy of the Poisons Code prepared under section 12 and of the notice of its preparation to be laid before the Legislative Council and the Legislative Assembly on or before the 7th sitting day of that House after the date of publication of that notice in the Government Gazette.
- (2) If the Poisons Code incorporates by reference a part of the Commonwealth standard, the Minister must include that incorporated material in the material tabled under sub-section (1).
- (3) If the Poisons Code incorporates by reference a part of the Commonwealth standard as in force from time to time, and that part is amended, varied, remade or superseded, the Minister must, as the case requires—

S. 12H
inserted by
No. 42/1993
s. 38.

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- (a) cause a copy of the amendment or variation;
or
 - (b) cause a copy of any matter superseding or
remaking the earlier matter—

to be laid before the Legislative Council and the
Legislative Assembly on or before the 7th sitting
day of that House after the date of publication in
the Government Gazette of notice that the
amendment, variation, remaking or superseding of
that matter has taken effect.

S. 12I
inserted by
No. 42/1993
s. 38.

12I. Availability of Code

S. 12I(1)
amended by
No. 46/1998
s. 7(Sch. 1)

- (1) The Minister must ensure that the documents
listed in sub-section (2) are kept available at the
principal office of the Secretary and at any other
appropriate public office specified by the Minister
by notice published in the Government Gazette,
during normal office hours, for inspection by
members of the public, without charge.

S. 12I(2)(a)
amended by
No. 68/1996
s. 12.

- (2) The documents are—
 - (a) the Poisons Code as amended or substituted
and in force from time to time;
 - (b) any matter incorporated by reference in the
Poisons Code and, if the Code incorporates
matter as in force from time to time, that
matter as amended, varied, remade or
superseded and in force for the time being;
 - (c) if any matter is incorporated in the Code as
in force from time to time, a copy of each
amendment or variation of the matter;

- (d) a copy of any amendment to the Code;
- (e) a copy of each notice published in the Government Gazette under section 12G.

12J. *What if documents are not notified or made available?*

S. 12J
inserted by
No. 42/1993
s. 38.

- (1) A failure to comply with section 12G, 12H or 12I does not affect the validity, operation or effect of the Poisons Code or any matter incorporated in it.
- (2) Despite sub-section (1), a person must not be convicted of an offence against this Act or the regulations, based on any provision in the Poisons Code if, at the time of the commission of the offence, there was, in relation to that provision, a contravention of section 12G or 12I.
- (3) Despite sub-section (1), a person is not prejudicially affected or made subject to any liability under this Act or the regulations based on any provision in the Poisons Code, if it is proved that, at the relevant time, in relation to that provision there was a contravention of section 12G or 12I.

12K. *Commencement of Poisons Code and incorporated materials*

S. 12K
inserted by
No. 42/1993
s. 38.

- (1) The Poisons Code or an amendment to that Code takes effect on the date fixed for that purpose by notice under section 12G.
- (2) If the Poisons Code incorporates by reference a part of the Commonwealth standard as in force from time to time, and that part is amended, varied, superseded or remade, the amendment, variation or superseding or remaking material takes effect on the date fixed for that purpose by notice published in the Government Gazette.
- (3) On the date of commencement of material incorporated by reference in the Poisons Code that

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remakes or supersedes any earlier matter, that earlier matter ceases to have effect to the extent that it is part of the Code.

S. 12L
inserted by
No. 42/1993
s. 38,
amended by
No. 46/1998
s. 7(Sch. 1).

12L. Evidence

A document certified in writing purporting to be signed by the Secretary and purporting to be—

- (a) a copy of or an extract from the Poisons Code; or
- (b) a copy of or an extract from any matter incorporated by reference in the Poisons Code; or
- (c) a copy of an amendment of the Poisons Code; or
- (d) a copy of or an extract from any matter amending, varying, remaking or superseding any matter incorporated by reference in the Poisons Code—

is evidence and, in the absence of evidence to the contrary, is proof of the matters stated in the document.

S. 12M
inserted by
No. 42/1993
s. 38.

12M. Amendment of Schedule Eleven

The regulations may amend a column in Schedule Eleven by adding an item to, deleting an item from, or substituting or altering an item in, that column.

Division 2—Authorized Persons

13. *Persons authorized to have possession etc. of poisons or controlled substances*

(1) Subject to this Act and the regulations—

(a) any registered medical practitioner, pharmacist, veterinary practitioner or dentist is hereby authorized to obtain and have in his possession and to use, sell or supply any poison or controlled substance or drug of dependence in the lawful practice of his profession as a registered medical practitioner, pharmacist, veterinary practitioner or dentist (as the case may be); and

S. 13(1)(a) amended by Nos 10002 s. 4(a)(b), 23/1994 s. 118(Sch. 1 item 17.4), 58/1997 s. 96(Sch. item 3.2).

(b) any authorized officer is hereby authorized to obtain and have in his possession and to sell or supply any poison or controlled substance or drug of dependence in the exercise or performance of any power, function or duty conferred or imposed upon him by this Act or the regulations; and

S. 13(1)(b) amended by Nos 10002 s. 4(b), 56/1996 s. 100(2).

(c) any registered optometrist whose registration is endorsed under section 11 of the **Optometrists Registration Act 1996** is hereby authorised to obtain and have in his or her possession and to use, sell or supply any Schedule 4 poison specified in the endorsement in the lawful practice of his or her profession as a registered optometrist.

S. 13(1)(c) inserted by No. 56/1996 s. 100(2).

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S. 13(2)
amended by
Nos 10002
s. 4(b),
42/1993
s. 39(1),
23/1994
s. 118(Sch. 1
item 17.4),
58/1997
s. 96(Sch.
item 3.2),
56/1996
s. 13(2A)
s. 100(3)
inserted by
No. 56/1996
s. 100(4).

S. 13(2B)
inserted by
No. 56/1996
s. 100(4).

S. 13(3)
amended by
No. 10002
s. 4(b).

S. 13(4)
inserted by
No. 42/1993
s. 39(2).

S. 14
amended by
Nos 10002
s. 4(a)-(c),
23/1994
s. 118(Sch. 1
item 17.5(a)-
(d)).

(2) Sub-section (1)(a) or (b) shall not be construed as authorizing a registered medical practitioner, veterinary practitioner or dentist to sell or supply any poison or controlled substance (other than a Schedule 5 poison or a Schedule 6 poison) or drug of dependence by retail in an open shop unless he is licensed under this Act to do so.

(2A) Sub-section (1)(c) shall not be construed as authorising a registered optometrist referred to in that paragraph to sell or supply any Schedule 4 poison by retail in an open shop unless the optometrist is licensed under this Act to do so.

(2B) Sub-section (1)(c) applies, despite anything to the contrary in the Table to section 12A or the heading to Schedule number 4 contained in the Poisons List.

(3) Where a pharmacist sells or supplies by wholesale to another pharmacist a poison or controlled substance or drug of dependence for use by the other pharmacist in the lawful practice of his profession as a pharmacist, the sale or supply shall for the purposes of sub-section (1) be regarded as a sale or supply in the lawful practice of his profession by the first-mentioned pharmacist.

(4) A person is authorised to sell or supply by retail, subject to and in accordance with the regulations, any Schedule 5 poison or Schedule 6 poison.

14. *Special provisions as to medical practitioners*

Where pursuant to the **Medical Practice Act 1994** the Medical Practitioners Board of Victoria has imposed in relation to the practice of a registered medical practitioner conditions, limitations or restrictions including a condition, limitation or restriction prohibiting the prescription of any drug

or substance or class of drugs or substances, being a poison or controlled substance or drug of dependence or poisons or controlled substances or drugs of dependence that registered medical practitioner for the purpose of this Act and the regulations shall be deemed to be not authorized to obtain and have in his possession or to use sell or supply in the lawful practice of his profession the poison or controlled substance or drug of dependence or the poisons or controlled substances or drugs of dependence to which the condition, limitation or restriction relates.

Division 3—Poisons Advisory Committee

15. *Establishment and membership of Poisons Advisory Committee*

- (1) There is established a committee to be called the "Poisons Advisory Committee".
- (2) The Committee consists of up to 9 members appointed by the Minister of whom—

(a) one is to be the Secretary or his or her nominee who is also to be the chairperson;

(b) 2 are to be registered medical practitioners of whom—

- (i) one must have expertise in clinical pharmacology; and
- (ii) one must have expertise in the treatment of drug dependence;

S. 15 amended by Nos 10002 ss 4(d), 16(c), 10262 s. 4, 42/1993 s. 40(1)(a)(b), 23/1994 s. 118(Sch. 1 items 17.6(a)–(d), 17.7), 46/1992 s. 78(2)(a)(b), substituted by No. 68/1996 s. 13.

S. 15(2)(a) amended by No. 46/1998 s. 7(Sch. 1).

- (c) 2 are to be pharmacists of whom—
 - (i) one must have expertise in community pharmacy; and
 - (ii) one must have expertise in hospital pharmacy;
 - (d) 2 are to be persons with expertise in the pharmaceutical industry of whom—
 - (i) one is to be from the manufacturing sector of that industry; and
 - (ii) one is to be from the wholesaling sector of that industry;
 - (e) one is to be a person with expertise in the manufacturing and distribution of poisons for non-therapeutic use;
 - (f) one is to be the nominee of the Chief Commissioner of Police.
- (3) If the Chief Commissioner of Police fails to nominate a person under sub-section (2)(f) within 1 month of receiving a request in writing from the Minister to do so, the Minister may appoint a person the Minister considers suitable to that office.

S. 15A
 inserted by
 No. 68/1996
 s. 13.

15A. *Terms and conditions of appointment*

S. 15A(3)
 amended by
 No. 46/1998
 s. 7(Sch. 1).

- (1) A member of the Committee holds office for a period not exceeding 3 years and is eligible for reappointment.
- (2) The instrument of appointment of a member of the Committee may specify terms and conditions of appointment.
- (3) A member of the Committee, other than a member who is an employee of the public service, is entitled to receive the fees, travelling and other

allowances from time to time fixed by the Minister in respect of that member.

- (4) The **Public Sector Management and Employment Act 1998** (except in accordance with Part 7 of that Act) does not apply to a member of the Committee in respect of the office of member.

S. 15A(4)
amended by
No. 46/1998
s. 7(Sch. 1).

15B. *Resignation and removal*

- (1) A member of the Committee may resign that office by writing signed by the member and addressed to the Minister.
- (2) The Minister may at any time remove a member of the Committee from office.

S. 15B
inserted by
No. 68/1996
s. 13.

15C. *Vacancies*

- (1) The Minister may fill a vacancy in the office of member of the Committee however arising.
- (2) An act or decision of the Committee is not invalid only because of—
- (a) a vacancy in its membership; or
 - (b) a defect or irregularity in the appointment of any of its members.

S. 15C
inserted by
No. 68/1996
s. 13.

15D. *Quorum and proceedings*

- (1) A quorum of the Committee consists of at least 5 members other than co-opted members of the Committee.
- (2) The chairperson must preside at a meeting of the Committee at which he or she is present.
- (3) If the chairperson is not present at a meeting, the members present may elect a member to preside at the meeting.

S. 15D
inserted by
No. 68/1996
s. 13.

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- (4) The person presiding at a meeting has a deliberative vote and, in the case of an equality of votes, a second or casting vote.
- (5) The Committee must meet at least 3 times each year at the places and times appointed by the Minister or the chairperson.
- (6) Subject to this Act, the Committee may regulate its own proceedings.

S. 15E
inserted by
No. 68/1996
s. 13.

15E. *Co-opted members*

- (1) To assist in the consideration of a particular matter or issue, the Committee may co-opt any person as a member of the Committee.
- (2) A person co-opted under this section—
 - (a) may only attend meetings relating to and vote on the matters or issues in relation to which he or she is co-opted; and
 - (b) may be removed at any time by the Committee.
- (3) A person co-opted as a member of the Committee other than a person who is an employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Minister.

S. 15E(3)
amended by
No. 46/1998
s. 7(Sch. 1).

16. *Sub-committees*

- (1) The Committee may establish any sub-committees that it thinks necessary for the purposes of this Act.
- (2) The Committee may co-opt any person with expertise in any relevant field for the purposes of a sub-committee.

S. 16
amended by
Nos 10262
s. 4, 42/1993
s. 40(2)(a)(b),
substituted by
No. 68/1996
s. 13.

- (3) A person co-opted under this section—
- (a) may only attend meetings relating to and vote on the matters or issues in relation to which he or she is co-opted; and
 - (b) may be removed at any time by the Committee.
- (4) A person co-opted to a sub-committee other than a person who is an employee of the public service, is entitled to receive the fees, travelling and other allowances from time to time fixed by the Minister.

S. 16(4)
amended by
No. 46/1998
s. 7(Sch. 1).

17. Functions of the Committee

- (1) The functions of the Committee are—
- (a) to advise the Minister and the Secretary, having regard to the interests of protecting and promoting public health, on—
 - (i) the availability and presentation of drugs and poisons; and
 - (ii) responses to issues relating to drugs and poisons; and
 - (b) to advise the Minister or the Secretary on any matter referred to the Committee by the Minister or the Secretary, as the case may be.
- (2) The Committee must consult with a nominee of the Minister administering the **Agricultural and Veterinary Chemicals (Control of Use) Act 1992** on any issue relating to agricultural and veterinary chemicals.

S. 17
amended by
Nos 10262
s. 4, 12/1994
s. 8,
substituted by
No. 68/1996
s. 13.

S. 17(1)(a)
amended by
No. 46/1998
s. 7(Sch. 1).

S. 17(1)(b)
amended by
No. 46/1998
s. 7(Sch. 1).

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

s. 18

S. 18
amended by
No. 68/1996
s. 14,
substituted by
No. 46/1998
s. 7(Sch. 1).

18. *Officers of committee*

A secretary to the committee and any employees that it is necessary and expedient to employ for carrying out the objects and purposes of this Act may be employed under Part 3 of the **Public Sector Management and Employment Act 1998**.

Pt 2 Div. 4
(Heading and
s. 19)
amended by
Nos 10002
s. 16(d)–(g),
10262 s. 4,
42/1993
s. 41(1)(a)–
(d)(2)(a)–(c),
substituted by
No. 12/1994
s. 9.

Division 4—Licences, permits and warrants¹

S. 19
substituted by
No. 12/1994
s. 9.

19. *Issue of licences, permits and warrants*

S. 19(1)
amended by
No. 46/1998
s. 7(Sch. 1).

(1) A person may apply in writing to the Secretary for the issue of a licence, permit or warrant.

(2) An application for a licence, permit or warrant must be accompanied by the appropriate prescribed fee.

S. 19(3)
amended by
No. 46/1998
s. 7(Sch.1).

(3) Subject to this Act and the regulations, the Secretary may, in his or her discretion—

(a) refuse to issue a licence, permit or warrant;
or

S.19(3)(b)
amended by
No. 46/1998
s. 7(Sch.).

(b) issue to a fit and proper person a licence, permit or warrant subject to such terms, conditions, limitations and restrictions as the Secretary may determine.

(4) A licence, permit or warrant under this Act relates only to the premises described in it, and no licence, permit or warrant relating to premises in more than one locality can be issued.

(5) A licence, permit or warrant cannot be issued unless the Secretary is satisfied that the applicant's premises are suitable, sanitary and adequately equipped for the manufacture, sale, supply or use of the poisons or controlled substances to which the licence, permit or warrant relates.

S. 19(5)
amended by
No. 46/1998
s. 7(Sch. 1).

20. *What a licence, permit or warrant can authorise*

New s. 20
inserted by
No. 12/1994
s. 9.

(1) A licence authorises a person to do all or any of the following—

- (a) manufacture and sell or supply by wholesale any Schedule 8 poison or Schedule 9 poison other than heroin;
- (b) manufacture and sell or supply by wholesale any poison or controlled substance other than a Schedule 8 poison or Schedule 9 poison;
- (c) manufacture and sell or supply by retail any Schedule 5 poison, Schedule 6 poison or a Schedule 7 poison (other than a Schedule 7 poison included in the Poisons Code in the list of substances that are not for general sale by retail);
- (d) sell or supply by wholesale any Schedule 8 poison or Schedule 9 poison other than heroin;
- (e) sell or supply by wholesale any poison or controlled substance other than a Schedule 8 poison or Schedule 9 poison;
- (f) sell or supply by retail any Schedule 2 poison or Schedule 7 poison (other than a Schedule 7 poison included in the Poisons

Code in the list of substances that are not for general sale by retail);

- (g) sell or supply by retail any Schedule 7 poison other than a Schedule 7 poison included in the Poisons Code in the list of substances that are not for general sale by retail.
- (2) A person authorised by a licence to sell or supply by wholesale a Schedule 7 poison, other than a Schedule 7 poison included in the Poisons Code in the list of substances that are not for general sale by retail, is authorised under this Act while that licence is in force to sell that poison by retail without a further licence or authorisation under this Act.
- (3) A permit authorises a person to purchase or otherwise obtain poisons or controlled substances for use for industrial, educational, advisory or research purposes or for the provision of health services.
- (4) A warrant authorises a person to purchase or otherwise obtain or use any regulated poison in accordance with the warrant.

New s. 21
inserted by
No. 12/1994
s. 9.

21. *Duration of a licence, permit or warrant*

- (1) A permit or a licence lasts 12 months from its date of issue.
- (2) Despite sub-section (1), a licence or permit may be issued for a shorter period to enable that licence or permit and other licences or permits held by that person to expire simultaneously.
- (3) A warrant lasts until it is cancelled or suspended.

22. *Renewal of licences and permits*

- (1) An application for renewal—
 - (a) may be made up to one month before the expiry of the current licence or permit; and
 - (b) must be in writing and accompanied by the appropriate prescribed fee.
- (2) Subject to this Act and the regulations, on application under sub-section (1), the Secretary, in his or her discretion, may renew a licence or permit.
- (3) A renewed licence or permit lasts for 12 months from the date of expiry of the previous licence or permit.
- (4) Despite sub-section (3), a licence or permit may be renewed for a shorter period to enable that licence or permit and other licences or permits held by that person to expire simultaneously.

New s. 22
inserted by
No. 12/1994
s. 9.

S. 22(2)
amended by
No. 46/1998
s. 7(Sch. 1).

22A. *Amendment*

- (1) Applications for amendment of licences, permits or warrants must be accompanied by the appropriate prescribed fee.
- (2) The Secretary may, in his or her discretion, amend any particulars, including the terms, conditions, limitations or restrictions of a licence, permit or warrant if the amendment is—
 - (a) in the interests of health and safety; or
 - (b) in the public interest; or
 - (c) at the request of the holder of the licence, permit or warrant.

S. 22A
inserted by
No. 12/1994
s. 9.

S. 22A(2)
amended by
No. 46/1998
s. 7(Sch. 1).

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

s. 22B

S. 22B
inserted by
No. 12/1994
s. 9, amended
by No.
46/1998
s. 7(Sch. 1).

22B. *Inspection*

Before issuing, renewing or amending a licence, permit or warrant the Secretary may require the premises to which the licence, permit or warrant relates to be inspected under this Act.

S. 22C
inserted by
No. 12/1994
s. 9.

22C. *Suspension or cancellation*

S. 22C(1)
amended by
No. 46/1998
s. 7(Sch. 1).

- (1) The Secretary may suspend or cancel a licence, permit or warrant if—
- (a) the holder has not complied with the terms, conditions, limitations or restrictions of the licence, permit or warrant; or
 - (b) the holder proves not to be a fit and proper person; or
 - (c) the holder has been convicted of an offence against this Act or the regulations; or
 - (d) the holder requests suspension or cancellation; or
 - (e) the holder ceases to carry on business at the premises.

S. 22C(2)
amended by
No. 46/1998
s. 7(Sch. 1).

- (2) If a licence, permit or warrant is suspended or cancelled under sub-section (1), it ceases to have effect and any document issued to the former holder of the licence, permit or warrant must be surrendered to the Secretary on demand.

Pt 2 Div. 5
(Heading and
s. 20)
amended by
Nos 10262
s. 4, 42/1993
s. 42(1)(2),
repealed by
No. 12/1994
s. 9.

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Pt 2 Div. 6
(Heading and
s. 21)
amended by
Nos 10002
s. 16(h), 10262
s. 4, repealed
by No.
12/1994 s. 9.

Pt 2 Div. 7
(Heading and
s. 22)
amended by
Nos 10002
s. 16(i)(i)–(iii),
10262 s. 4,
42/1993
s. 43(a)–(d),
repealed by
No. 12/1994
s. 9.

Division 8—Manufacture and Sale of Poisons or Controlled Substances

23. *Manufacture, sale and supply of poisons or controlled substances by wholesale*

- (1) A person must not manufacture and sell or supply by wholesale any poison or controlled substance unless he or she is authorised by or licensed under this Act to do so.
- (2) A person must not sell or supply by wholesale any poison or controlled substance unless he or she is authorised by or licensed under this Act to do so.

S. 23
amended by
No. 10002
s. 16(j),
substituted by
No. 12/1994
s. 11.

24. *Wholesaling of certain poisons*

A person must not sell or supply by wholesale any poison or controlled substance (other than a Schedule 5 poison, a Schedule 6 poison or a Schedule 7 poison that is not a Schedule 7 poison that is included in the Poisons Code in the list of substances that are not for general sale by retail) to any person who is not expressly authorised by this Act or the Regulations, or by a licence, permit

S. 24
amended by
No. 10002
s. 16(k),
substituted by
No. 42/1993
s. 44,
amended by
No. 12/1994
s. 12.

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

s. 26

or warrant under this Act, to obtain that substance
by wholesale.

S. 25
amended by
No. 10002
s. 16(l) (as
amended by
No. 25/1990
s. 4(2)(b)),
repealed by
No. 42/1993
s. 45(1).

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S. 26
amended by
Nos 10002
s. 16(m),
42/1993
s. 45(2),
substituted by
No. 12/1994
s. 13.

26. *Retailing of poisons or controlled substances*

- (1) A wholesale dealer must not sell or supply by retail any poison or controlled substance, other than a Schedule 5 poison or a Schedule 6 poison, unless he or she is authorised by or licensed under this Act to do so.
- (2) A person must not manufacture and sell or supply by retail any poison or controlled substance unless he or she is authorised by or licensed under this Act to do so.

S. 27
amended by
Nos 10002
s. 16(m),
42/1993
s. 45(3).

27. *Sale of poisons or controlled substances by persons other than manufacturers etc.*

A person (not being a manufacturer or wholesale dealer) shall not sell or supply any poison or controlled substance (other than a Schedule 5 poison or Schedule 6 poison) unless he is authorized by or licensed under this Act so to do.

S. 27A
inserted by
No. 42/1993
s. 46.

27A. *Offences concerning labelling and other matters*

- (1) A person must not sell or supply a poison or controlled substance with a label, or in a container with a label, that does not comply with the requirements of the Poisons Code.

Penalty: 20 penalty units.
- (2) A person must not sell or supply a poison or controlled substance—

- (a) which the person has stored or packaged otherwise than in accordance with the Poisons Code; or
- (b) which the person knows to have been stored or packaged otherwise than in accordance with the Poisons Code.

Penalty: 20 penalty units.

- (3) A person must not advertise for sale or supply a poison or controlled substance otherwise than in accordance with the Poisons Code.

Penalty: 20 penalty units.

28. *House to house sale of poisons or controlled substances prohibited*

- (1) A person shall not—
 - (a) sell or supply in any street or from house to house; or
 - (b) hawk or peddle, or distribute or cause to be distributed as samples, in any street or public place or from house to house—

any poison or controlled substance.

- (2) A person shall not purchase or accept or offer to purchase or accept any poison or controlled substance offered for sale or hawked or peddled pursuant to sub-section (1).

Penalty: Two years imprisonment or 50 penalty units.

S. 28(2)
amended by
No. 10002
s. 14(a).

29. *Sale of substances in unauthorised containers*

- (1) A person shall not sell or supply any drug or medicine which is for internal use or any food drink or condiment in a container—
 - (a) of the like description to that prescribed by the regulations for a container in which any

poison or controlled substance intended for external use may be sold; or

(b) of such a description as not to be readily distinguishable by sight and touch or by either sight or touch from a container in which a poison or controlled substance intended for external use may be sold.

S. 29(2)
amended by
No. 42/1993
s. 47(1).

(2) Nothing in this section shall affect any other requirements of this Act, the Poisons Code or the regulations with respect to the containers in which drugs or medicines which are or contain poisons or controlled substances may be sold.

30. *Vending machines for poisons or controlled substances*

(1) A person shall not—

(a) whether on or about his premises or elsewhere—

(i) install any automatic machine for the sale or supply of any poison or controlled substance; or

(ii) sell or supply any poison or controlled substance by means of any automatic machine;

(b) allow permit or suffer any such automatic machine for the sale or supply of any poison or controlled substance to be installed on his premises;

(c) place or allow permit or suffer to be placed any poison or controlled substance in any automatic machine on his premises or under his control; or

(d) allow permit or suffer any person to purchase or be supplied with or otherwise obtain any poison or controlled substance by

means of any automatic machine on the premises or under the control of the first-mentioned person.

- (2) Any person who commits any contravention of or fails to comply with any provisions of this section shall be guilty of an offence against this Act and shall for every such offence be liable to a penalty of not more than 10 penalty units or to imprisonment for a term of not more than six months, and to a further penalty of not less than 1 penalty unit and not more than 2½ penalty units for each day on which any offence under this section is continued after conviction by any court.
- (3) Any automatic machine in respect of which any person is convicted of any offence against the provisions of this section may in the discretion of the court before which proceedings are taken for such offence be forfeited to Her Majesty.

S. 30(2)
amended by
No. 10002
s. 14(b)(i)–(iii).

Division 9—Trade or Proprietary Poisons

31. *Obligation of manufacturers and importers in relation to supply of poisons or controlled substances*

- (1) Before any substance preparation or mixture which consists of or contains in any proportion whatsoever any poison or controlled substance is first offered for sale or supply to the public under any trade proprietary or similar name the manufacturer importer or distributor thereof (as the case may require) shall notify the Secretary in writing of the name under which that substance preparation or mixture is intended to be sold or supplied to the public and the nature and percentage of the poisons or controlled substances contained therein.

S. 31(1)
amended by
Nos 10262
s. 4, 46/1998
s. 7 (Sch. 1).

Drugs, Poisons and Controlled Substances Act 1981

Act No. 9719/1981

s. 31

S. 31(2)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

- (2) Where in respect of a substance preparation or mixture any change is intended to be made in the nature or percentage of the poisons or controlled substances contained therein the manufacturer importer or distributor thereof (as the case may require) shall before the substance preparation or mixture to which sub-section (1) applies is offered for sale or supply to the public with a changed composition notify the Secretary in writing of the particulars of the change.
- (3) The foregoing provisions of this section shall not apply in respect of any substance preparation or mixture the composition of which—
 - (a) is required to be registered by or under the provisions of any Act for the time being in force in Victoria; or
 - (b) is disclosed on the container thereof or by a label attached thereto.

S. 31(4)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

- (4) Any information notified to the Secretary pursuant to the foregoing provisions of this section concerning the composition of any substance containing any poison or controlled substance shall not without the consent of the person supplying the information be disclosed except to the committee and to persons engaged in treating some person affected by the taking or use of the substance and in any such case shall be disclosed only in such manner and by such persons as are authorized for the time being by the Minister.

S. 31(5)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

- (5) Where pursuant to the provisions of any Act other than this Act there is registered any substance preparation or mixture which consists of or contains in any proportion whatsoever any poison or controlled substance the person charged with the keeping of the register in relation thereto shall, notwithstanding anything in any other Act to the

contrary, within one month after the registration thereof notify or cause the Secretary to be notified in writing of the nature and percentage of the poisons or controlled substances contained in the substance preparation or mixture; and that notification shall not be deemed or taken to be a disclosure within the meaning of any other Act of the preparation or composition of the substance preparation or mixture or in any way render any person liable to any penalty under any other Act in relation thereto.

**Division 10—Drugs of Dependence, Schedule 8 poisons,
Schedule 9 poisons and Schedule 4 poisons**

Pt 2 Div. 10
(Heading)
substituted by
No. 10002
s. 5(2)(e),
amended by
No. 42/1993
s. 47(2).

**32. *Keeping of record book in relation to sale or supply of
drugs of addiction***

S. 32
amended by
No. 42/1993
s. 47(3).

Every person licensed under this Part to manufacture, sell, supply or distribute any Schedule 8 poison or Schedule 9 poison shall enter or cause to be entered in a book kept for that purpose details of any Schedule 8 poison or Schedule 9 poison obtained by him, quantities used sold supplied or otherwise disposed of and such other particulars as are prescribed.

**33. *Medical practitioner to give notice that a patient is a
drug-dependent person***

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

S. 33(1)
amended by
Nos 10262
s. 4, 23/1994
s. 118(Sch. 1
item 17.8),
46/1998

s. 7(Sch. 1).
S. 33(2)
amended by
Nos 10002
s. 4(e)(f) (as
amended by
No. 10002
s. 3(1)(Sch. 1
item 40)),
10262 s. 4,
42/1993
s. 47(4),
12/1994
s. 4(1),
23/1994
s. 118(Sch. 1
item 17.8),
46/1998
s. 7(Sch. 1).

S. 33(3)
amended by
Nos 10002
s. 4(f)(g) (as
amended by
No. 10002
s. 3(1)(Sch. 1
item 40)),
10262 s. 4,
42/1993
s. 47(4),
12/1994
s. 4(1),
23/1994

s. 118(Sch. 1
item 17.8),
46/1998
s. 7(Sch. 1).
S. 33(4)
substituted by
No. 10002
s. 4(h),
amended by
No. 12/1994
s. 4(1).

- (1) Any registered medical practitioner who has reason to believe that one of his patients is a drug-dependent person shall give notice in writing to the Secretary in the prescribed form.
- (2) Any registered medical practitioner who considers it may be necessary to administer, supply or prescribe any Schedule 8 poison or Schedule 9 poison to or for one of his patients for a continuous period of 8 weeks or a longer continuous period than 8 weeks shall forthwith upon his considering it necessary so to administer sell or supply the Schedule 8 poison or Schedule 9 poison give notice to the Secretary in the prescribed form unless notice has been given pursuant to sub-section (1).
- (3) Any registered medical practitioner who has administered, supplied or prescribed any Schedule 8 poison or Schedule 9 poison to or for any patient for a continuous period of 8 weeks or more shall as soon as practicable after the expiration of that period of 8 weeks give notice to the Secretary in the prescribed form unless notice has been given pursuant to sub-section (1) or sub-section (2).
- (4) Notwithstanding anything in sub-section (2) or sub-section (3), where a period of 8 weeks mentioned in those sub-sections has expired prior to the commencement of section 4 of the **Drugs Poisons and Controlled Substances (Amendment) Act 1983**, it shall be sufficient compliance with sub-section (2) or sub-section (3) if a notice mentioned in either of those sub-

sections is given as soon as practicable after that commencement.

- (5) For the purposes of this section, a registered medical practitioner administers, supplies or prescribes a Schedule 8 poison or Schedule 9 poison to a patient for a period mentioned in sub-section (2) or sub-section (3) if—

S. 33(5) amended by Nos 10002 s. 4(f)(i)(ii) (as amended by No. 10087 s. 3(1)(Sch. 1 item 40)), 42/1993 s. 47(4), 23/1994 s. 118(Sch. 1 item 17.8).

- (a) he actually administers supplies or prescribes that Schedule 8 poison or Schedule 9 poison for that period;

S. 33(5)(a) amended by Nos 10002 s. 4(f)(i)(ii) (as amended by No. 10087 s. 3(1)(Sch. 1 item 40)), 42/1993 s. 47(4).

- (b) he supplies a quantity or quantities of a Schedule 8 poison or Schedule 9 poison to the patient and instructs the patient to take the drug for that period; or

S. 33(5)(b) amended by Nos 10002 s. 4(f)(i)(ii) (as amended by No. 10087 s. 3(1)(Sch. 1 item 40)), 42/1993 s. 47(4).

- (c) he prescribes for the patient a quantity or quantities of a Schedule 8 poison or Schedule 9 poison which, if taken in accordance with the prescription, would be taken for that period.

S. 33(5)(c) amended by Nos 10002 s. 4(f)(i)(ii) (as amended by No. 10087 s. 3(1)(Sch. 1 item 40)), 42/1993 s. 47(4).

34. *Issue of permit to medical practitioner to prescribe a drug of dependence*²

Drugs, Poisons and Controlled Substances Act 1981

Act No. 9719/1981

s. 35

S. 34(1)
amended by
Nos 10262
s. 4, 23/1994
s. 118(Sch. 1
item 17.9),
46/1998
s. 7(Sch. 1).

(1) The Secretary may issue a permit in the prescribed form to any registered medical practitioner for the purpose of authorizing him—

S. 34(1)(a)
amended by
Nos 10002
s. 4(f)(i) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 40)),
42/1993
s. 47(5),
12/1994
s. 4(2)(a).

(a) to administer, prescribe or supply any Schedule 8 poison or Schedule 9 poison to or for a drug-dependent person; or

S. 34(1)(b)
amended by
Nos 10002
s. 4(f)(i) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 40)),
42/1993
s. 47(5),
12/1994
s. 4(2)(b).

(b) to administer, prescribe or supply any Schedule 8 poison or Schedule 9 poison to or for any person, other than a drug-dependent person, for a continuous period greater than 8 weeks.

S. 34(2)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

(2) The Secretary may at any time amend, suspend, or revoke a permit under sub-section (1) and any permit so suspended or revoked shall forthwith cease to have effect and shall be surrendered to the Secretary on demand.

35. Prohibition on administration of drugs for purposes of addiction

(1) A registered medical practitioner shall not at any time administer, supply or prescribe any Schedule 8 poison or Schedule 9 poison to or for any person he has reason to believe to be a drug-dependent person unless the registered medical practitioner holds a permit issued by the Secretary pursuant to section 34(1).

S. 35(1)
amended by
Nos 10002
s. 4(f) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 40)),
10262 s. 4,
42/1993
s. 47(6),
23/1994
s. 118(Sch. 1
item 17.10),
46/1998
s. 7(Sch. 1).

(2) A registered medical practitioner shall not administer, supply or prescribe any Schedule 8 poison or Schedule 9 poison to or for any person, other than a drug-dependent person, during a continuous period greater than 8 weeks unless the registered medical practitioner holds a permit issued by the Secretary pursuant to section 34(1).

S. 35(2)
amended by
Nos 10002
s. 4(f)(i) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 40)),
10262 s. 4,
42/1993
s. 47(6),
12/1994
s. 4(3),
23/1994
s. 118(Sch. 1
item 17.10),
46/1998
s. 7(Sch. 1).

(3) A registered medical practitioner granted a permit under this Division shall not administer, supply or prescribe any Schedule 8 poison or Schedule 9 poison to or for one of his patients for a continuous period—

S. 35(3)
amended by
No. 10002
s. 4(f) (as
amended by
No. 10087
s. 3(1)(Sch. 1
item 40)),
42/1993
s. 47(6),
23/1994
s. 118(Sch. 1
item 17.10).

(a) other than that specified in the permit; or

(b) in excess of the quantity specified in the permit.

36. *Obligations of pharmacists in relation to dispensing of drugs*

S. 36
amended by
Nos 10002
s. 4(k), 10262
s. 4, 42/1993
s. 47(7),
46/1998
s. 7(Sch. 1).

Every pharmacist who is called upon to dispense for any person greater quantities of or more frequently than appears to be reasonably

Drugs, Poisons and Controlled Substances Act 1981
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necessary any drug of dependence Schedule 8
poison, Schedule 9 poison or Schedule 4 poison
shall forthwith report the matter to the Secretary.

S. 36A
inserted by
No. 10002
s. 5(1),
amended by
No. 42/1993
s. 47(8).

36A. *Forgery*

A person shall not forge or fraudulently alter or
utter knowing it to be forged or fraudulently
altered, a prescription or order for a Schedule 8
poison, Schedule 9 poison or Schedule 4 poison
(not being a drug of dependence).

Penalty: 10 penalty units.

S. 36B
inserted by
No. 10002
s. 5(1).

**36B. *Unauthorized possession etc. of poison or controlled
substance etc.***

(1) A person shall not knowingly by false
representation, whether oral or in writing or by
conduct—

S. 36B(1)(a)
amended by
No. 42/1993
s. 47(9).

(a) obtain a Schedule 8 poison, Schedule 9
poison or Schedule 4 poison from a person
authorized by or licensed under this Act or
the regulations to possess, manufacture, sell
or supply the Schedule 8 poison, Schedule 9
poison or Schedule 4 poison;

S. 36B(1)(b)
amended by
Nos 42/1993
s. 47(9),
23/1994
s. 118(Sch. 1
item 17.11),
58/1997
s. 96(Sch.
item 3.3),
56/1996
s. 100(5).

(b) obtain a prescription or order for a
Schedule 8 poison, Schedule 9 poison or
Schedule 4 poison from a registered medical
practitioner, registered optometrist, dentist,
pharmacist or veterinary practitioner or a
person authorized by this Act or the
regulations to issue or possess the
prescription or order;

S. 36B(1)(c)
amended by
Nos 42/1993
s. 47(9),
23/1994
s. 118(Sch. 1
item 17.11).

(c) cause or induce a registered medical
practitioner to administer a Schedule 8
poison, Schedule 9 poison or Schedule 4
poison to him by injection or otherwise; or

(d) cause or induce a pharmacist or a person authorized by this Act or the regulations to supply a Schedule 8 poison, Schedule 9 poison or Schedule 4 poison, to dispense a prescription or order for that Schedule 8 poison, Schedule 9 poison or Schedule 4 poison, if the first-mentioned person knows the prescription or order to have been obtained in contravention of this Act or the regulations.

S. 36B(1)(d)
amended by
No. 42/1993
s. 47(9).

Penalty: 10 penalty units.

(2) A person shall not have in his possession a Schedule 8 poison, Schedule 9 poison or Schedule 4 poison unless he is authorized by or licensed under this Act or the regulations to do so.

S. 36B(2)
amended by
No. 42/1993
s. 47(9).

Penalty: 10 penalty units.

(3) In this section a reference to a Schedule 8 poison, Schedule 9 poison or Schedule 4 poison does not include a reference to a drug of dependence.

S. 36B(3)
amended by
No. 42/1993
s. 47(9).

Division 11—Appeals

37. Appeals

(1) Any person who feels aggrieved by any refusal of the Secretary to issue or renew any licence or permit or by any order of the Secretary cancelling suspending or revoking any licence or permit may appeal therefrom to the Magistrates' Court within six months after the refusal cancellation suspension or revocation.

S. 37(1)
amended by
Nos 10262
s. 4, 16/1986
s. 30, 57/1989
s. 3(Sch. item
59.1), 46/1998
s. 7(Sch. 1).

(2) The Court shall entertain inquire into and decide upon the appeal and its decision shall, save as provided by the **Administrative Law Act 1978**, be final and conclusive.

S. 37(2)
amended by
Nos 16/1986
s. 30, 57/1989
s. 3(Sch. item
59.2(a)–(c)).

Division 12—Sale of Poisons Book

S. 38
substituted by
Nos 42/1993
s. 48, 12/1994
s. 14.

38. *Record of sale of poisons*

A person who sells or supplies by retail any Schedule 1 poison or any Schedule 7 poison must keep an accurate record of the sale or supply, setting out the following details—

- (a) the name and address of the person who purchases or obtains the poison or controlled substance;
- (b) the date of sale or supply;
- (c) the name and quantity of the poison or controlled substance purchased or obtained.

S. 38A
inserted by
No. 42/1993
s. 48,
amended by
No. 12/1994
s. 16(1).

38A. *Authorised possession of certain poisons*

A person who purchases or obtains a poison or controlled substance to which section 38 applies and which is supplied to the person in accordance with that section and section 40 is authorised by this Act to purchase or obtain and to possess the poison or controlled substance so supplied.

S. 39
repealed by
No. 12/1994
s. 16(2).

* * * * *

S. 40
amended by
No. 42/1993
s. 49,
substituted by
No. 12/1994
s. 15.

40. *Sale or supply of poisons or controlled substances to persons under age*

A person shall not sell or supply any Schedule 1 poison or any Schedule 7 poison to a person who is under the age of 18 years.

Division 13—Authorized Officers

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41. Secretary may authorize person to carry out functions of authorized officer

(1) For the purposes of this Act, the Secretary may in writing authorize either generally or in any particular case, any of the following persons to exercise and perform the powers, duties and functions of an authorised officer under this Act and the regulations—

S. 41(1) amended by Nos 10262 s. 4, 42/1993 s. 50(1), 46/1998 s. 7(Sch. 1).

(a) any employee in the public service;

S. 41(1)(a) substituted by No. 46/1998 s. 7(Sch. 1).

* * * * *

S. 41(1)(b) repealed by No. 46/1998 s. 7(Sch. 1).

(c) any officer or employee of a public statutory authority;

(d) any member of staff of a municipal council.

(2) An authority under sub-section (1) may be expressed to be in force for a period specified in the authority or may be given for an indefinite period.

(3) The Secretary may in writing revoke or vary an authority given under sub-section (1).

S. 41(3) amended by Nos 10262 s. 4, 46/1998 s. 7(Sch. 1).

(4) A person may be an authorized officer for the purposes of this Act in conjunction with being employed in the public service or a public statutory authority or a member of staff of a municipal council.

S. 41(4) amended by Nos 10262 s. 4, 42/1993 s. 50(2), 46/1998 s. 7(Sch. 1).

* * * * *

S. 41(5) repealed by No. 10002 s. 5(2)(c).

42. Inspections

- (1) For the purpose of ascertaining whether the provisions of this Act and the regulations are being complied with any authorized officer may with such assistance as he thinks necessary at any reasonable time—
 - (a) enter upon any premises occupied by any person licensed or otherwise authorized by or under this Act to have in his possession any poison or controlled substance;
 - (b) examine any room or part of such premises and any goods or records therein;
 - (c) take an account of any poisons or controlled substances therein;
 - (d) on payment or tender of a reasonable price demand select and obtain any sample of any poison or controlled substance which is in or on those premises;
 - (e) seize any poison or controlled substance or any other substance or any document which is in or on those premises with respect to which he has reasonable grounds for believing there has been a contravention of this Act; and
 - (f) detain or remove to some suitable place any poison or controlled substance or other substance or document so seized.
 - (2) Every person who—
 - (a) refuses or fails to admit any authorized officer demanding to enter in pursuance of the provisions of this section;
 - (b) refuses to permit any authorized officer to select or obtain any sample in pursuance of the provisions of this section; or
-

- (c) obstructs or delays any authorized officer in the discharge of his duty or causes or permits any authorized officer to be so obstructed or delayed—

shall be guilty of an offence against this Act.

43. Duties of officers in relation to seized substances

- (1) Where any poison or controlled substance or other substance or document is seized by an authorized officer pursuant to this Part, the authorized officer shall forthwith—
- (a) give notice of the seizure in the prescribed form to the person apparently in charge thereof; or
- (b) if there is no person apparently in charge thereof, give notice of the seizure to any person appearing to be the consignor or owner thereof by any name and address attached thereto or to any package containing the poison or controlled substance or the other substance or document if the address is a place in Victoria and otherwise to the importer or consignee or his agent.
- (2) Any person claiming any poison or controlled substance or other substance or document seized under this part may within 96 hours after the seizure complain of the seizure by giving notice verified by statutory declaration of the complaint in the prescribed form to the registrar at the proper venue of the Magistrates' Court and a copy of the notice and the statutory declaration to the authorized officer responsible for the seizure.
- (3) The complaint shall be determined by the Magistrates' Court which (after hearing the evidence) may either confirm or disallow the seizure wholly or in part and make an order

S. 43(2)
amended by
No. 57/1989
s. 3(Sch. item
59.3).

S. 43(3)
amended by
No. 57/1989
s. 3(Sch. item
59.4).

accordingly.

- (4) If no complaint is made or if the seizure is confirmed each poison or controlled substance or other substance or document shall thereupon become the property of the Crown and may be destroyed or disposed of as the Minister directs.

44. *Persons who are liable for contravention of Act*

- (1) Where there is sold or supplied to any authorized officer in an unopened package any poison or controlled substance in connexion with the sale or supply of which there is a contravention of or failure to comply with any of the provisions of this Act or the regulations each of the following persons shall, in addition to the person who actually sold or supplied the package to the authorized officer, be liable in respect of the contravention or failure, namely—
- (a) if there is a label on or attached to the package—any person who appears from the label to have manufactured or prepared the poison or controlled substance or to have imported the poison or controlled substance into Victoria or to have enclosed or caused the poison or controlled substance to be enclosed in the package or to have been the wholesale dealer in the poison or controlled substance; or
 - (b) if there is no label on or attached to the package or if there is a label on or attached to the package but the label does not disclose any of the particulars referred to in paragraph (a) any person who has previously sold or supplied the unopened package.
- (2) Any person to whom the provisions of sub-section (1) applies shall be deemed to have sold or supplied the unopened package to the authorized
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officer as on the day and at the place where he purchased the package and shall be liable to the same penalty as if he had actually sold or supplied the unopened package to the authorized officer on that day and at that place.

- (3) It shall be a good defence to any prosecution brought under the provisions of this section if the person charged shows—
- (a) that the contravention or non-compliance is due to the act or default of some subsequent seller or supplier;
 - (b) that the contravention or non-compliance is due to deterioration or other causes beyond the control of the person so charged;
 - (c) where there is a label on or attached to the package, that he did not in fact attach the label or cause the label to be attached or enclose the poison or controlled substance in the package or cause the poison or controlled substance to be enclosed; or
 - (d) where there is no label on the package or attached thereto that he purchased or obtained the poison or controlled substance already enclosed in a package from some other person and sold or supplied the package in the condition in which he received it.
- (4) Nothing in this section shall affect the liability of any person selling or supplying an unopened package containing a poison or controlled substance to an authorized officer with respect to any contravention or non-compliance due to his default or to other causes within his control; and the conviction of any person under the foregoing provisions of this section shall not exonerate the person selling or supplying the unopened package
-

or any other person from liability with respect to that contravention or non-compliance.

- (5) Without affecting the generality of the application of this or any other provision of this Act to firms or their members, where a firm appears from a label on or attached to a package containing a poison or controlled substance to have imported manufactured or prepared the poison or controlled substance or to have been the wholesale dealer in the poison or controlled substance or to have enclosed the poison or controlled substance in a package—

S. 44(5)(a) amended by No. 57/1989 s. 3(Sch. item 59.5).

- (a) proceedings under this section may be taken (whether in the Magistrates' Court or otherwise) and penalties recovered accordingly against any member or members of the firm; and
- (b) this section shall be read and construed and have effect as if the name or names of the member or members of the firm had appeared on the label.

Division 14—Offences

S. 45 amended by No. 57/1989 s. 3(Sch. item 59.6(a)-(d)).

45. *Time within which information to be laid*

A charge for an offence against any of the provisions of this Act or the regulations (not being an indictable offence, whether or not that offence is capable of being determined summarily) shall be filed within three years from the time when the matter of the charge occurs and not afterwards.

46. *Offences*

Except insofar as it is otherwise by this Act expressly enacted every person who—

- (a) contravenes or fails to comply with any of the provisions of this Part;

- (b) contravenes or fails to comply with any condition limitation or restriction to which any licence warrant or permit issued under this Part is subject;
- (c) purchases or obtains any poison or controlled substance and gives false information in answer to inquiries required by or under this Act to be made by the seller or supplier; or
- (d) signs his name as a witness to the sale or supply of a poison or controlled substance to a person unknown to him—

shall be guilty of an offence against this Act.

47. *Maximum sentence etc.*

Notwithstanding anything to the contrary in this Act a person shall not on conviction for any offence of contravening or failing to comply with the regulations relating to—

- (a) the keeping of books; or
- (b) the issuing or dispensing of prescriptions containing substances or preparations to which this Part applies—

be sentenced to imprisonment or to pay a penalty of more than 5 penalty units if the court dealing with the case is satisfied that the offence was committed through inadvertence and was not preparatory to or committed in the course of or in connexion with the commission or intended commission of any other offence against this Act.

48. *Offence to receive certain moneys etc.*

Where for or in connexion with the manufacture sale or supply of a poison or controlled substance in contravention of this Act a person is proved to have in his possession or to have received money or any other valuable thing the person shall be

S. 47
amended by
No. 10002
ss 5(2)(d),
14(c).

deemed to have sold or supplied that poison or controlled substance in contravention of this Act unless the court hearing the matter is satisfied to the contrary.

S. 49
amended by
No. 54/1997
s. 6(a).

49. *Obtaining licence by fraud*

Any person who for the purpose of obtaining for himself or for any other person the issue grant or renewal of a licence warrant or permit under this Act or an authority under Part IVA of this Act makes any declaration or statement which is false in any material particular or knowingly utters produces or makes use of a declaration or statement which is false in any material particular or a document which contains a declaration or statement that is false in any material particular shall be guilty of an offence against this Act.

50. *Immunity of authorized officers*

No authorized officer shall be in any way liable to any penalty in respect of anything done by him in the exercise of any power or in the performance of any duty conferred or imposed upon him pursuant to the provisions of this Act and the regulations.

51. *Immunity of members of the police force etc.*

No member of the police force or person if the member or person is acting under instructions given in writing in relation to a particular case by a member of the police force not below the rank of senior sergeant shall be deemed to be an offender or accomplice in the commission of an offence against this Act although that first-mentioned member or person might but for this section have been deemed to be such an offender or accomplice.

Division 15—Poison Baits

52. Setting of poison baits

(1) A person shall not set lay put or place or knowingly be a party to the setting laying putting or placing of a poison or controlled substance or any fluid or edible matter (not being sown seed or grain) which contains a poison or controlled substance in or upon any road or street or any land whatsoever.

(2) Sub-section (1) does not apply to—

S. 52(2)
amended by
No. 52/1994
s. 97(Sch. 3
item 7.6).

(a) the Director-General of Conservation, Forests and Lands or its servants or agents with respect to the use of poisons or controlled substances for eradicating or controlling on any land pest animals or noxious weeds within the meaning of the **Catchment and Land Protection Act 1994**;

S. 52(2)(a)
amended by
No. 41/1987
s. 103(Sch. 4
item 12.1),
substituted by
No. 52/1994
s. 97(Sch. 3
item 7.1).

(b) the use of a poison or controlled substance or fluid or edible matter (not being sown seed or grain) which contains a poison or controlled substance by a person in or upon any land or premises owned or occupied by him for the purpose of destroying rats, mice or other small vermin commonly found in houses or pest animals within the meaning of the **Catchment and Land Protection Act 1994** (not being wildlife within the meaning of the **Wildlife Act 1975**) or for disinfecting sterilizing or cleansing purposes or for the purpose of manuring or fertilizing the land;

S. 52(2)(b)
amended by
No. 52/1994
s. 97(Sch. 3
item 7.2).

(c) the use by an owner or occupier of land of a poison or controlled substance on or adjacent to his land for the purpose of killing or

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s. 52

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destroying any wildlife within the meaning of the **Wildlife Act 1975**—

S. 52(2)(c)(i) repealed by No. 52/1994 s. 97(Sch. 3 item 7.3).

* * * * *

(ii) which is noxious wildlife within the meaning of the **Wildlife Act 1975**; or

(iii) under and in accordance with an authority or Order in Council published issued or granted under the **Wildlife Act 1975**;

S. 52(2)(d) amended by No. 21/1986 s. 4.

(d) the use by the council of a municipality (including the Corporation of the City of Melbourne and the Corporation of the City of Geelong) or by a local authority within the meaning of the **Public Contracts Act 1958** as in force immediately before the commencement of the **Public Contracts (Repeal) Act 1986** or by any body of persons corporate or unincorporate declared by the Governor in Council by Order published in the Government Gazette to be a body of persons to which this sub-section applies of a poison or controlled substance in or upon any road street drain channel or land whatsoever for the purpose of—

S. 52(2)(d)(i) amended by No. 52/1994 s. 97(Sch. 3 item 7.4).

(i) destroying rats mice or other vermin (not being wildlife within the meaning of the **Wildlife Act 1975**) commonly found in houses or pest animals within the meaning of the **Catchment and Land Protection Act 1994**;

(ii) disinfecting sterilizing or cleansing;

(iii) manuring or fertilizing;

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- (iv) killing or destroying wildlife within the meaning of the **Wildlife Act 1975**, being wildlife the killing or destruction of which is authorized by or under that Act or that is noxious wildlife within the meaning of that Act; or
- (v) killing or destroying wildlife within the meaning of the **Wildlife Act 1975**, if the council acts under and in accordance with an authority issued or granted under that Act;
- (e) the use of a poison or controlled substance for the purpose of carrying out a power authority function or duty conferred or imposed by or under an Act or in accordance with a licence permit warrant or other authority issued or granted under this Act or any other Act;
- (f) the use of a poison or controlled substance for agricultural, pastoral or horticultural purposes (being a poison or controlled substance to which the **Agricultural Chemicals Act 1958** applies) for agricultural, pastoral or horticultural purposes—

S. 52(2)(d)(iv)
amended by
No. 52/1994
s. 97(Sch. 3
item 7.5).

if and only if the person who or the body of persons which uses a poison or controlled substance of fluid or edible matter in any of the circumstances mentioned in paragraph (a), (b), (c), (d) or (e) takes or causes to be taken all reasonable precautions to prevent access to the poison or controlled substance or the fluid or edible matter by any domestic animal and, if the poison or controlled substance is in a poison bait and is used for eradicating or controlling pest animals within the meaning of the **Catchment**

and Land Protection Act 1994, complies with any applicable regulations under that Act.

- (3) In this section a reference to a domestic animal is a reference to any cattle within the meaning of the **Pounds Act 1958** or any dog cat or fowl or any other animal of any other kind or species whatever (whether a quadruped or not) which is tame or which has been or is being sufficiently tamed to serve some purpose for the use of man.

53. Regulations

Notwithstanding the provisions of this Act the Governor in Council may make regulations prohibiting the use, either absolutely or except under such circumstances or conditions or by such persons as may be prescribed, of any poison or controlled substance for the purpose of killing or destroying any animal or bird or for any other purpose whatsoever likely to cause death or harm to any animal or bird.

Pt 2 Div. 16
(Heading)
amended by
No. 81/1989
s. 3(Sch. item
10.1).

Division 16—Poisons in Roads and Waterways

54. Special regulations

S. 54(1)
amended by
Nos 10002
s. 14(d),
81/1989
s. 3(Sch. item
10.2).

- (1) Where in the interests of public safety it is expedient to provide for prohibiting controlling or regulating the putting or discharging or otherwise disposing of poisons or controlled substances or preparations thereof in on or into any road, street, channel, sewer, drain or waterway, the Governor in Council may make regulations for such purposes accordingly and may by those regulations impose penalties of not more than 50 penalty units for any breach of those regulations.

- (2) This section shall be read and construed as in aid of and not in derogation from any other Acts or enactments relating to the subject-matter of sub-section (1).

Division 17—Prohibition of Poisons or Controlled Substances

55. *Prohibiting sale or supply of poisons or controlled substances*

- (1) Where the Minister is of the opinion that it is necessary to take urgent action in the interest of the health or safety of the public, he may, after consulting with the Secretary, recommend to the Governor in Council that the sale or supply use or a specified use or uses of a poison or controlled substance—
- (a) should, subject to such terms and conditions as are specified in the recommendation, be—
 - (i) prohibited; or
 - (ii) restricted—
in the whole or any part of Victoria; or
 - (b) should, subject to such terms and conditions as are specified in the recommendation, be prohibited in part of Victoria and restricted in another part of Victoria—
for a period not exceeding three months.
- (2) Where a recommendation is made to the Governor in Council under sub-section (1), the Governor in Council may, by Order published in the Government Gazette prohibit or restrict the sale or supply or use of the poison or controlled substance in accordance with the recommendation.

S. 55(1)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

s. 55

S. 55(3)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

- (3) The Governor in Council may, on the recommendation of the Minister after consulting with the Secretary, by Order published in the Government Gazette—
- (a) extend, or further extend, the period during which a prohibition or restriction under an Order made under sub-section (2) is in force for a period not exceeding three months; and
 - (b) otherwise amend or revoke an Order made under sub-section (2).
- (4) Notice of an Order made under sub-section (2) or sub-section (3) shall be published in a daily newspaper and a rural weekly newspaper circulating throughout Victoria.

S. 55(5)
amended by
No. 10002
s. 14(d).

- (5) A person who contravenes or fails to comply with an Order including an Order that is amended under sub-section (3) or with the terms and conditions (if any) to which the Order is subject is guilty of an offence and liable to a penalty of not more than 50 penalty units.
-

PART III—MANUFACTURE OF HEROIN

56. *Manufacture of heroin etc.*

- (1) On the recommendation of the Minister, made after consulting with the Secretary, the Governor in Council may licence a fit and proper person to manufacture and sell or supply heroin by wholesale.
- (2) Where a licence is in force under sub-section (1), no other licence shall be in force under that sub-section for any period during which the first-mentioned licence is in force.
- (3) On the recommendation of the Minister, made after consulting with the Secretary, the Governor in Council may licence a fit and proper person to formulate heroin.
- (4) For the purposes of this section, a person formulates heroin if he prepares or does any act for the purpose of or in the course of preparing heroin in a form suitable for human therapeutic use.
- (5) Where a licence is in force under sub-section (3) no other licence under that sub-section shall be in force for any period during which the first-mentioned licence is in force.
- (6) The Governor in Council may on the recommendation of the Minister, made after consulting with the Secretary, grant or refuse to grant a licence under sub-section (1) or sub-section (3).
- (7) A licence under sub-section (1) or sub-section (3)—
- (a) shall remain in force for such period as is specified in the licence;

S. 56(1)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

S. 56(3)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

S. 56(6)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

- (b) shall be subject to such conditions, limitations and restrictions (if any) as the Governor in Council on the recommendation of the Minister determines and specifies in the licence;
 - (c) shall specify—
 - (i) the premises at which heroin may be manufactured or formulated by the licensee;
 - (ii) the quantity or quantities of heroin which may be manufactured or formulated by the licensee; and
 - (iii) the premises at which the licensee may store or keep heroin or any ingredient used in the manufacture of heroin for the purposes of manufacture or sale or supply by wholesale or for formulation under the licence; and
 - (d) may at any time be revoked or suspended by the Governor in Council on the recommendation of the Minister.
- (8) A licence under sub-section (1) or sub-section (3) shall authorize the manufacture and sale or supply of heroin by wholesale or the formulation of heroin (as the case may be) only at the premises and in the quantities specified in the licence, and authorize the storage or keeping of heroin or any ingredient used in the manufacture of heroin for the purposes of manufacture and sale or supply by wholesale or formulation only at the premises specified in the licence.

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s. 56

- (9) The Secretary may by instrument permit a registered medical practitioner or pharmacist to purchase or otherwise obtain from a person in respect of whom a licence is in force under sub-section (1) or sub-section (3) such quantities of heroin as are specified in the permit and to use the heroin so obtained for such medicinal purposes as are specified in the permit.
- (10) The Secretary may by instrument permit a fit and proper person to purchase or otherwise obtain from a person in respect of whom a licence is in force under sub-section (1) or sub-section (3) such quantity or quantities of heroin as are specified in the permit and to use the heroin so obtained for such educational experimental or research purposes and at such university or other institution as are specified in the permit.
- (11) On application in that behalf the Secretary may in the Chief General Manager's discretion grant or refuse to grant a permit under sub-section (9) or sub-section (10).
- (12) A permit under sub-section (9) or sub-section (10)—
- (a) shall remain in force for such period as is specified in the permit;
 - (b) shall be subject to such conditions, limitations and restrictions (if any) as the Secretary determines and specifies in the permit; and
 - (c) shall specify the quantity or quantities of heroin that may be obtained under the permit and the purposes for which the heroin so obtained may be used by the person to whom the permit is granted.

S. 56(9)
amended by
Nos 10262
s. 4, 23/1994
s. 118(Sch. 1
item 17.12),
46/1998
s. 7(Sch. 1).

S. 56(10)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

S. 56(11)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

S. 56(12)(b)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

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s. 56

S. 56(13)
amended by
No. 12/1994
s. 17(1).

S. 56(14)
amended by
No. 10002
s. 14(e).

(13) The provisions of sections 22A, 22C, 37(1) and 37(2) shall not apply to any licence granted under this section.

(14) A person who—

- (a) being the holder of an appropriate licence under sub-section (1) or sub-section (3)—sells or supplies heroin to a person other than a person permitted under this section to purchase or obtain heroin or otherwise than in accordance with any permit granted under this section;
- (b) being the holder of an appropriate licence under sub-section (1) or sub-section (3)—manufactures or formulates heroin otherwise than in accordance with the licence; or
- (c) being the holder of a permit under this section—uses, supplies or administers heroin otherwise than in accordance with the permit—

shall be guilty of an indictable offence and liable to imprisonment for a term of not more than five years or to a penalty of not more than 250 penalty units or to both such penalty and imprisonment.

PART IV—DELETERIOUS SUBSTANCES

Pt 4 (Heading)
substituted by
No. 10002
s. 6(1)(a).

57. Definitions

S. 57
substituted by
No. 10002
s. 6(1)(b).

(1) In this Part—

"deleterious substances" means—

- (a) methylated spirits; or
- (b) volatile substances;

"methylated spirits" means—

- (a) any spirit which has been methylated or denatured under the provisions of the Commonwealth Act known as the Spirits Act 1906 as amended and in force for the time being or the regulations under that Act;
- (b) methyl alcohol and wood spirit;
- (c) any other spirit to which any methylating substance has been added; or
- (d) any potable liquid with which methylated spirits as defined in paragraphs (a), (b) or (c) is mixed;

"volatile substance" means—

- (a) plastic solvent, adhesive cement, cleaning agent, glue, dope, nail polish remover, lighter fluid, gasoline, or any other volatile product derived from petroleum, paint thinner, lacquer thinner, aerosol propellant or anaesthetic gas; or

- (b) any substance declared pursuant to sub-section (2) by the Governor in Council to be a volatile substance.
- (2) The Governor in Council may by Order published in the Government Gazette declare a substance to be a volatile substance for the purposes of this Part.
- (3) The Governor in Council may by Order published in the Government Gazette vary or revoke an Order under sub-section (2).

S. 58
substituted by
No. 10002
s. 6(1)(b).

58. *Sale of deleterious substances*

- (1) Except as otherwise expressly provided in this Act or the regulations, a person shall not sell a deleterious substance to another person if the first-mentioned person knows or reasonably ought to have known or has reasonable cause to believe that the other person intends—
 - (a) to use the substance by drinking, inhaling, administering or otherwise introducing it into his body; or
 - (b) to sell or supply the substance to a third person for use by that third person in a manner mentioned in paragraph (a).
- (2) A person who contravenes sub-section (1) is guilty of an offence under this Act and shall be liable—
 - (a) where the offence relates to methylated spirits—

to a penalty of not more than 5 penalty units or imprisonment for a term of not more than one month or both that penalty and imprisonment;

- (b) where the offence relates to a volatile substance—

to a penalty of not more than 50 penalty units or imprisonment for a term of not more than two years or both that penalty and imprisonment.

59. *Matters to which this Part does not apply*

This Part does not apply to—

- (a) the sale of deleterious substances for a purpose authorized by or under this Act or for a prescribed purpose or for a purpose authorized by or under any other Act or the regulations made under the other Act; or
- (b) the sale of deleterious substances for the purpose of use by another person, being a use which is authorized by or under this Act or is a prescribed use or is a use authorized by or under another Act or the regulations made under that other Act.

S. 59
substituted by
No. 10002
s. 6(1)(b).

60. *Evidence*

- (1) In proceedings for an offence against section 58 production of evidence that—
- (a) on any article or substance;
- (b) on any package or other container in which there is an article or substance; or
- (c) on any label or thing affixed, attached or connected to an article or substance or a package or container in which there is an article or substance—

there is a statement that the particular article or substance is or contains a volatile substance is prima facie evidence that the particular article or substance is or contains a volatile substance.

S. 60
substituted by
No. 10002
s. 6(1)(b).

- (2) In proceedings for an offence against section 58 production of evidence that an article contains or a substance is a residue or vapour of a volatile substance is prima facie evidence that the article or substance is or contains a volatile substance.
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PART IVA—AUTHORITIES FOR LOW-THC CANNABIS

Division 1—Authorities for low-THC cannabis

61. Definitions

(1) In this Part—

"authority" means an authority issued under section 65;

"cannabis" means a plant or any part of a plant of the genus *Cannabis L*, whether fresh or dried;

"inspector" means—

(a) a person authorised as an inspector under section 69E; or

(b) a member of the police force;

"low-THC cannabis" means cannabis, the leaves and flowering heads of which do not contain more than 0.35 per cent of tetrahydrocannabinol;

"Secretary" means the body corporate established under Part 2 of the **Conservation, Forests and Lands Act 1987**;

"serious offence" means an indictable offence involving dishonesty, fraud or cultivation or trafficking in drugs of dependence where the maximum penalty exceeds 3 months imprisonment.

(2) For the purposes of section 64, a person is an associate of an applicant for an authority if the person—

(a) holds or will hold any relevant financial interest, or is or will be entitled to exercise

Pt 4A
(Heading and
ss 61–69M)
inserted by
54/1997 s. 5.

S. 61
repealed by
No. 10002
s. 6(1)(b), new
s. 61 inserted
by No.
54/1997
s. 5

any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant to which the authority relates, and by virtue of that interest or power, is able or will be able to exercise a significant influence over or with respect to the management or operation of the business to which the authority relates; or

(b) holds or will hold any relevant position, whether in right of the person or on behalf of any other person in the business of the applicant to which the authority relates; or

(c) is a relative of the applicant.

(3) In sub-section (2)—

"relative" means spouse (including de facto spouse), parent, child or sibling (whether of the full or half blood);

"relevant financial interest", in relation to a business, means—

(a) any share in the capital of the business; or

(b) any entitlement to receive any income derived from the business;

"relevant position", in relation to a business, means the position of director, manager or other executive position or secretary, however that position is designated;

"relevant power" means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant position.

62. *Application for authority to cultivate and process low-THC cannabis*

S. 62
repealed by
No. 10002
s. 6(1)(b), new
s. 62 inserted
by No.
54/1997
s. 5.

- (1) A person may apply to the Secretary for an authority authorising that person, for commercial or research purposes relating to non-therapeutic use—
 - (a) to possess, process, sell or supply cannabis seed which has been harvested from low-THC cannabis; or
 - (b) to cultivate and possess cannabis from seed which has been harvested from low-THC cannabis; or
 - (c) to possess, process, sell or supply cannabis which—
 - (i) is substantially free of leaves and flowering heads; and
 - (ii) does not contain tetrahydrocannabinol in excess of 0·1 per cent.
- (2) An application under sub-section (1) must—
 - (a) be in writing; and
 - (b) be accompanied by the prescribed application fee.
- (3) An application under sub-section (1) must contain or be accompanied by evidence to the satisfaction of the Secretary that—
 - (a) the applicant is a fit and proper person to be given an authority;

(b) the applicant intends to undertake bona fide research or commercial activity relating to the non-therapeutic use of cannabis under the authority including—

(i) in the case of research, evidence that the research would be conducted by a person with appropriate scientific training using appropriate methodology; or

(ii) in the case of commercial activity, evidence of the commercial activity to be carried out.

(4) An applicant must provide any other information about the applicant or the application which the Secretary reasonably requires.

63. *Secretary must investigate application*

(1) On receiving an application under section 62, the Secretary must cause to be carried out all investigations and inquiries that the Secretary considers necessary to properly determine the application.

(2) The Secretary may refer a copy of an application and any supporting documentation to the Chief Commissioner of Police.

(3) The Chief Commissioner of Police must inquire into and report to the Secretary on any matters concerning the application that the Secretary requests.

64. *Matters to be considered in determining applications*

(1) In order to prevent criminal activity in the cultivation and processing of low-THC cannabis, the Secretary must not issue an authority to an applicant unless the Secretary is satisfied that—

S. 63
repealed by
No. 10002
s. 6(1)(d), new
s. 63 inserted
by No.
54/1997
s. 5.

S. 64
repealed by
No. 10002
s. 6(1)(d), new
s. 64 inserted
by No.
54/1997
s. 5.

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- (a) the applicant or any associate of the applicant has within the 10 years preceding the application not been found guilty of a serious offence; and
 - (b) the applicant and each associate of the applicant is a suitable person to be concerned in or associated with the cultivation, processing, sale or supply of low-THC cannabis; and
 - (c) the applicant's property or premises will be suitable for the cultivation, processing, sale or supply of low-THC cannabis in relation to location, facilities and proposed security arrangements.
- (2) In particular, the Secretary may consider whether—
- (a) the applicant and each associate of the applicant is of good repute, having regard to character, honesty and integrity;
 - (b) in the case of an applicant that is not a natural person, the applicant has a satisfactory ownership, trust or corporate structure;
 - (c) the applicant is of sound and stable financial background;
 - (d) the applicant has any business association with any person or body who or which, in the opinion of the Secretary, is not of good repute, having regard to character, honesty and integrity;
 - (e) each director, partner, trustee, executive officer and secretary and any other person determined by the Secretary to be associated or connected with the ownership, administration or management of the
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s. 65

operations or business of the applicant is a suitable person to act in that capacity.

S. 65
repealed by
No. 10002
s. 6(1)(d), new
s. 64 inserted
by No.
54/1997
s. 5.

65. *Determination of applications*

- (1) After considering an application and any investigation under section 63, the Secretary must determine an application by—
 - (a) issuing an authority; or
 - (b) refusing to issue an authority.
- (2) The Secretary must notify the applicant in writing of the decision under sub-section (1).

S. 66
repealed by
No. 10002
s. 6(1)(d), new
s. 66 inserted
by No.
54/1997
s. 5.

66. *Terms and conditions of authorities*

- (1) An authority is issued for the term, not exceeding 3 years, specified in the authority unless it is sooner suspended or cancelled.
- (2) An authority relates only to the premises or site described in it.
- (3) An authority is subject to the terms, conditions, limitations and restrictions specified in it including, but not limited to, terms, conditions, limitations and restrictions relating to—
 - (a) the premises or site at which the activities authorised by the authority may be carried out;
 - (b) the source of seed for sowing, including the authentication of the varietal identity and tetrahydrocannabinol content of the crop from which the seed was harvested;
 - (c) the implementation and maintenance of satisfactory security and surveillance measures to restrict access of unauthorised persons to crops and harvested material;
 - (d) the keeping of records and other documents;

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- (e) the provision of information, records or other documents to the Secretary relating to—
 - (i) the activities carried out under the authority; or
 - (ii) a change in the position of director, manager, secretary or other executive position, however designated or the structure of the business to which the authority relates; or
 - (iii) any other matter that the Secretary reasonably requires;
 - (f) the disposal of harvested material and crop residue;
 - (g) inspection, supervision and surveillance of seed, plants, crops, harvested material and products by inspectors.

67. *Renewal of authorities*

- (1) An application for renewal of an authority—
 - (a) may be made up to one month before the expiry of the current authority; and
 - (b) must be in writing and accompanied by the prescribed fee.
- (2) On receiving an application under sub-section (1), the Secretary, in the Secretary's discretion, may renew the authority.
- (3) A renewed authority lasts for the same period as the previous authority.

68. *Authority not transferable*

An authority is not transferable to another person.

S. 67
repealed by
No. 10002
s. 6(1)(d), new
s. 67 inserted
by No.
54/1997
s. 5.

S. 68
repealed by
No. 10002
s. 6(1)(d), new
s. 68 inserted
by No.
54/1997
s. 5.

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s. 69

S. 69
repealed by
No. 10002
s. 6(1)(d), new
s. 69 inserted
by No.
54/1997
s. 5.

69. *Amendment of authorities*

- (1) The Secretary may, in the Secretary's discretion—
 - (a) amend any terms, conditions, limitations or restrictions to which the authority is subject;
or
 - (b) impose new terms, conditions, limitations or restrictions on an authority.
- (2) An amendment under sub-section (1) must be notified in writing to the holder of the authority.

S. 69A
inserted by
No. 54/1997
s. 5.

69A. *Suspension or cancellation*

- (1) The Secretary may, by notice in writing to the holder of an authority, suspend or cancel an authority if—
 - (a) the holder requests suspension or cancellation; or
 - (b) the holder has not complied with the terms, conditions, limitations or restrictions of the authority; or
 - (c) the holder has failed to comply with this Act or regulations; or
 - (d) the Secretary is satisfied that the holder is no longer a fit and proper person to hold the authority; or
 - (e) the Secretary is satisfied that the holder obtained the authority by fraud, misrepresentation or concealment of facts; or
 - (f) the holder ceases to carry on the research or commercial activity to which the authority relates.

- (2) If an authority is suspended or cancelled under sub-section (1), it ceases to be of effect and any document issued to the former holder must be surrendered to the Secretary on demand.

69B. Review by VCAT

- (1) A person may apply to the Victorian Civil and Administrative Tribunal for review of a decision of the Secretary—
- (a) to refuse to issue an authority to that person; or
 - (b) to refuse to renew an authority held by that person; or
 - (c) to suspend, cancel or amend an authority held by that person.
- (2) An application for review under sub-section (1) must be made within 28 days after the later of—
- (a) the day on which the decision is made;
 - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

S. 69B
inserted by
No. 54/1997
s. 5 (as
amended by
No. 52/1998
s. 311 (Sch. 1
item 22)).

69C. Offence to fail to comply with authority

A person who is the holder of an authority under this Part must comply with the terms, conditions, limitations or restrictions to which that authority is subject.

Penalty: 100 penalty units.

S. 69C
inserted by
No. 54/1997
s. 5.

69D. Catchment and Land Protection Act does not apply

Despite anything to the contrary in the

S. 69D
inserted by
No. 54/1997
s. 5.

Catchment and Land Protection Act 1994, Part 8 of that Act does not apply to the processing, cultivation, possession, sale or supply of low-THC cannabis in accordance with an authority under this Part.

Division 2—Inspection and enforcement

S. 69E
inserted by
No. 54/1997
s. 5.

69E. *Inspectors under this Part*

- (1) The Secretary, by instrument, may authorise the following persons to be inspectors for the purposes of all or any of the provisions of this Part—
 - (a) any person holding a position under the **Public Sector Management Act 1992**; or
 - (b) any other appropriately qualified person.
- (2) The Secretary may determine the terms and conditions of authorisation of inspectors.
- (3) The Secretary may, in writing, revoke the authorisation of an inspector at any time.
- (4) The terms and conditions of authorisation may contain general directions as to how the inspector's powers may be exercised.
- (5) The Secretary must issue an identification certificate to each inspector (other than an inspector who is a member of the police force) which sets out the provisions of this Part for which the inspector is authorised to be an inspector.
- (6) An inspector, in the course of performing his or her functions under this Part, must produce his or her identification certificate to any person who requests its production.
- (7) In this Division, a reference to an identification certificate in relation to an inspector who is a

member of the police force is a reference to written evidence of the fact that he or she is a member of the police force.

69F. *General powers of inspectors*

S. 69F
inserted by
No. 54/1997
s. 5.

- (1) For the purposes of determining compliance with this Part or an authority, an inspector may, with such assistance as he or she thinks necessary, at any reasonable time—
 - (a) enter and inspect any place, other than premises used as a residence, occupied by any person who is the holder of an authority;
 - (b) inspect, count, examine or mark for identification any product, plant or crop in the place;
 - (c) require a person to produce any document that the inspector reasonably requires for ascertaining whether this Part or an authority is being complied with and—
 - (i) examine the document; and
 - (ii) make copies of it or take extracts from it; and
 - (iii) remove the document for as long as is reasonably necessary to make copies or take extracts;
 - (d) take or remove for examination samples of or from, or specimens of, any plant of a crop or product to determine—
 - (i) the tetrahydrocannabinol content of that plant, crop or product; and
 - (ii) that the plant, crop or product has been cultivated or processed in accordance with the authority or that its possession is in accordance with the authority;

s. 69G

(e) submit any sample or specimen taken in accordance with this Part to a laboratory or place approved by the Secretary for examination and testing.

(2) An inspector may not exercise any powers under this Part if the inspector fails, on request, to produce his or her identification certificate for inspection by the occupier of the place or the person in charge or apparent control of the place.

S. 69G
inserted by
No. 54/1997
s. 5.

69G. *Inspector may order harvest or treatment*

(1) If an inspector is satisfied on reasonable grounds that any plant or crop contravenes this Part or an authority, the inspector may order the harvest of the plant or crop and the treatment of that harvested material.

(2) An order under sub-section (1) must—

- (a) be in writing; and
- (b) include a statement of the reasons for ordering the harvest and treatment; and
- (c) be given to the holder of the authority.

S. 69H
inserted by
No. 54/1997
s. 5.

69H. *Inspector has power to detain or seize*

If an inspector believes that any plant, crop or product contravenes this Part or an authority, the inspector may detain or seize the plant, crop or product and deal with it in accordance with section 69I.

S. 69I
inserted by
No. 54/1997
s. 5.

69I. *What happens if an inspector detains or seizes plants, crops or products?*

(1) If an inspector detains or seizes any plant, crop or product, the inspector must immediately—

- (a) give notice in writing of the detention or seizure including a statement of the reasons

-
- for detaining or seizing the plant, crop or product to the holder of the authority; and
- (b) take or send to a laboratory or place approved by the Secretary for examination and testing, the plant, crop or product or a sample of the plant, crop or product.
- (2) A person must not remove the whole or any part of a plant, crop or product detained or seized while the detention or seizure notice remains in force, except on the written authority or written direction of an inspector or the Secretary.
- Penalty: 50 penalty units.
- (3) If the results of the examination or test of the samples taken or sent in accordance with sub-section (1)(b) show that the plant, crop or product was not in contravention of this Part or the authority, the inspector must immediately release or return the plant, crop or product to the holder of the authority.
- (4) If the results of the examination or test of the samples taken or sent in accordance with sub-section (1)(b) show that the plant, crop or product was in contravention of this Part or the authority, the inspector must—
- (a) inform the holder of the authority or the person in whose possession the plant, crop or product was found (as the case may be) in writing of the results; and
- (b) arrange for or order the harvest, disposal or destruction of the plant, crop or product.
- (5) If an arrangement or order is made for the disposal or destruction of a plant, crop or product under sub-section (4)(b), the inspector must give notice of that arrangement or order before that disposal or destruction takes place.
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s. 69J

- (6) A notice under sub-section (5) must—
 - (a) be in writing; and
 - (b) include a statement of the reasons for arranging or ordering the disposal or destruction; and
 - (c) fix a time for the disposal or destruction; and
 - (d) be given to the holder of the authority.
- (7) Nothing in this section limits the power of a member of the police force to take legal proceedings in respect of any plant, crop or product found not to comply with this Part or an authority.

S. 69J
inserted by
No. 54/1997
s. 5.

69J. *Appeal to Secretary if disposal or destruction ordered*

- (1) Within 48 hours of receiving a notice under section 69I(5), the holder of an authority may lodge an appeal in writing against the disposal or destruction with the Secretary.
- (2) Within 3 business days after an appeal is lodged under sub-section (1), the Secretary must determine the appeal by—
 - (a) cancelling the arrangement or order made by the inspector under section 69I; or
 - (b) confirming the arrangement or order made by the inspector under section 69I.
- (3) The Secretary must notify the holder of the authority in writing of the determination made under sub-section (2).

69K. *Offences relating to inspector's exercise of power*

S. 69K
inserted by
No. 54/1997
s. 5.

- (1) A person must not, without reasonable excuse, hinder or obstruct an inspector in the exercise of a power under this Part.

Penalty: 100 penalty units.

- (2) A person must not, without reasonable excuse, fail to comply with the direction, requirement or order of an inspector.

Penalty: 100 penalty units.

69L. *Inspector may possess cannabis for purposes of this Part*

S. 69L
inserted by
No. 54/1997
s. 5.

An inspector is authorised to have cannabis in his or her possession in the exercise or performance of any power, function or duty conferred on him or her by this Part or the regulations made under this Part.

Division 3—Regulations under this Part

69M. *Regulations*

S. 69M
inserted by
No. 54/1997
s. 5.

- (1) The Governor in Council may make regulations for or with respect to—
- (a) fees for applications and renewals for the purposes of this Part;
 - (b) authorising and requiring inspectors to impose fees and charges of such amounts or rates as are prescribed or determined in the manner prescribed for—
 - (i) sampling and testing cannabis plants and crops grown or products produced in accordance with this Part as required under an authority or to determine the tetrahydrocannabinol content of those plants, crops or products;

- (ii) supervising the harvesting, disposal or destruction of cannabis plants, crops or products;
 - (iii) carrying out inspections, supervision or surveillance of cannabis plants or crops grown or products produced in accordance with this Part to ensure that the terms, conditions, limitations and restrictions of an authority are being complied with;
 - (iv) providing any other service in respect of cannabis plants or crops grown or products produced in accordance with this Part;
- (c) generally prescribing any other matter or thing required or permitted by this Part to be prescribed or necessary to be prescribed to give effect to this Part.
- (2) Regulations made under this Part may—
- (a) be of general or limited application;
 - (b) differ according to differences in time, place or circumstance;
 - (c) provide for different fees for different activities or classes of activity or different cases or classes of cases;
 - (d) provide for specific, minimum or maximum or minimum and maximum fees;
 - (e) provide for the waiver or reduction of fees;
 - (g) in the case of applications for the issue or renewal of authorities, specify fees that reflect the cost of administration of, and the provision of inspection and other services in connection with this Part;

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(h) leave any matter to be approved or
determined by the Secretary or an inspector.

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s. 70

Pt 5 (Heading)
repealed by
No. 10002
s. 6(1)(c).

* * * * *

Pt 6 (Heading
and ss 70–
101)
substituted as
Pt 5 (ss 70–
80) and Pt 6
(ss 81–90) by
No. 10002
s. 7(1).

PART V—DRUGS OF DEPENDENCE

S. 70
substituted by
No. 10002
s. 7(1).

70. Definitions

S. 70(1)
amended by
No. 101/1986
s. 55(1)(c).

(1) In this Part and Part VI, unless inconsistent with the context or subject-matter—

S. 70(1) def. of
"cannabis"
amended by
No. 101/1986
s. 58(1)(b)(i),
substituted by
No. 48/1997
s. 37(a).

"cannabis" means any fresh or dried parts of a plant of the genus *Cannabis* L;

S. 70(1)
def. of "child"
inserted by
No. 48/1997
s. 37(a).

"child" means a person under 18 years of age;

S. 70(1)
def. of
"commercial
quantity"
substituted by
No. 48/1997
s. 37(b).

"commercial quantity", in relation to a drug of dependence—

- (a) the name of which is specified in column 1 of Part 1 of Schedule Eleven, means the quantity that is specified in column 2 of that Part of that Schedule

opposite to the name of that drug of dependence;

- (b) the name of which is specified in column 1 of Part 2 of Schedule Eleven, means the quantity, or the number of plants, that is specified in column 2 of that Part of that Schedule opposite to the name of that drug of dependence;
- (c) the name of which is specified in column 1 of Part 3 of Schedule Eleven—
 - (i) if that drug of dependence is contained in or mixed with another substance and the quantity of that mixture of drug of dependence and other substance is not less than the quantity specified in column 2A of that Part of that Schedule opposite to the name of that drug of dependence, means any amount of that drug of dependence; or
 - (ii) in any other case, means the quantity that is specified in column 2 of that Part of that Schedule opposite to the name of that drug of dependence;

"narcotic plant" means any plant the name of which is specified in column 1 of Part 2 of Schedule Eleven;

S. 70(1) def. of "narcotic plant" amended by No. 101/1986 s. 58(1)(b)(ii).

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S. 70(1) def. of
"small
quantity"
amended by
Nos 101/1986
s. 58(1)(b)(iii),
48/1997
s. 37(c).

"small quantity"—

- (a) in relation to any fresh or dried parts of a plant of the genus *Cannabis* L, means the quantity that is specified in column 4 of Part 2 of Schedule Eleven opposite to the name *Cannabis* L specified in column 1 of that part of that Schedule; and
- (b) in relation to any drug of dependence the name of which is specified in column 1 of Part 3 of Schedule Eleven, means the quantity of that drug, including any other substance in which it is contained or with which it is mixed, that is specified in column 4 of that Part of that Schedule opposite to the name of that drug of dependence;

"traffick" in relation to a drug of dependence includes—

- (a) prepare a drug of dependence for trafficking;
- (b) manufacture a drug of dependence; or
- (c) sell, exchange, agree to sell, offer for sale or have in possession for sale, a drug of dependence;

S. 70(1) def. of
"traffickable
quantity"
substituted by
No. 48/1997
s. 37(d).

"traffickable quantity", in relation to a drug of dependence—

- (a) the name of which is specified in column 1 of Part 1 of Schedule Eleven, means the quantity that is specified in column 3 of that Part of that Schedule opposite to the name of that drug of dependence;
- (b) the name of which is specified in column 1 of Part 2 of Schedule Eleven,

means the quantity, or the number of plants, that is specified in column 3 of that Part of that Schedule opposite to the name of that drug of dependence;

- (c) the name of which is specified in column 1 of Part 3 of Schedule Eleven means the quantity of that drug, including any other substance in which it is contained or with which it is mixed, that is specified in column 3 of that Part of that Schedule opposite to the name of that drug of dependence;

"use" in relation to a drug of dependence means—

- (a) smoke a drug of dependence;
 - (b) inhale the fumes caused by heating or burning a drug of dependence; or
 - (c) introduce a drug of dependence into the body of a person.
- (2) The provisions of section 4(2) and the interpretations of **"manufacture"**, **"sell"** and **"supply"** in section 4(1) do not apply to this Part.

71. Trafficking in a drug of dependence

- (1) A person who without being authorized by or licensed under this Act or the regulations to do so trafficks or attempts to traffick in a drug of dependence is guilty of an indictable offence and liable—
 - (a) where the court is satisfied beyond reasonable doubt that the offence is committed in relation to a quantity of a drug of dependence that is not less than the commercial quantity applicable to that drug of dependence—

S. 71
substituted by
No. 10002
s. 7(1).

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s. 71A

S. 71(1)(a)(i)
substituted by
No. 48/1997
s. 41(1)(a).

(i) to level 2 imprisonment (25 years maximum); and

(ii) in addition to imprisonment, to a penalty of not more than 2500 penalty units; or

S. 71(1)(ab)
inserted by
No. 48/1997
s. 38(1).

(ab) where the court is satisfied beyond reasonable doubt that the offence committed involved trafficking or attempting to traffick to a child in relation to a quantity of a drug of dependence that is less than the commercial quantity applicable to that drug of dependence, to a penalty of not more than 2400 penalty units or level 3 imprisonment (20 years maximum) or both; or

S. 71(1)(b)
amended by
No. 48/1997
s. 41(1)(b).

(b) in any other case—to a penalty of not more than 1000 penalty units or to level 4 imprisonment (15 years maximum) or to both that penalty and imprisonment.

S. 71(2)
amended by
Nos 56/1989
s. 286(Sch. 2
item 9),
48/1997
s. 38(2)(a)(b).

(2) Notwithstanding anything to the contrary in any other Act, where a person (not being a child liable to be dealt with under the **Children and Young Persons Act 1989**) is convicted of an offence against the provisions of sub-section (1) and the court is satisfied that paragraph (a) or paragraph (ab) of that sub-section applies to that person, the court shall sentence the person to imprisonment as provided in paragraph (a)(i) or paragraph (ab) of that sub-section.

S. 71A
inserted by
No. 48/1997
s. 39.

71A. Possession of substance, material, documents or equipment for trafficking in a drug of dependence

A person who, without being authorised by or licensed under this Act or the regulations to do so, possesses a substance, material, document containing instructions relating to the preparation,

cultivation or manufacture of a drug of dependence or equipment with the intention of using the substance, material, document or equipment for the purpose of trafficking in a drug of dependence is guilty of an indictable offence and liable to level 5 imprisonment (10 years maximum).

71B. *Supply of drug of dependence to a child*

S. 71B
inserted by
No. 48/1997
s. 39.

- (1) A person who, without being authorised by or licensed under this Act or the regulations to do so—
- (a) supplies a drug of dependence to a child for the purposes of the supply of that drug of dependence by that child to another child; or
 - (b) supplies a drug of dependence to a child for the use of that drug of dependence by that child—

is guilty of an indictable offence and liable to a penalty of not more than 1000 penalty units or level 4 imprisonment (15 years maximum) or both.

- (2) Despite section 70(2), in this section "**supply**" has the same meaning as in section 4(1) of this Act.
- (3) This section does not apply to a person who supplies a drug of dependence to a child if, at the time of supplying that drug, that person was also a child.
- (4) It is a defence to a charge under this section for a person charged to prove that he or she believed on reasonable grounds that the person to whom the drug of dependence was supplied was 18 years of age or older.

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s. 72

72. Cultivation of narcotic plants

S. 72
substituted by
No. 10002
s. 7(1).

(1) A person who without being authorized by or licensed under this Act or the regulations to do so cultivates or attempts to cultivate a narcotic plant is guilty of an indictable offence and liable—

S. 72(1)(a)
amended by
No. 48/1997
s. 41(2).

(a) where the court is satisfied on the balance of probabilities that the offence was not committed by the person for any purpose related to trafficking in that plant—to a penalty of not more than 20 penalty units or to level 8 imprisonment (1 year maximum) or to both that penalty and imprisonment;

S. 72(1)(ab)
inserted by
No. 48/1997
s. 40(1).

(ab) where the court is satisfied beyond reasonable doubt that the offence is committed in relation to a quantity of a drug of dependence, being a narcotic plant, that is not less than the commercial quantity applicable to that narcotic plant—

(i) to level 2 imprisonment (25 years maximum); and

(ii) in addition to imprisonment, to a penalty of not more than 2500 penalty units; or

S. 72(1)(b)
amended by
No. 48/1997
s. 41(3).

(b) in any other case—to a penalty of not more than 1000 penalty units or to level 4 imprisonment (15 years maximum) or to both that penalty and imprisonment.

(2) In this section "**cultivate**" in relation to a narcotic plant includes—

(a) sow a seed of a narcotic plant; or

(b) plant, grow, tend, nurture or harvest a narcotic plant.

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Act No. 9719/1981

s. 73

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					S. 72(3) repealed by No. 48/1997 s. 40(2).

*	*	*	*	*	
					S. 72(4) repealed by No. 48/1997 s. 40(2).

(5) It is a good defence to a prosecution for an offence involving the cultivation of a narcotic plant if the person charged with the offence adduces evidence which satisfies the court on the balance of probabilities that, having regard to all of the circumstances (including his conduct) in which the matter alleged to constitute the offence arose or preparatory to the alleged commission of the offence, he did not know or suspect and could not reasonably have been expected to have known or suspected that the narcotic plant was a narcotic plant.

73. Possession of a drug of dependence

S. 73
substituted by
No. 10002
s. 7(1).

(1) A person who without being authorized by or licensed under this Act or the regulations to do so has or attempts to have in his possession a drug of dependence is guilty of an indictable offence and liable—

(a) where the court is satisfied on the balance of probabilities that—

(i) the offence was committed in relation to a quantity of cannabis or tetrahydrocannabinol that is not more than the small quantity applicable to cannabis or tetrahydrocannabinol;

S. 73(1)(a)(i)
amended by
No. 48/1997
s. 42(1)(a).

(ii) the offence was not committed for any purpose related to trafficking in cannabis or tetrahydrocannabinol—

S. 73(1)(a)(ii)
amended by
No. 48/1997
s. 42(1)(b).

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Act No. 9719/1981

s. 74

S. 73(1)(b)
amended by
No. 48/1997
s. 41(4).

- to a penalty of not more than 5 penalty units;
- (b) subject to paragraph (a), where the court is satisfied on the balance of probabilities that the offence was not committed by the person for any purpose relating to trafficking in that drug of dependence—to a penalty of not more than 30 penalty units or to level 8 imprisonment (1 year maximum) or to both that penalty and imprisonment; or
- (c) in any other case—to a penalty of not more than 400 penalty units or to level 6 imprisonment (5 years maximum) or to both that penalty and imprisonment.

S. 73(1)(c)
amended by
No. 48/1997
s. 41(5).

- (2) Where a person has in his possession, without being authorized by or licensed under this Act or the regulations to do so, a drug of dependence in a quantity that is not less than the traffickable quantity applicable to that drug of dependence, the possession of that drug of dependence in that quantity is prima facie evidence of trafficking by that person in that drug of dependence.

S. 74
substituted by
No. 10002
s. 7(1),
amended by
No. 48/1997
s. 41(6).

74. *Introduction of a drug of dependence into the body of another person*

A person who, without being authorized by or licensed under this Act or the regulations to do so, introduces or attempts to introduce a drug of dependence into the body of another person is guilty of an offence against this Act and liable to a penalty of not more than 30 penalty units or to level 8 imprisonment (1 year maximum) or to both that penalty and imprisonment.

S. 75
substituted by
No. 10002
s. 7(1).

75. *Use of drug of dependence*

A person who, without being authorized by or licensed under this Act or the regulations to do so

uses or attempts to use a drug of dependence is guilty of an offence against this Act and liable—

- (a) where the court is satisfied on the balance of probabilities that the offence was committed in relation to cannabis or tetrahydrocannabinol—to a penalty of not more than 5 penalty units; and

S. 75(a)
amended by
No. 48/1997
s. 42(2).

- (b) in any other case—to a penalty of not more than 30 penalty units or to level 8 imprisonment (1 year maximum) or to both that penalty and imprisonment.

S. 75(b)
amended by
No. 48/1997
s. 41(7).

76. *Adjourned bonds to be given in certain cases*

S. 76
substituted by
No. 10002
s. 7(1),
amended by
No. 57/1989
s. 3(Sch. item
59.7(a)(b)).

- (1) Where before the Magistrates' Court—

S. 76(1)
amended by
No. 49/1991
s. 119(7)(Sch.
4 item 6).

- (a) in relation to cannabis—

S. 76(1)(a)
amended by
No. 48/1997
s. 43(1)(a).

- (i) a person is charged with an offence under section 72 and at the hearing the court is satisfied on the balance of probabilities that the offence was not committed by the person for any purpose relating to trafficking in cannabis;
- (ii) a person is charged with an offence under section 73 and at the hearing the court is satisfied on the balance of probabilities that the offence was not

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committed by the person for any purpose relating to trafficking in cannabis;

- (iii) a person is charged with an offence under section 75; or

a person is charged with an offence under section 79 or section 80, being an offence that relates to an offence mentioned in sub-paragraphs (i), (ii) or (iii) of this paragraph and, where that last-mentioned offence relates to the possession or cultivation of cannabis, the court is satisfied on the balance of probabilities that the last-mentioned offence would not have been committed by the person for any purpose relating to trafficking in cannabis or the court is satisfied on the balance of probabilities that the last-mentioned offence would, if committed, have related to a quantity of cannabis which was not more than the small quantity applicable to cannabis; and

- (ab) in relation to any drug of dependence specified in column 1 of Part 3 of Schedule Eleven—

(i) a person is charged with an offence under section 73 and at the hearing the court is satisfied on the balance of probabilities that the offence—

(A) was committed in relation to a quantity of that drug which was not more than the small

S. 76(1)(ab)
inserted by
No. 48/1997
s. 43(1)(a).

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- quantity applicable to that drug; and
- (B) was not committed for any purpose relating to trafficking in that drug; or
- (ii) a person is charged with an offence under section 75 and at the hearing the court is satisfied on the balance of probabilities that the offence was committed in relation to a quantity of that drug which was not more than the small quantity applicable to that drug; or
- (iii) a person is charged with an offence under section 79 or section 80, being an offence that relates to an offence mentioned in sub-paragraphs (i) or (ii), and the court is satisfied on the balance of probabilities that the last-mentioned offence—
- (A) would, if committed, have been committed in relation to a quantity of that drug which was not more than the small quantity applicable to that drug; and
- (B) would not have been committed for any purpose relating to trafficking in that drug; and
- (b) a person mentioned in paragraph (a) or (ab) has not previously been convicted of an offence under—

S. 76(1)(b)
amended by
No. 48/1997
s. 43(1)(b).

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- (i) section 36B(2), Part III of this Act or this Part;
- (ii) Part II or Part III of the **Poisons Act 1962**;
- (iii) Part XVIII of the **Health Act 1958**;
- (iv) a provision of the law of another State or Territory of the Commonwealth corresponding to any provision mentioned in sub-paragraphs (i), (ii) or (iii); or
- (v) Division 2 of Part XIII of the Act of the Commonwealth known as the Customs Act 1901 as amended and in force for the time being—

and has not previously been dealt with under this section; and

S. 76(1)(c)
amended by
No. 48/1997
s. 43(1)(b).

- (c) in relation to a person mentioned in paragraph (a) or (ab) the court is satisfied beyond reasonable doubt that the person is guilty of the offence with which he is charged—

the court, without proceeding to conviction, shall having regard to the character and antecedents of the person and to all the circumstances and the public interest, adjourn the further hearing to a time and place to be fixed (such time being not more than twelve months thereafter) and allow the person charged to go at large upon his giving an undertaking under section 75(1) of the **Sentencing Act 1991**, unless the court considers it appropriate to proceed to a conviction.

S. 76(1A)
inserted by
No. 48/1997
s. 43(2).

- (1A) If a person to whom sub-section (1) applies is, on a charge for an offence in relation to a drug of dependence other than cannabis or tetrahydrocannabinol, released on giving an
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undertaking under section 75(1) of the **Sentencing Act 1991**, the court must attach to the undertaking a condition that the person completes an approved drug education and information program.

- (2) Where sub-section (1) applies to a person and the magistrates' court proceeds to a conviction, the court shall state its reasons for doing so.
- (3) In determining whether a person has been previously convicted of an offence for the purposes of paragraph (b) of sub-section (1), proceedings under the **Children's Court Act 1973** or under any Act of the Commonwealth or of a State or Territory of the Commonwealth which corresponds to that Act shall be disregarded.
- (4) A person or body may apply to the Secretary for approval for a program for the purposes of this section.
- (5) An application under sub-section (4) must be accompanied by the prescribed application fee.
- (6) The Secretary—
- (a) may grant an approval subject to any conditions, limitations or restrictions specified in the approval; and
 - (b) must specify the period during which an approval continues in force.

S. 76(4)
inserted by
No. 48/1997
s. 43(3),
amended by
No. 46/1998
s. 7(Sch. 1).

S. 76(5)
inserted by
No. 48/1997
s. 43(3).

S. 76(6)
inserted by
No. 48/1997
s. 43(3),
amended by
No. 46/1998
s. 7(Sch. 1).

77. *Forging prescriptions and orders for drugs of dependence*

A person shall not forge or attempt to forge or fraudulently alter or attempt to fraudulently alter

S. 77
substituted by
No. 10002
s. 7(1),
amended by
No. 48/1997
s. 41(8).

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or utter or attempt to utter knowing it to be forged or fraudulently altered a prescription or order for a drug of dependence.

Penalty: 20 penalty units or level 8 imprisonment (1 year maximum) or both.

S. 78 substituted by No. 10002 s. 7(1), amended by No. 48/1997 s. 41(9).

78. *Obtaining drugs of dependence etc. by false representation*

A person shall not knowingly by false representation, whether oral or in writing or by conduct—

S. 78(b) amended by No. 23/1994 s. 118(Sch. 1 item 17.13).

S. 78(c) amended by No. 23/1994 s. 118(Sch. 1 item 17.13).

- (a) obtain or attempt to obtain a drug of dependence from a person authorized by or licensed under this Act or the regulations to possess, manufacture, sell or supply the drug of dependence;
- (b) obtain or attempt to obtain a prescription or order for a drug of dependence from a registered medical practitioner, dentist, pharmacist or veterinary surgeon or a person authorized by this Act or the regulations to issue or possess the prescription or order;
- (c) cause or induce or attempt to cause or induce a registered medical practitioner to administer by injection or otherwise, a drug of dependence to him; or
- (d) cause or induce or attempt to cause or induce a pharmacist or a person authorized by this Act or the regulations to supply a drug of dependence, to dispense a prescription or order for a drug of dependence, if the first-mentioned person knew the prescription or the order to have been obtained in contravention of this Act or the regulations.

Penalty: 20 penalty units or level 8 imprisonment (1 year maximum) or both.

79. *Conspiring*

S. 79 substituted by No. 10002 s. 7(1).

- (1) A person who conspires with another person or other persons to commit an offence against any provision of sections 71, 71A, 71B, 72 or 73 is guilty of an indictable offence and liable to the same punishment pecuniary penalties and forfeiture as if he has committed the first-mentioned offence.
- (2) A person who conspires with another person or persons to commit an offence against any of the provisions of sections 74, 75, 77 or 78 is guilty of an offence against this Act and liable to the same punishment pecuniary penalties and forfeiture as if he has committed the first-mentioned offence.

S. 79(1) amended by No. 48/1997 s. 47(a).

80. *Aiding and abetting etc.*

S. 80 substituted by No. 10002 s. 7(1).

- (1) A person who aids, abets, counsels, procures, solicits or incites the commission of an offence against any of the provisions of sections 71, 71A, 71B, 72 or 73 is guilty of an indictable offence and liable to the same punishment pecuniary penalties and forfeiture as if he has committed the relevant offence against any of the provisions of sections 71, 72 or 73.
- (2) A person who aids, abets, counsels, procures, solicits or incites the commission of an offence against any of the provisions of sections 74, 75, 77 or 78 is guilty of an offence against this Act

S. 80(1) amended by No. 48/1997 s. 47(b).

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and liable to the same punishment pecuniary penalties and forfeiture as if he has committed the relevant offence against any of the provisions of sections 74, 75, 77 or 78.

(3) A person who in Victoria—

- (a) conspires with another person or persons to commit; or
- (b) aids, abets, counsels or procures the commission of—

an offence in any place outside Victoria being an offence punishable under the provisions of a corresponding law in force in that place shall be guilty of the same offence and liable to the same punishment pecuniary penalty and forfeiture as if the offence committed outside Victoria had been committed inside Victoria.

(4) A person who in Victoria does an act preparatory to the commission of an offence in a place outside Victoria being an offence under a law which is in relation to the provisions of sections 71 to 75, 77 or 78 a corresponding law shall be guilty of the same offence and liable to the same punishment pecuniary penalty and forfeiture as if the first-mentioned offence were committed in Victoria.

(5) A person who sells or supplies a hypodermic needle or a syringe is not guilty of an offence under this section by reason only of that sale or supply—

- (a) if the person is, or is engaged or employed by, a pharmacist and the sale or supply is made in the course of the lawful practice of a pharmacist; or
- (b) if the sale or supply is by a specified person or organisation or specified class of persons or organisations in specified circumstances

S. 80(5)
inserted by
No. 20/1987
s. 3.

S. 80(5)(b)
substituted by
No. 12/1994
s. 6(1).

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s. 80

as authorised by Order in Council published
in the Government Gazette.

- (6) The Secretary must keep a list of all persons and
organisations authorised under sub-section (5)(b).

S. 80(6)
inserted by
No. 12/1994
s. 6(2),
amended by
46/1998
s. 7(Sch. 1).

- (7) The Secretary must ensure that—

- (a) a copy of the list is kept available for
inspection by members of the public during
normal office hours without charge at the
Chief General Manager's principal office;
and
- (b) a copy of the list is made available, without
charge, to any member of the public on
request.

S. 80(7)
inserted by
No. 12/1994
s. 6(2),
amended by
46/1998
s. 7(Sch. 1).

Pt 6 (Heading and ss 70–101) substituted as Pt 5 (ss 70–80) and Pt 6 (81–90) by No. 10002 s. 7(1).

S. 81 substituted by No. 10002 s. 7(1).

S. 81(1) amended by Nos 16/1986 s. 30, 101/1986 s. 58(1)(c), 57/1989 s. 3(Sch. item 59.8(a)–(c)), 48/1997 s. 44(1)(a). S. 81(1)(a) amended by No. 48/1997 s. 44(1)(b).

PART VI—SEARCH SEIZURE AND FORFEITURE

81. *Warrant to search premises*

- (1) Any magistrate who is satisfied by evidence on oath or by affidavit of any member of the police force of or above the rank of sergeant or for the time being in charge of a police station that there is reasonable ground for believing that there is, or will be within the next 72 hours, on or in any land or premises—
- (a) any thing in respect of which an offence under this Act or the regulations has been or is reasonably suspected to have been committed or is being or is likely to be committed within the next 72 hours;
 - (b) any thing which there is reasonable ground to believe will afford evidence of the commission of an offence under this Act or the regulations; or
 - (c) any document directly or indirectly relating to or concerning a transaction or dealing which is or would be, if carried out, an offence under this Act or the regulations or under a provision of a law in force in a place outside Victoria corresponding to Part V of this Act—

may at any time issue a warrant under his hand authorizing a member of the police force named in

the warrant to enter and search the land or premises for any such thing or document and to seize and carry it before the Court so that the matter may be dealt with according to law.

- (2) Every warrant under sub-section (1) shall be in or to the effect of the form of Schedule Ten.
- (3) A member of the police force to whom a warrant under sub-section (1) is addressed may at any time or times by day or night but within one month from the date of the warrant and with such assistance as may be necessary—
- (a) enter, if need be by force, the land or premises named in the warrant;
 - (b) arrest all persons on or in that land or those premises who are found offending against a provision of this Act or the regulations;
 - (c) search the land or premises or any vehicle boat or aircraft or any person found on or in that land or those premises or in any vehicle boat or aircraft thereon or therein; and
 - (d) seize and carry away or deal with as mentioned in paragraph (e)—
 - (i) any thing in respect of which an offence under this Act or the regulations has been or is reasonably suspected to have been committed;
 - (ii) any thing which there is reasonable ground to believe will afford evidence of the commission of an offence under this Act or the regulations; and
 - (iii) any document directly or indirectly relating to or concerning a transaction or dealing which is or would be, if carried out, an offence against this Act or the regulations or under a provision

S. 81(3)(d)
amended by
No. 48/1997
s. 44(2)(a)(b).

of a law in force in a place outside Victoria corresponding to a provision of Part V of this Act; and

S. 81(3)(e)
inserted by
No. 48/1997
s. 44(2)(b).

(e) if—

(i) the thing is—

- (A) a drug of dependence or a substance that contains a drug of dependence; or
- (B) a poison or controlled substance; or
- (C) an instrument, device or substance that is or has been used or is capable of being used for or in the cultivation, manufacture, sale or use or in the preparation for cultivation, manufacture, sale or use of a drug of dependence; and

(ii) an analyst or botanist within the meaning of section 120 certifies in writing to the member of the police force executing the warrant that destruction or disposal of the thing is required in the interests of health or safety—

destroy or dispose of the thing after taking, where practicable, any samples of it as are required for the purposes of this Act.

(4) Where a member of the police force to whom a warrant is addressed executes the warrant he shall as soon as practicable after executing the warrant—

(a) endorse the warrant to that effect; and

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s. 81

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- (b) cause to be lodged with the registrar of the Magistrates' Court at the venue nearest to the land or premises where the warrant was executed a report signed by the member and containing particulars of—
- (i) all searches undertaken;
 - (ii) all persons arrested; and
 - (iii) all things and documents seized and carried away; and
 - (iv) all samples taken; and
 - (v) all things destroyed or disposed of—
- in execution of the warrant.
- (5) On application in that behalf by a person made to the Magistrates' Court at the venue at which a report has been lodged pursuant to sub-section (4), the Court may make an order authorizing the person to inspect the report if the person satisfies the Court that he is—
- (a) a person who was arrested in the course of the execution of the warrant;
 - (b) the owner or occupier of premises upon which the warrant was executed; or
 - (c) the owner of the property seized and carried away in the execution of the warrant; or
- S. 81(4)(b) amended by No. 57/1989 s. 3(Sch. item 59.9).
- S. 81(4)(b)(iii) amended by No. 48/1997 s. 44(3).
- S. 81(4)(b)(iv) inserted by No. 48/1997 s. 44(3).
- S. 81(4)(b)(v) inserted by No. 48/1997 s. 44(3).
- S. 81(5) amended by No. 57/1989 s. 3(Sch. item 59.10(a)(b)).
- S. 81(5)(c) amended by No. 48/1997 s. 44(4).

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S. 81(5)(d)
inserted by
No. 48/1997
s. 44(4).

(d) the owner of property destroyed or disposed
of in execution of the warrant.

S. 81(6)
inserted by
No. 48/1997
s. 44(5).

(6) If a sample of a thing referred to in sub-section
(3)(e) taken in execution of a warrant is sufficient
to enable an analysis or examination to be made
both in the investigation of an offence and on
behalf of a person arrested in the course of the
execution of the warrant, a part of the sample
taken sufficient for analysis or examination must,
on request by the person arrested, be delivered to
an analyst or botanist within the meaning of
section 120 nominated by that person.

S. 82
substituted by
No. 10002
s. 7(1).

82. Search without warrant

Where a member of the police force has
reasonable grounds for suspecting that—

- (a) on or in a vehicle in or upon a public place;
- (b) on an animal in a public place;
- (c) in the possession of a person in a public
place;
- (d) on or in a boat or vessel, underway or not; or
- (e) on or in an aircraft—

there is a drug of dependence in respect of which
an offence has been committed or is reasonably
suspected to have been committed under a
provision of Part V, the member may with such
assistance as he thinks necessary—

- (f) search the vehicle, animal, person, boat
vessel or aircraft;
- (g) seize and carry away any instrument device
or substance which he reasonably believes to
be used or capable of being used for or in the
manufacture, sale, preparation for

manufacture, preparation for sale, or use of any drug of dependence;

- (h) seize and carry away the drug of dependence—

and deal with it according to law.

83. *Forfeiture of drug of dependence or substance before conviction*

S. 83 substituted by No. 10002 s. 7(1).

- (1) Upon application in that behalf by a member of the police force the Magistrates' Court may upon proof that—

S. 83(1) amended by Nos 16/1986 s. 30, 101/1986 s. 58(1)(d)(iii), 57/1989 s. 3(Sch. item 59.11).

- (a) a substance is or contains a drug of dependence or a poison or controlled substance; or
- (b) an instrument, device or substance is an instrument, device or substance that is or has been used or is capable of being used for or in the cultivation, manufacture, sale or use or in the preparation for cultivation, manufacture, sale or use of a drug of dependence—

S. 83(1)(b) substituted by No. 101/1986 s. 58(1)(d)(i).

and upon such notice being given to such persons as the court directs, order that the instrument or device or the whole or any part or parts of the substance, drug of dependence or poison or controlled substance be forfeited to Her Majesty and either destroyed or disposed of in such manner as is provided in the order, and may also make a finding of fact as to—

- (c) the quantity of the drug of dependence, substance or poison or controlled substance produced to, or inspected by, the court, the quantity ordered to be destroyed or disposed of, the quantity remaining, and the fact that

S. 83(1)(c) amended by No. 101/1986 s. 58(1)(d)(ii).

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s. 83

what remains is part of what was produced to, or inspected by, the court; or

S. 83(1)(d) amended by No. 101/1986 s. 58(1)(d)(ii).

- (d) the nature of any instrument or device produced to, or inspected by, the court—

and may also order that the quantity remaining of the substance, drug of dependence or poison or controlled substance be forfeited to Her Majesty and either destroyed or disposed of in such manner as is provided in the order when no longer required for the purpose of any subsequent proceedings.

S. 83(1A) inserted by No. 101/1986 s. 58(1)(d)(iv), amended by No. 57/1989 s. 3(Sch. item 59.12).

- (1A) The Magistrates' Court has power—

- (a) to give any directions; or
(b) to authorise the Minister to give any appropriate directions—

necessary to give effect to any order made by it under sub-section (1).

S. 83(2) amended by No. 101/1986 s. 58(1)(d)(v).

- (2) Where a finding of fact is made under sub-section (1), production in any subsequent proceedings of an order containing the finding of fact shall be conclusive evidence of the matters to which the finding relates.

S. 83(3) inserted by No. 101/1986 s. 58(1)(d)(vi).

- (3) In sub-section (1) "**cultivation**", in relation to a drug of dependence that is a narcotic plant, includes—
(a) the sowing of a seed of a narcotic plant; and
(b) the planting, growing, tending, nurturing or harvesting of a narcotic plant.

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s. 90

(4) Without limiting the manner in which evidence may be given on an application under sub-section (1), the Court may inspect any place, process or thing.

S. 83(4) inserted by No. 101/1986 s. 58(1)(d)(vi), amended by No. 57/1989 s. 3(Sch. item 59.13).

(5) If an order is made under sub-section (1) requiring the destruction or disposal of an instrument or device or the whole or any part of any substance, drug of dependence or poison or controlled substance, the order may be executed before the end of any appeal period applicable under section 90 if a sample of the thing to be destroyed or disposed of is taken in accordance with this Act and kept until the end of that appeal period and the determination of any appeal made within that period.

S. 83(5) inserted by No. 48/1997 s. 44(6).

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S. 84 substituted by No. 10002 s. 7(1), repealed by No. 101/1986 s. 58(1)(e).

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Ss 85-89 substituted by No. 10002 s. 7(1), repealed by No. 101/1986 s. 55(1)(d).

90. Appeals

S. 90 substituted by No. 10002 s. 7(1).

(1) Notwithstanding anything to the contrary in any other Act a person (including the Crown) affected by an order made under section 83 may appeal against the decision as if the order were or were

S. 90(1) amended by Nos 101/1986 s. 55(1)(e), 25/1990 s. 4(1)(a).

part of a sentence imposed on conviction for the drug related offence to which the order relates, being a sentence which is not fixed by law and against which an appeal may be brought.

S. 90(2)
amended by
Nos 101/1986
s. 55(1)(e),
57/1989
s. 3(Sch. item
59.14),
25/1990
s. 4(1)(b).

- (2) Notwithstanding anything to the contrary in any other Act, a person (including the Crown) affected by the refusal or failure of the Magistrates' Court to make an order under section 83 may appeal in accordance with Rules of court against that failure or refusal.
- (3) On an appeal under sub-section (1) the court to which the appeal is made may confirm vary or revoke the order to which the appeal relates.
- (4) An appeal under sub-section (2) shall be by way of a re-hearing, and the court may in relation to the hearing and determination of the appeal exercise any powers which by or under this Act are conferred on a court in relation to the hearing and determination of an application for an order of the kind to which the appeal relates.
- (5) Where an appeal under sub-section (1) is made by the Crown, proceedings on the appeal shall be instituted and conducted in the name of the Crown by the Director of Public Prosecutions.
- (6) An appeal under this section may be heard with any other appeal against the conviction or sentence for the drug related offence which is the subject-matter of the first-mentioned appeal.
- (7) A person's right of appeal under this section is in addition to any other right of appeal which the person may have.

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Ss 91-101
repealed by
No. 10002
s. 7(1).

PART VII—PROCEEDINGS

102. *Identity of seller of substances*

For the purposes of this Act other than Part V any person on whose behalf a sale or supply is made shall be deemed to be the person who sells or supplies, and where a sale or supply is made by an employee assistant or apprentice of a person, that employee assistant or apprentice shall be liable to the like penalties as the person on whose behalf he makes any sale.

S. 102
amended by
No. 10002
s. 9(a)(b).

103. *Provision as to directors and officers of companies convicted of offences*

Where a person convicted of an offence under this Act is a company the chairman and every director and every officer of the company concerned in the management of the company shall be guilty of the like offence unless he proves that the act constituting the offence took place without his knowledge or consent.

104. *Burden of proof*

In any proceedings against any person for an offence against this Act the burden of proving any matter of exception qualification or defence shall lie upon the person seeking to avail himself thereof.

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S. 105
amended by
Nos 10002
s. 10(1)
(a)–(c)(2)–(5),
16/1986 s. 30,
repealed by
No. 51/1989
s. 149(1).

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s. 106

**Ss 106–109
repealed by
No. 10002
s. 11(1).**

* * * * *

**Pt 8 (Heading
and ss 110–
117) amended
by Nos 10002
s. 12(1)–(19)
(as amended
by No. 10087
s. 3(1)),
16/1986 s. 30,
110/1986
s. 140(2),
repealed by
No. 101/1986
s. 55(1)(d).**

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PART IX—EVIDENTIARY

118. *List of licences and permits*

S. 118
substituted by
No. 42/1993
s. 51.

(1) The Secretary must keep a list of the persons holding current licences, permits or warrants under this Act except licences, permits or warrants under section 34 or 56 or authorities under Part IVA.

S. 118(1)
amended by
Nos 10262
s. 4, 12/1994
s. 17(2)(a),
46/1998
s. 7(Sch. 1),
54/1997
s. 6(b).

(2) The list must contain—

(a) the full name and the residential or business address of each holder of a licence, permit or warrant; and

S. 118(2)(a)
amended by
No. 12/1994
s. 17(2)(b).

(b) any other prescribed particulars.

(3) The Secretary must ensure that a copy of the list is kept available for inspection by members of the public during normal office hours without charge, at the Chief General Manager's principal office.

S. 118(3)
amended by
No. 46/1998
s. 7(Sch. 1).

(4) The Secretary may take any steps that he or she considers appropriate to bring the existence of the list to the notice of members of the public.

S. 118(4)
amended by
No. 46/1998
s. 7(Sch. 1)

(5) In any proceedings the production of a document certified in writing purporting to be signed by the Secretary and purporting to be a copy of or an extract from the list as at a particular date is evidence and, in the absence of evidence to the contrary is proof—

S. 118(5)
amended by
Nos 12/1994
s. 17(2)(c)(i),
46/1998
s. 7(Sch. 1).

(a) of the matters stated; and

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s. 119

S. 118(5)(b)
amended by
No. 12/1994
s. 17(2)(c)(ii).

(b) that at that date the persons whose names appear in the document held current licences, permits or warrants under this Act.

S. 118(6)
amended by
No. 12/1994
s. 17(2)(d).

(6) In any proceedings, the absence of a person's name from a document that complies with subsection (5) is evidence and in the absence of evidence to the contrary is proof that on the relevant date the person was not the holder of a licence, permit or warrant under this Act and that is required to be listed under this section.

119. Evidentiary

In any legal proceedings under this Act—

S. 119(a)
amended by
Nos 42/1993
s. 52(a)–(c),
23/1994
s. 118(Sch. 1
item 17.14).

(a) the production of a copy of the Government Gazette containing the several registers as last published in relation to the time in question of registered medical practitioners pharmacists dentists or veterinary surgeons shall if the name of the defendant does not appear in any of such registers be prima facie evidence that he is not a registered medical practitioner or a pharmacist dentist veterinary surgeon;

S. 119(b)
amended by
No. 23/1994
s. 118(Sch. 1
item 17.15
a)(b)).

(b) a certificate that any person is or is not or was or was not on a certain date or for a certain period a registered medical practitioner shall if purporting to be signed by the President or any 2 members of the Medical Practitioners Board of Victoria be prima facie evidence of the facts therein stated;

(c) a certificate that any person is or is not or was or was not on a certain date or for a certain period a pharmacist shall if purporting to be signed by the registrar of the Pharmacy Board of Victoria be prima facie evidence of the facts therein stated;

(d) a certificate that any person is or is not or was or was not on a certain date or for a certain period a registered dentist shall if purporting to be signed by the registrar of the Dental Board of Victoria be prima facie evidence of the facts therein stated;

(e) a certificate that any person is or is not or was or was not on a certain date or for a certain period a registered veterinary surgeon shall if purporting to be signed by the registrar of the Veterinary Board of Victoria be prima facie evidence of the facts therein stated;

(ea) a certificate that any person is or is not or was or was not on a certain date or for a certain period a holder of an authority under Part IVA, if purporting to be signed by the Secretary of the Department of Natural Resources and Environment, shall be prima facie evidence of the facts therein stated;

S. 119(ea)
inserted by
No. 54/1997
s. 6(c).

(f) a certificate that any person is or is not or was or was not on a certain date or for a certain period a person who holds a licence permit warrant or authority under this Act shall if purporting to be signed by the Secretary be prima facie evidence of the facts therein stated.

S. 119(f)
amended by
Nos 10262
s. 4, 46/1998
s. 7(Sch. 1).

120. Analyst's etc. certificates

(1) In any legal proceedings for an offence against this Act the production of a certificate purporting to be signed by an analyst or by a botanist with respect to any analysis or examination made by him shall, without proof of the signature of the person appearing to have signed the certificate or that he is an analyst or botanist (as the case requires) be sufficient evidence—

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Act No. 9719/1981

s. 120

S. 120(1)(a)
amended by
No. 101/1986
s. 58(1)(f).

(a) in the case of a certificate purporting to be signed by an analyst, of the identity or quantity or both the identity and quantity of the thing analysed, of the result of the analysis and of the matters relevant to such proceedings stated in the certificate; and

S. 120(1)(b)
amended by
No. 101/1986
s. 58(1)(f).

(b) in the case of the certificate purporting to be signed by a botanist, of the identity or quantity or both the identity and quantity of the thing examined.

- (2) The provisions of sub-section (1) do not apply—
- (a) if a copy of the certificate was not served on the defendant at least seven days before the hearing; or
 - (b) if the defendant, at least three days before the hearing, gave notice in writing personally or by post to the informant and to the analyst or botanist (as the case requires) that he requires the analyst or botanist to attend as a witness.
- (3) For the purpose of sub-section (2) a copy of the certificate shall be deemed to be served on the defendant under paragraph (a) if—
- (i) not less than ten days before the hearing a copy of the certificate is lodged with the court of hearing which is hereby authorized to make such copy available to the defendant; and
 - (ii) notice in writing has been given to the defendant that a copy of such certificate will be so lodged with the court.
- (4) Service of a copy of a certificate for the purposes of this section may be effected and proved—
- (a) in any manner in which service of a summons may be effected and proved; or
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- (b) where the certificate was served with the summons and proof of service of the summons is by affidavit, by stating in the affidavit that a copy of the certificate was served with the summons.
- (5) Where an analysis or examination has been carried out for the purpose of any legal proceedings for an offence against this Act the court may, in addition to any other order as to costs, make such order as it thinks proper—
- (a) as to the expenses of and remuneration to be paid for the analysis or examination; and
- (b) where the analyst or botanist has been required by the defendant to attend as a witness, as to the conduct money of the analyst or botanist.
- (6) In this section—

"analyst" means a person employed by the Government of Victoria as an analyst or a person approved for the time being as an analyst under the **Health Act 1958** or any corresponding previous enactment for the analysis of food or drugs or a person of a prescribed class employed or approved under a prescribed law of another State or Territory;

S. 120(6) def. of "analyst" amended by No. 66/1995 s. 3(a).

"botanist" means the chief botanist or his or her delegate under the **Royal Botanic Gardens Act 1991** or a person of a prescribed class employed or approved under a prescribed law of another State or Territory.

S. 120(6) def. of "botanist" substituted by No. 87/1991 s. 52, amended by No. 66/1995 s. 3(b).

121. Evidentiary effect of certain statements

For the purposes of this Act a statement of the quantity of the poison or controlled substance or

the proportion which the poison or controlled substance bears to the total ingredients of a preparation shall be expressed in accordance with one of the forms specified in Schedule Twelve.

122. *Proof that a substance is poison etc.*

In any prosecution for a contravention of or failure to comply with any provision of this Act or any regulations thereunder, whenever it is necessary or proper to provide in respect of any particular article or substance that it is a poison or controlled substance then in every such case—

- (a) evidence that any substance commonly sold under the same name or description as the said particular article or substance is a poison or controlled substance shall be prima facie evidence that the said particular article or substance also conforms to the same description accordingly; and
- (b) evidence that any particular article or substance or the container thereof is labelled "Poison" or "Poisonous, not to be taken" or "Schedule 1" or "Schedule 2" or "Schedule 3" or "Schedule 4" or "Schedule 5" or "Schedule 6" or "Schedule 7" "Schedule 8" or "Schedule 9" or (whether alone or in combination with any other words or symbols) "S. 1", "S. 2", "S. 3", "S. 4", "S. 5", "S. 6", "S. 7", "S. 8" or "S. 9" shall be prima facie evidence that the particular article or substance is a poison or controlled substance.

S. 122(b)
amended by
No. 42/1993
s. 53(a)(b).

S. 122A
inserted by
No. 101/1986
s. 55(1)(f).

122A. *Evidence of market value of drugs of dependence*

(1) In any proceedings under this Act or the regulations or under the **Confiscation Act 1997**—

S. 122A(1)
amended by
No. 108/1997
s. 152(1)(a).

(a) a member of the police force; or

(b) any other person—

whom the court is satisfied is experienced—

(c) in the investigation of offences under section 71, 71A, 71B, 72, 73, 79(1) or 80(1) of this Act; or

S. 122A(1)(c)
amended by
No. 48/1997
s. 47(c).

(d) in the assessment of the market value of drugs of dependence—

may give evidence in accordance with sub-section (2).

(2) A person mentioned in sub-section (1) may give evidence to the best of that person's information, knowledge and belief, of the market value of a drug of dependence at a particular time or during a particular period, despite any rule of law or practice relating to hearsay evidence.

(3) Any evidence given under this section is, in the absence of evidence to the contrary, conclusive evidence of the matters testified to.

123. General offence

S. 123
amended by
Nos 10002
s. 14(f)(i)(ii),
12/1994 s. 18.

Every person who contravenes or fails to comply with any provision of this Act or any regulation made under this Act shall be guilty of an offence against this Act and if no penalty is expressly provided with respect to such offence shall be liable to a penalty of not more than 100 penalty units.

PART X—DRUG REHABILITATION AND RESEARCH FUND

124. *Drug Rehabilitation and Research Fund*

For the purposes of this Act there shall be established within the Public Account a trust fund to be known as the "Drug Rehabilitation and Research Fund" hereinafter referred to as "the Fund".

S. 125
amended by
Nos 10002
s. 14(g),
101/1986
s. 55(1)(g),
48/1997
s. 47(d),
108/1997
s. 152(1)(b).

125. *Appropriation of moneys for purposes of Fund*

All moneys arising from fines penalties and forfeitures under this Act shall be appropriated for the purposes of the Fund.

126. *Payments out of Fund*

(1) Into the Fund shall be paid—

S. 126(1)(a)
amended by
Nos 10002
s. 14(g),
101/1986
s. 55(1)(h),
90/1991
s. 36(a),
48/1997
s. 47(e),
108/1997
s. 152(1)(c).

(a) all moneys arising from fines penalties and forfeitures under this Act less conversion costs as defined in sub-section (3);

S. 126(1)(b)
repealed by
No. 31/1994
s. 3(Sch. 1
item 18), new
s. 126(1)(b)
inserted by
No. 108/1997
s. 152(1)(d).

(b) all money appropriated by Parliament for the purposes of the Fund;

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- (c) all other moneys received for the purposes of the Fund; and
- (d) all moneys authorized or required by this Act to be paid into the Fund.
- (2) The Minister may pay out of the Fund such sums as he deems fit, and subject to such conditions, limitations and restrictions as he determines, for or towards—
- (a) organizations involved in the rehabilitation of drug-dependent persons;
- (b) the development of drug education programmes;
- (c) the dissemination of information on drugs and drug abuse;
- (d) research into drug addiction and the treatment of drug-dependent persons;
- (e) the enforcement of this Act; and
- (f) any other purpose in connexion with the control and prevention of drug abuse.
- (3) The conversion costs that may be deducted under section 126(1)(a) are the reasonable costs and expenses incurred in locating, storing, maintaining or disposing of, or otherwise in connection with the conversion into money of, property forfeited under this Act.
- (4) Conversion costs must be paid by the State to the person who, or body which, incurred the costs.

S. 126(2)
amended by
No. 108/1997
s. 152(1)(e).

S. 126(3)
inserted by
No. 90/1991
s. 36(b),
substituted by
No. 108/1997
s. 152(2).

S. 126(4)
inserted by
No. 90/1991
s. 36(b),
substituted by
No. 108/1997
s. 152(2).

127. *Payments into Fund*

- (1) Where before the commencement of this section a member of the police force has in pursuance of his

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powers under the **Poisons Act 1962** seized any money in connexion with the commission of an offence in relation to—

- (a) a drug of addiction within the meaning of that Act;
- (b) a specified drug within the meaning of that Act; or
- (c) an hallucinogenic drug within the meaning of that Act—

and immediately before the commencement of this section—

- (d) no person has been charged with the commission of an offence in relation to that drug or that money; or
- (e) a person has been charged with the commission of an offence in relation to that drug or that money but that person has absconded or cannot now be found—

the Governor in Council may by Order published in the Government Gazette authorize the payment of that money into the Fund, and the money shall be paid into the Fund in accordance with the Order.

(2) Where a person satisfies the Governor in Council—

- (a) that any money paid into the Fund pursuant to sub-section (1) is money owned by him; and
- (b) that the money was not obtained in relation to or as a result of or derived because of the commission of an offence under the **Poisons Act 1962** or this Act in relation to a drug of addiction or specified drug, a drug of

dependence or an hallucinogenic drug (as the case may be)—

the Governor in Council may by Order published in the Government Gazette authorize the payment out of the Fund to that person of the amount claimed by him to the extent to which that amount is an amount in respect of which the Governor in Council is satisfied of the matters mentioned in paragraph (a) and paragraph (b).

- (3) The Governor in Council shall not authorize a payment out of the Fund under this section unless the claim for payment out of the Fund has been made within 12 months of the publication in the Government Gazette of the Order under subsection (1).

128. *Acceptance of gifts etc. to Fund*

The Minister, may on behalf of the Fund accept gifts, devises, bequests and assignments of real or personal property and may act as executor or administrator of an estate or as a trustee of moneys or other properties where in the opinion of the Minister it is expedient to do so for or in connexion with the objects of the Fund.

PART XI—REGULATIONS

129. Regulations

S. 129
amended by
No. 10002
s. 13(1)(a)(f).

S. 129(1)
amended by
No. 42/1993
s. 54(1).

(1) For the purpose of preventing the improper use of drugs of dependence and Schedule 4 poisons, Schedule 8 poisons and Schedule 9 poisons or any preparation of them or any of them the Governor in Council may make regulations for or with respect to regulating or controlling the manufacture sale possession administration use supply distribution and storage of those substances and preparations and in particular, without affecting the generality of the foregoing provisions of this section or of any other provisions of this Act, for or with respect to—

S. 129(1)(a)
amended by
Nos 23/1994
s. 118(Sch. 1
item 17.16),
58/1997
s. 96(Sch.
item 3.4),
56/1996
s. 100(6)(a).

(a) regulating the issue by registered medical practitioners, registered optometrists, dentists or veterinary practitioners of prescriptions for any such substance or preparation and the dispensing of any such prescriptions;

S. 129(1)(aa)
inserted by
No. 10002
s. 13(1)(b),
amended by
Nos 23/1994
s. 118(Sch. 1
item 17.16),
58/1997
s. 96(Sch.
item 3.4),
56/1996
s. 100(6)(b).

(aa) prohibiting either absolutely or subject to conditions the issue by registered medical practitioners, registered optometrists, veterinary practitioners and dentists of prescriptions or orders or classes of prescriptions or orders for any such substance or preparation;

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s. 129

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| (ab) prohibiting either absolutely or subject to conditions the dispensing by pharmacists of prescriptions or orders or classes of prescriptions or orders for any such substance or preparation; | S. 129(1)(ab) inserted by No. 10002 s. 13(1)(b). |
| (b) requiring persons engaged in the manufacture sale supply dispensing, administration, prescription and distribution of any such substance or preparation to keep books and records and furnish information in writing or otherwise; | S. 129(1)(b) amended by No. 10002 s. 13(1)(c). |
| (c) the custody accumulation administration use supply and storage of any such substance or preparation; | |
| (ca) prohibiting either absolutely or subject to conditions or in any specified circumstances or classes of circumstances the prescription, sale, supply, dispensing or administration of any such substance or preparation; | S. 129(1)(ca) inserted by No. 10002 s. 13(1)(d). |
| (d) regulating the transfer or conveyance of any such substance or preparation; | |
| (e) regulating the supply of any such substance or preparation to drug-dependent persons; | |
| (f) regulating and controlling advertising by any person in relation to any such substances or preparations or any of them and prescribing the form and contents of such advertisements; | |
| (g) generally prescribing all such matters and things as are necessary or convenient to be prescribed for carrying this Act into effect; and | |
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S. 129(1)(h)
amended by
No. 10002
s. 13(i)(e).

(h) prescribing a penalty of not more than 100 penalty units for any contravention of or failure to comply with the regulations made under this section.

S. 129(2)
inserted by
No. 10002
s. 13(1)(g),
amended by
Nos 23/1994
s. 118(Sch. 1
item 17.17),
58/1997
s. 96(Sch.
item 3.5),
56/1996
s. 100(6)(c).

(2) Notwithstanding anything to the contrary in paragraph (h) of sub-section (1) or in any regulations made under that sub-section, a person who being a registered medical practitioner, registered optometrist, veterinary practitioner, dentist or pharmacist, contravenes or fails to comply with a regulation made under that sub-section is guilty of an indictable offence and liable to a penalty of not more than 200 penalty units or to imprisonment for a term of not more than five years or to both such penalty and imprisonment.

130. Construction of section 129

The provisions of section 129 with respect to the making of regulations shall (without prejudice to the generality of the powers conferred by the said section) extend and apply to the making of regulations for or with respect to providing that any specified breach of the regulations made under the said section shall be regarded—

- (a) as infamous conduct in a professional respect within the meaning and for the purposes of any Act; or
- (b) as conduct discreditable to a pharmacist within the meaning and for the purposes of section eighteen of the **Pharmacists Act 1974**; or
- (c) as immoral conduct in connexion with the conduct of dental practice within the meaning and for the purposes of the **Dentists Act 1972**.

131. Regulations as to regulated poisons

For the purpose of protecting persons engaged in the manufacture sale use or distribution of regulated poisons or for the protection of the public from regulated poisons the Governor in Council may make regulations for or with respect to—

S. 131
amended by
Nos 10002
s. 14(h),
42/1993
s. 54(2)(a)(b).

(a) prohibiting the possession manufacture sale supply distribution or use of any regulated poisons either absolutely or except under such circumstances or conditions as may be prescribed (including, without limiting the generality of the foregoing, prohibiting a person from having in his possession, manufacturing, selling, distributing or using any regulated poison or class of regulated poisons unless he is authorized by or licensed or permitted under this Act or the regulations so to do);

S. 131(a)
amended by
No. 42/1993
s. 54(2)(a)(b).

(b) prescribing any regulated poison to be an hallucinogenic drug for the purposes of Part VI;

S. 131(b)
amended by
No. 42/1993
s. 54(2)(b).

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S. 131(c)(d)
repealed by
No. 12/1994
s. 10(1).

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S. 131(e)
amended by
No. 10002
s. 13(2),
repealed by
No. 12/1994
s. 10(1).

(f) prescribing precautions to be taken in and regulating or controlling the manufacture storage use or handling of any such regulated poisons; and

S. 131(f)
amended by
No. 42/1993
s. 54(2)(a).

S. 131(g)
amended by
No. 10002
s. 13(2).

- (g) prescribing penalties not exceeding 100 penalty units for breaches of the regulations.

132. General regulations

The Governor in Council may make regulations for or with respect to—

- (a) prescribing forms to be used for the purposes of this Act;
- (b) the colouring of any poison or controlled substance;
- (c) the sale supply and safe custody of poisons or controlled substances including the specifications of cupboards and other receptacles and the manner of storage of any poison or controlled substance;
- (d) prohibiting the sale or supply of any product (whether by wholesale or by retail) or any class of products containing any poison or controlled substances unless the product or class of products is packaged in accordance with regulations made under this section and contains no more than a specified concentration of any specified poison or controlled substance;
- (e) the minimum size of packages or containers in which poisons or controlled substances or any class of poisons or controlled substances may be sold or supplied or offered for sale or supply;
- (f) specifying the containers in which any poison or controlled substance may be sold or supplied and prohibiting the use of such containers for other substances;

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- (j) prohibiting and controlling advertising by any person in relation to Schedule 3 poisons or any class of Schedule 3 poisons and prescribing the form and contents of such advertisements;
- (k) providing for the dispensing of prescriptions for poisons or controlled substances issued by registered medical practitioners, dentists or veterinary surgeons in other States;
- (l) labelling and specifying the particulars (including antidotes) to be included in labels attached to containers of poisons and controlled substances;
- (m) applications for licences, permits, warrants and authorities issued under this Act, and the issue, renewal, amendment, suspension or cancellation of them;
- (n) prescribing terms and conditions limitations and restrictions to which licences warrants and permits issued under this Act shall be subject;
- (o) prescribing fees for applications for the issue, renewal and amendment of licences, permits, warrants, authorisations and approvals under the Act and pro rata fees for periods of less than 12 months;
- (oa) prescribing penalties not exceeding 100 penalty units for the breach of terms, conditions, limitations and restrictions of authorisations and approvals;
- S. 132(g)–(i) repealed by No. 10002 s. 13(3)(a).
- S. 132(j) amended by No. 42/1993 s. 55(a).
- S. 132(k) amended by No. 23/1994 s. 118(Sch. 1 item 17.18(b)).
- S. 132(m) substituted by No. 12/1994 s. 10(2)(a).
- S. 132(n) amended by Nos 10002 s. 13(3)(b), 12/1994 s. 10(2)(b).
- S. 132(o) substituted by No. 12/1994 s. 10(2)(c).
- S. 132(oa) inserted by No. 12/1994 s. 10(2)(c).

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s. 132

S. 132(q)
amended by
Nos 23/1994
s. 118(Sch. 1
item 17.18(a)),
58/1997
s. 96(Sch.
item 3.5),
56/1996
s. 100(7).

S. 132(r)
amended by
No. 12/1994
s. 16(3)(a).

S. 132(s)
repealed by
No. 12/1994
s. 16(3)(b).

- (p) the inspection of premises stocks books and any other documents relating to poisons or controlled substances;
- (q) exempting from all or any of the provisions of this Act and the regulations substances or preparations containing any poison or controlled substance which by their nature are not capable of being used in evasion of this Act and the regulations or which are sold or supplied by a pharmacist or according to the prescription of a registered medical practitioner, registered optometrist, veterinary practitioner or dentist for an individual and specific case;
- (r) the procedure to be followed in relation to the sale or supply and recording of poisons or controlled substances;

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- (t) specifying the persons or classes of persons authorized or entitled to purchase obtain use or be in possession of any poison or controlled substance;
- (u) providing that all persons are authorized or entitled to purchase or obtain or have in their possession or use specified poisons or controlled substances or specified classes of poisons or controlled substances;
- (v) providing for the disposal of automatic machines forfeited pursuant to the provisions of this Act;
- (w) prohibiting the sale or supply of any poison or controlled substance by self-service methods other than any methods prescribed;

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s. 132

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| (x) prescribing a penalty of not more than 100 penalty units for any contravention of or failure to comply with the regulations; | S. 132(x)
amended by
No. 10002
s. 13(3)(c). |
| (y) the administration and use of Schedule 3 poisons or any class of Schedule 3 poison; | S. 132(y)
amended by
No. 42/1993
s. 55(b)(i)(ii). |
| (z) regulating and controlling the issue by registered medical practitioners, dentists or veterinary surgeons of prescriptions for any Schedule 3 poison and the dispensing of any such prescriptions; | S. 132(z)
amended by
Nos 42/1993
s. 55(c),
23/1994
s. 118(Sch. 1
item 17.18(b)). |
| (za) regulating and controlling the sale or supply by pharmacists of Schedule 3 poisons to persons without direction from a registered medical practitioner, veterinary surgeon or dentist; | S. 132(za)
amended by
Nos 42/1993
s. 55(d),
23/1994
s. 118(Sch. 1
item 17.18(a)). |
| (zb) prescribing the manner in which Schedule 3 poisons may be dispensed by pharmacists and the keeping of records of each transaction effected by a pharmacist; | S. 132(zb)
amended by
No. 42/1993
s. 55(d). |
| (zc) regulating and controlling the dispensing and sale or supply of Schedule 4 poisons by pharmacists without a prescription from a registered medical practitioner, dentist or veterinary surgeon in emergency circumstances to the extent that the quantity of any Schedule 4 poison so dispensed sold or supplied does not exceed three days medication or, where a Schedule 4 poison is or is contained in a pre-packed pharmaceutical preparation, the minimum standard package containing the preparation; | S. 132(zc)
amended by
Nos 42/1993
s. 55(e)(i)(ii),
23/1994
s. 118(Sch. 1
item 17.18(a)). |
| (zca) amending the Commonwealth Standard in so far as it is incorporated in the Poisons Code; | S. 132(zca)
inserted by
No. 42/1993
s. 54(3). |
-

Drugs, Poisons and Controlled Substances Act 1981

Act No. 9719/1981

s. 132A

S. 132(zcb)
inserted by
No. 42/1993
s. 54(3).

(zcb) amending Schedule Eleven in accordance with section 12M;

(zd) generally prescribing all such matters and things as are authorized or required to be prescribed or are necessary or convenient to be prescribed for carrying into effect the objects of this Act.

S. 132A
inserted by
No. 42/1993
s. 56.

132A. Regulations may incorporate other documents

- (1) Regulations under any provision of this Act may apply, adopt or incorporate by reference any document formulated or published by a person or body, either—
 - (a) without modification or as modified by the regulations; or
 - (b) as formulated or published on or before the date when the regulations are made; or
 - (c) as formulated or published from time to time.
- (2) Regulations under any provision of this Act may apply, adopt or incorporate by reference the Poisons Code or any part of that Code.
- (3) Section 32 of the **Interpretation of Legislation Act 1984** applies to regulations under any provision of this Act that incorporate by reference any part of the Poisons Code as if that part were a statutory rule.

S. 132B
inserted by
No. 12/1994
s. 7.

132B. Scope of regulations

The regulations may—

- (a) be of general or limited application; and
- (b) apply to different classes of persons, licences, permits, warrants, authorisations and approvals; and

- (c) provide for different fees for different activities or classes of activity or different cases or classes of cases; and
- (d) in the case of applications for the issue, renewal or amendment of licences, permits or warrants, specify fees that reflect the cost of administration of, and the provision of inspection services in connection with, the licence, permit and warrant system; and
- (e) in the case of fees for applications for the issue, renewal or amendment of licences, permits or warrants, may vary according to the kinds of poisons or controlled substances to which the licence, permit or warrant relates; and
- (f) confer powers or discretions or impose duties on any person.

133. *Strict compliance with prescribed forms not necessary*

Forms set out in any regulations made under this Act or forms to the like effect may be used for the purposes thereof and shall be sufficient in law.

133A. *Exemption from regulatory impact statement procedure*

S. 133A
inserted by
No. 25/1990
s. 3.

- (1) The provisions of the **Subordinate Legislation Act 1994** with respect to the preparation of regulatory impact statements do not apply to a regulation which is consistent with, and gives effect in Victoria to, the Commonwealth standard.
- (2) Any regulation to which sub-section (1) applies may be disallowed, in whole or in part, by resolution of either House of Parliament in accordance with the requirements of section 23 of the **Subordinate Legislation Act 1994**.

S. 133A(1)
substituted by
No. 42/1993
s. 57(1),
amended by
No. 68/1996
s. 15(a).

S. 133A(2)
amended by
Nos 42/1993
s. 57(2),
68/1996
s. 15(b).

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Act No. 9719/1981

s. 133A

S. 133A(3)
amended by
Nos 42/1993
s. 57(2),
68/1996
s. 15(c).

(3) Disallowance of a regulation under sub-section (2) must be taken to be disallowance by Parliament for the purposes of the **Subordinate Legislation Act 1994**.

**PART XII—TRANSITIONAL PROVISIONS CONCERNING
THE POISONS CODE**

Pt 12
(Heading and
ss 134, 135)
substituted by
No. 42/1993
s. 58.

134. References

S. 134
substituted by
No. 42/1993
s. 58.

(1) In this section "**subordinate instrument**" has the same meaning as in the **Interpretation of Legislation Act 1984**.

(2) In—

- (a) an Act other than this Act; or
- (b) a subordinate instrument made under this Act or any other Act; or
- (c) any licence, warrant, permit or other instrument under this Act; or
- (d) any other document whatever—

a reference of a kind listed in Column 1 of the Table must in relation to any period occurring on or after the commencement of this section and unless inconsistent with the context or subject matter be taken to be a reference of the kind listed opposite in Column 2.

TABLE

Column 1	Column 2
Old Reference	New Reference
Domestic poison	Schedule 5 poison
Special poison (if the reference relates to a Schedule 1 poison)	Schedule 1 poison
Narcotic drug	Schedule 8 poison or Schedule 9 poison
Hallucinogenic drug	Schedule 8 poison or Schedule 9 poison
Dangerous poison (if the reference relates to a Schedule 1 poison)	Schedule 1 poison

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Column 1	Column 2
Old Reference	New Reference
Medicinal poison	Schedule 2 poison
Potent substance	Schedule 3 poison
Restricted substance	Schedule 4 poison
Hazardous substance	Schedule 5 poison
Industrial and Agricultural poison	Schedule 6 poison
Dangerous poison (if the reference relates to a Schedule 7 poison)	Schedule 7 poison
Special poison (if the reference relates to a Schedule 7 poison)	Schedule 7 poison
Special poison (if the reference relates to a regulated poison)	Regulated poison
Drug of addiction	Schedule 8 poison or Schedule 9 poison
Substance specified in Schedule One of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 1 poison
Substance specified in Schedule Two of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 2 poison
Substance specified in Schedule Three of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 3 poison
Substance specified in Schedule Four of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 4 poison
Substance specified in Schedule Five of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 5 poison
Substance specified in Schedule Six of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 6 poison
Substance specified in Part 1 of Schedule Seven of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 7 poison
Substance specified in Part 2 of Schedule Seven of the Drugs, Poisons and Controlled Substances Act 1981	Regulated poison
Substance specified in Schedule Eight of the Drugs, Poisons and Controlled Substances Act 1981	Schedule 8 poison or Schedule 9 poison

135. *Instruments to continue*

- (1) The amendments made to this Act by the **Health and Community Services (General Amendment) Act 1993** do not affect the continuity of status, operation or effect of any licence, permit, warrant or authority in force under this Act immediately before the commencement of this section.
- (2) Sub-section (1) does not affect the operation of section 134.

S. 135
substituted by
No. 42/1993
s. 58.

136. *Continuity of Poisons Advisory Committee*

The Poisons Advisory Committee is the same body after as before the commencement of the **Health and Community Services (General Amendment) Act 1993**.

S. 136
inserted by
No. 42/1993
s. 58.

Drugs, Poisons and Controlled Substances Act 1981
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SCHEDULES

Schs 1-9
repealed.³

* * * * *

SCHEDULE TEN

(Section 81)

Drugs, Poisons and Controlled Substances Act 1981

SEARCH WARRANT

To _____ a member of the Police Force

WHEREAS I, the undersigned, a *Magistrate _____ in the State of Victoria, am satisfied by the *evidence on oath or *by affidavit of:

_____ a member of the Police Force of or above the rank of Sergeant or for the time being in charge of a police station, that there is reasonable ground for believing that there *is in a certain
*are
* will be within the next 72 hours

land or premises situate at _____ *certain things
*or documents

to wit:

- * (1) upon or in respect of which an offence under the **Drugs Poisons and Controlled Substances Act 1981** or the Regulations under that Act, has been or is reasonably suspected to have been committed or is being or is likely to be committed within the next 72 hours;
- * (2) which there is reasonable ground to believe is intended to be used for the purpose of committing an offence under the **Drugs Poisons and Controlled Substances Act 1981** or the Regulations under that Act;
- * (3) which is a document directly or indirectly relating to or concerning a transaction or dealing which is or would be, if carried out, an offence under the **Drugs Poisons and Controlled Substances Act 1981** or the Regulations under that Act or under a provision of a law in force in a place outside Victoria and which corresponds to a provision of Part V of that Act.

These are therefore in Her Majesty's name to authorize and require you—

Sch. 10 substituted by No. 10002 s. 8(1), amended by Nos 16/1986 s. 30, 101/1986 s. 58(1)(g), 57/1989 s. 3(Sch. item 59.15(a)-(c)), 48/1997 s. 44(7)(a)-(c).

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* (1) to enter and search the said *land or
*premises
for such *things
*or documents
and if any such *things
*or documents be found to seize and destroy or
dispose of them in accordance with section 81 of the **Drugs,
Poisons and Controlled Substances Act 1981** or carry them
before the Magistrates' Court so that the matter may be dealt
with according to law.
Given under my hand this day of 19

.....
*Magistrate

*Strike out whichever is not applicable.

Drugs, Poisons and Controlled Substances Act 1981
Act No. 9719/1981

Sch. 11

SCHEDULE ELEVEN

PART 1

Sch. 11 substituted by No. 10002 s. 8(1), amended by S.R. No. 1/1985 (paras (1)–(9)), substituted by S.R. No. 268/1985, amended by No. 101/1986 s. 58(1)(h)(i)–(iii), S.R. Nos 138/1989 (para. 1(3)(a)(b)), 314/1990 (para. 1(3)(a)–(g)), 69/1993 para. (3)(a)(b), No. 48/1997 ss. 45(1)(a)–(h)(2), 46.

Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
ACETORPHINE		2·0
N-ACETYLAMPHETAMINE	2·0	2·0
ACETYLDIHYDROCODEINE	10·0	100·0
ACETYLMETHADOL		2·0
N-ACETYLMETHYLAMPHETAMINE	2·0	2·0
ALPRAZOLAM		0·5
ANILERIDINE		25·0
BARBITURATES	2·0	50·0
1, 4-BENZODIAZEPINES not included elsewhere in this Part		10·0
BENZOXAZOCINES	2·0	50·0
BENZETHIDINE		10·0
BENZYL MORPHINE		5·0
BEZITRAMIDE		5·0
BROMAZEPAM		3·0

Sch. 11

*Drugs, Poisons and Controlled Substances Act 1981**Act No. 9719/1981*

Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
4-BROMO-2,5-DIMETHOXYAMPHETAMINE	0.5	0.5
4-BROMO-2,5-DIMETHOXYMETHYLAMPHETAMINE	0.5	0.5
BUFOTENINE		2.0
BUTORPHANOL	1.5	2.0
CHLORAL HYDRATE	2.0	50.0
CHLORDIAZEPOXIDE		5.0
1-CHLORO-1-PHENYL-2-AMINOPROPANE	2.0	2.0
1-CHLORO-1-PHENYL-2-METHYLAMINO-PROPANE	2.0	2.0
Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
CLOBAZAM		5.0
CLONAZEPAM		2.5
CLONITAZENE		5.0
CODEINE (when in excess of 10.0 grams)	2.0	100.0
CODEINE N-OXIDE		10.0
CODOXIME		10.0
DESOMORPHINE		2.0
DIAMPROMIDE		5.0
DIAZEPAM		2.0
DIETHYLPROPION	2.0	50.0
N, N-DIETHYLTRYPTAMINE	2.0	2.0
DIFENOXIN		5.0
DIHYDROCODEINE (when in excess of 5.0 grams)	2.0	100.0
DIHYDROHYDROXYMORPHINE		2.0

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DIHYDROMORPHINE		10·0
DIMENOXADOL		10·0
DIMEPHEPTANOL		10·0
2,5-DIMETHOXY-4-METHYLAMPHETAMINE	0·5	0·5
<i>N, N</i> -DIMETHYLTRYPTAMINE	0·5	0·5
DIOXAPHETYL BUTYRATE		2·0
DIPHENOXYLATE	2·0	3·0
DIPIANONE		10·0
ECGONINE		10·0
Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
EPHEDRINE (when in excess of 20 grams)	2·0	100·0
ETHYLMORPHINE	2·0	2·0
<i>N</i> -ETHYL-1-PHENYLCYCLOHEXYLAMINE	0·001	0·001
ETONITAZENE		5·0
ETORPHINE	2·0	2·0
ETOXERIDINE		5·0
FENTANYL	0·05	0·005
FLUNITRAZEPAM		0·5
FLURAZEPAM		3·0
<i>N</i> -FORMYLAMPHETAMINE	2·0	2·0
<i>N</i> -FORMYLMETHYLAMPHETAMINE	2·0	2·0
FURETHIDINE		1·0
GLUTETHIMIDE	2·0	100·0
HARMALINE	5·0	5·0
HARMINE	5·0	5·0
HYDROCODONE		2·0
HYDROMORPHONE		2·0
HYDROXYAMPHETAMINE	2·0	2·0
<i>N</i> -HYDROXY-3, 4-METHYLENEDIOXYAMPHETAMINE	0·5	0·5
KETOBEMIDONE		2·0

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LORAZEPAM		0.5
LYSERGAMIDE	0.01	0.1
LYSERGIC ACID	0.002	0.002
MECLOQUALONE	50.0	50.0
MESCALINE	7.5	7.5
METAZOCINE		7.0
METHADONE	2.0	2.0
METHAQUALONE	2.0	50.0
METHORPHAN		2.0
Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
4-METHOXYAMPHETAMINE	0.5	0.5
4-METHOXYMETHYLAMPHETAMINE	0.5	0.5
5-METHOXY- <i>N, N</i> - DIETHYLTRYPTAMINE	0.5	0.5
5-METHOXY- <i>N, N</i> - DIMETHYLTRYPTAMINE	0.5	0.5
METHOXYAMPHETAMINES	0.5	0.5
METHYLDESORPHINE		2.0
METHYLDIHYDROMORPHINE		2.0
3,4-METHYLENEDIOXY- <i>N</i> - ETHYLAMPHETAMINE	0.5	0.5
(3,4-METHYLENEDIOXYPHENYL)-2- BROMOPROPANE	0.5	0.5
1-(3,4-METHYLENEDIOXYPHENYL)-3- BROMOPROPANE	0.5	0.5
(3,4-METHYLENEDIOXYPHENYL)-2- PROPANONE	0.5	0.5
METHYLPHENIDATE	2.0	5.0
METOPON		2.0
MONOACETYLMORPHINE		2.0
MORAMIDE	2.0	2.0
MORPHERIDINE		2.0
MORPHINAN		2.0
MORPHINE	1.5	2.0

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MORPHINE <i>N</i> -OXIDE		2·0
MORPHINONE		2·0
MYROPHINE		20·0
NALBUPHINE	1·5	2·0
NICOCODINE (when in excess of 0·1 grams)	2·0	2·0
NICODICODINE (when in excess of 0·1 grams)	2·0	2·0
NICOMORPHINE		2·0
Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
NITRAZEPAM		1·0
7-NITRO-1,4-BENZODIAZEPINES not included elsewhere in this Part		2·5
NORACYMETHADOL		2·0
NORCODEINE (when in excess of 10·0 grams)	2·0	100·0
NORMETHADONE		5·0
NORMORPHINE		20·0
NORPIPANONE		10·0
OXAZEPAM		10·0
OXYCODONE		5·0
OXYMORPHONE	2·0	2·0
PENTAZOCINE	5·0	5·0
PETHIDINE	5·0	10·0
PHENYLACYLMORPHAN		2·0
PHENADOXONE		10·0
PHENAMPROMIDE		10·0
PHENAZOCINE		1·0
PHENCYCLIDINE	0·1	0·001
PHENDIMETRAZINE		5·0
PHENMETRAZINE		5·0
PHENOMORPHAN		5·0
PHENOPERIDINE		1·0

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PHENTERMINE	2·0	50·0
1-PHENYL-2-CHLOROPROPANE	2·0	2·0
1-(1-PHENYLCYCLOHEXYL) PYRROLIDINE	0·1	0·001
1-PHENYL-2-METHYLAMINO PROPANE	2·0	2·0
1-PHENYL-2-NITROPROPENE	2·0	2·0
PHENYLPROPANOLAMINE (when in excess of 20·0 grams)	2·0	100·0
Column 1	Column 2	Column 3
<i>Drug</i>	<i>Quantity of pure drug</i>	<i>Quantity of pure drug</i>
	Kilograms	Grams
PHENYL-2-PROPANONE	2·0	2·0
PHENYL-2-PROPANONE OXIME	2·0	2·0
PIMINODINE		10·0
PIPERIDINE DERIVATIVES INCLUDING—ALLYLPRODINE, MEPRODINE, PHENOPERIDINE and PRODINE	1·0	2·0
PIRITRAMIDE		1·0
PROHEPTAZINE		1·0
PROPERIDINE		25·0
PROPIRAM		2·0
PROPOXYPHENE	2·0	2·0
PSEUDOEPHEDRINE (when in excess of 20·0 grams)	2·0	100·0
PSILOCIN	0·1	0·1
PSILOCYBIN	0·1	0·1
TEMAZEPAM		3·0
THEBACON	2·0	2·0
THEBAINE	2·0	2·0
THIAMBUTENE		5·0
1-[1-(2-THIENYL) CYCLOHEXYL] PIPERIDINE	0·1	0·001
TRIMEPERIDINE		10·0

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PART 2

Column 1	Column 2	Column 3	Column 4
Plant	<i>Quantity</i>	<i>Quantity</i>	<i>Quantity</i>
	Kilograms	Grams	Grams
<i>Cannabis L.</i>	25.0 kilograms or 100 plants	250.0 grams or 10 plants	50.0 grams
<i>Erythroxylum coca</i> Lam	80.0 kilograms	800.0 grams	
<i>Erythroxylum nova-granatense</i> (Morris) Hier	80.0 kilograms	800.0 grams	
<i>Papaver bracteatum</i> Lindley	10.0 kilograms	100.0 grams	
<i>Papaver orientale</i> L.	10.0 kilograms	100.0 grams	
<i>Papaver somniferum</i> L.	10.0 kilograms	100.0 grams	

PART 3

Column 1	Column 2	Column 2A	Column 3	Column 4
Drug	Quantity	Quantity of mixture of substance and drug of dependence	Quantity	Quantity
AMPHETAMINE	250.0 grams	1.25 kilograms	6.0 grams	1.0 gram
COCAINE	250.0 grams	500.0 grams	3.0 grams	1.0 gram
DIACETYLMORPHINE (Heroin)	250.0 grams	500.0 grams	3.0 grams	1.0 gram
LYSERGIC ACID DIETHYLAMIDE	50.0 milligrams		1.5 milligrams	0.2 milligrams
METHYLAMPHETAMINE	250.0 grams	1.25 kilograms	6.0 grams	1.0 gram
METHYLENEDIOXY-AMPHETAMINES	100.0 grams	500.0 grams	3.0 grams	0.75 grams
3,4-METHYLENEDIOXY-AMPHETAMINE (MDA)	100.0 grams	500.0 grams	3.0 grams	0.75 grams
3,4-METHYLENEDIOXY-N-METHYLAMPHETAMINE (MDMA)	100.0 grams	500.0 grams	3.0 grams	0.75 grams
TETRAHYDROCANNABINOL	1.0 kilogram	10.0 kilograms	25.0 grams	1.0 gram

SCHEDULE TWELVE

Section 121

STATEMENTS OF STRENGTH OF PREPARATIONS

- (a) In respect of a tablet, capsule, pastille, packaged single dose of powder, or similar discreet product unit, the quantity of each poison or controlled substance in the product unit.
- (b) In respect of a solid preparation intended for extemporaneous preparation of either a single dose or a single stated amount of a liquid for therapeutic use, the quantity of each poison or controlled substance in the immediate container.
- (c) In respect of a liquid for internal therapeutic use, the volume of the normal dose and the quantity of each poison or controlled substance in that volume.
- (d) In respect of any other preparation, the portion of each poison or controlled substance shall be expressed as follows:
 - (i) In respect of a liquid poison or controlled substance in a liquid preparation, the weight or volume of the poison or controlled substance per stated volume of the preparation;
 - (ii) In respect of a liquid poison or controlled substance in a solid or semi-solid preparation, the weight or volume of the poison or controlled substance per stated weight of the preparation;
 - (iii) In respect of a solid or semi-solid poison or controlled substance in a liquid preparation, the weight of the poison or controlled substance per stated volume of the preparation;
 - (iv) In respect of a solid or semi-solid poison or controlled substance in a solid or semi-solid preparation, the weight of the poison or controlled substance per stated weight of the preparation;
 - (v) In respect of a gaseous poison or controlled substance in a liquid preparation, the weight of the poison or controlled substance per stated volume of the preparation;
 - (vi) In respect of a gaseous poison or controlled substance in a solid or semi-solid preparation, the weight of the poison or controlled substance per stated weight of the preparation;

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- (vii) In respect of a gaseous poison or controlled substance in a gaseous preparation, the weight of the poison or controlled substance per stated weight of the preparation.
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NOTES

1. General Information

The **Drugs, Poisons and Controlled Substances Act 1981** was assented to on 12 January 1982 and came into operation on 18 December 1983: Government Gazette 14 December 1983 page 3955.

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Notes

2. Table of Amendments

This Version incorporates amendments made to the **Drugs, Poisons and Controlled Substances Act 1981** by Acts and subordinate instruments.

Drugs, Poisons and Controlled Substances (Amendment) Act 1983,

No. 10002/1983 (as amended by Act Nos 10087, 25/1990)

Assent Date: 13.12.83

Commencement Date: 18.12.83: Government Gazette 14.12.83 p. 3954

Current State: All of Act in operation

Statute Law Revision Act 1984, No. 10087/1984

Assent Date: 22.5.84

Commencement Date: 22.5.84: s. 3(2)

Current State: All of Act in operation

Health (Amendment) Act 1985, No. 10262/1985

Assent Date: 10.12.85

Commencement Date: S. 4(Sch.) on 1.3.86: Government Gazette 26.2.86 p. 451

Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Courts Amendment Act 1986, No. 16/1986

Assent Date: 22.4.86

Commencement Date: S. 30(Sch.) on 1.7.86: Government Gazette 25.6.86 p. 2180

Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Public Contracts (Repeal) Act 1986, No. 21/1986

Assent Date: 22.4.86

Commencement Date: 22.4.86

Current State: All of Act in operation

Crimes (Confiscation of Profits) Act 1986, No. 101/1986

Assent Date: 16.12.86

Commencement Date: 1.8.87: Government Gazette 22.7.87 p. 1924

Current State: All of Act in operation

Supreme Court Act 1986, No. 110/1986

Assent Date: 16.12.86

Commencement Date: 1.1.87: s. 2

Current State: All of Act in operation

Animal Preparations Act 1987, No. 12/1987

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Assent Date: 5.5.87
Commencement Date: S. 37 on 5.5.87: s. 2(1); rest of Act on 29.6.88:
Government Gazette 29.6.88 p. 1893
Current State: All of Act in operation

Drugs, Poisons and Controlled Substances (Amendment) Act 1987, No. 20/1987

Assent Date: 12.5.87
Commencement Date: 12.5.87
Current State: All of Act in operation

Conservation, Forests and Lands Act 1987, No. 41/1987

Assent Date: 19.5.87
Commencement Date: S. 103(Sch. 4 item 12.1) on 1.7.87: Government
Gazette 24.6.87 p. 1694
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Liquor Control Act 1987, No. 97/1987

Assent Date: 1.12.87
Commencement Date: S. 181(2) on 3.5.88: Government Gazette 27.4.88
p. 1044
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Magistrates' Court Act 1989, No. 51/1989

Assent Date: 14.6.89
Commencement Date: S. 149(1) on 1.9.90: Government Gazette 25.7.90
p. 2216
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Children and Young Persons Act 1989, No. 56/1989

Assent Date: 14.6.89
Commencement Date: S. 286(Sch. 2 item 9) on 23.9.91: Government Gazette
28.8.91 p. 2368
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Magistrates' Court (Consequential Amendments) Act 1989, No. 57/1989

Assent Date: 14.6.89
Commencement Date: S. 4(1)(a)–(e)(2) on 1.9.89: Government Gazette
30.8.89 p. 2210; rest of Act on 1.9.90: Government
Gazette 25.7.90 p. 2217
Current State: All of Act in operation

Water (Consequential Amendments) Act 1989, No. 81/1989

Drugs, Poisons and Controlled Substances Act 1981

Act No. 9719/1981

Notes

Assent Date: 5.12.89
Commencement Date: 1.11.90: Government Gazette 15.8.90 p. 2473
Current State: All of Act in operation

Drugs, Poisons and Controlled Substances (Amendment) Act 1990, No. 25/1990

Assent Date: 5.6.90
Commencement Date: S. 4(2) on 13.12.83: s. 2(1); rest of Act on 5.6.90:
s. 2(2)
Current State: All of Act in operation

Sentencing Act 1991, No. 49/1991

Assent Date: 25.6.91
Commencement Date: 22.4.92: Government Gazette 15.4.92 p. 898
Current State: All of Act in operation

Royal Botanic Gardens Act 1991, No. 87/1991

Assent Date: 10.12.91
Commencement Date: 1.7.92: Government Gazette 1.7.92 p. 1629
Current State: All of Act in operation

Crimes (Confiscation of Profits) (Amendment) Act 1991, No. 90/1991

Assent Date: 10.12.91
Commencement Date: S. 36 on 1.9.92: Government Gazette 12.8.92 p. 2179
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Vermin and Noxious Weeds (Poison Baits) Act 1992, No. 4/1992

Assent Date: 5.5.92
Commencement Date: S. 6 never came into operation and was repealed by
s. 97 of Act No. 52/1994 on 16.12.94
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Agricultural and Veterinary Chemicals (Control of Use) Act 1992, No. 46/1992

Assent Date: 23.6.92
Commencement Date: S. 78(2)(a) on 15.3.95: Government Gazette 9.3.95
p. 502; s. 78(1)(2)(b) on 1.8.96: Special Gazette
(No. 89) 1.8.96 p. 2
Current State: This information relates only to the provision/s
amending the **Drugs, Poisons and Controlled
Substances Act 1981**

Health and Community Services (General Amendment) Act 1993, No. 42/1993

*Drugs, Poisons and Controlled Substances Act 1981**Act No. 9719/1981*

Assent Date: 1.6.93
Commencement Date: Ss 33, 34, 36, 38, 50, 56, 60 on 21.8.94; ss 35, 37, 39–49, 51–55, 57–59, 61 on 10.9.94: Government Gazette 18.8.94 p. 2240
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Drugs, Poisons and Controlled Substances (Amendment) Act 1994, No. 12/1994

Assent Date: 3.5.94
Commencement Date: Pts 1, 2(ss 1–7) on 3.5.94: s. 2(1); ss 8, 11, 18 on 10.9.94; rest of Act on 11.9.94: Government Gazette 18.8.94 p. 2240
Current State: All of Act in operation

Medical Practice Act 1994, No. 23/1994

Assent Date: 17.5.94
Commencement Date: Ss 1, 2 on 17.5.94: s. 2(1); rest of Act on 1.7.94: Government Gazette 23.6.94 p. 1672
Current State: All of Act in operation

Financial Management (Consequential Amendments) Act 1994, No. 31/1994

Assent Date: 31.5.94
Commencement Date: S. 3(Sch. 1 item 18) on 7.7.94: Government Gazette 7.7.94 p. 1878—see **Interpretation of Legislation Act 1984**
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Catchment and Land Protection Act 1994, No. 52/1994

Assent Date: 15.6.94
Commencement Date: S. 97(Sch. 3 item 7) on 16.12.94: s. 2(3)
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Drugs, Poisons and Controlled Substances (Amendment) Act 1995, No. 66/1995

Assent Date: 17.10.95
Commencement Date: 17.10.95: s. 2(1)
Current State: All of Act in operation

Optometrists Registration Act 1996, No. 56/1996

Assent Date: 10.12.96
Commencement Date: S. 100 on 1.7.98: s. 2(4)
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Health Acts (Further Amendment) Act 1996, No. 68/1996

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Act No. 9719/1981

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Assent Date: 17.12.96
Commencement Date: Pt 3(ss 8–15) on 17.12.96: s. 2(1)
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Sentencing and Other Acts (Amendment) Act 1997, No. 48/1997

Assent Date: 11.6.97
Commencement Date: Ss 35–42, 44–47 on 1.9.97: s. 2(2); s. 43 on 11.6.98: Government Gazette 11.6.98 p. 1314
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Drugs, Poisons and Controlled Substances (Amendment) Act 1997, No. 54/1997 (as amended by No. 52/1998)

Assent Date: 21.10.97
Commencement Date: Ss 1–4 on 21.10.97: s. 2(1); ss 5, 6 on 1.10.98: Government Gazette 13.8.98 p. 2182
Current State: All of Act in operation

Veterinary Practice Act 1997, No. 58/1997

Assent Date: 28.10.97
Commencement Date: S. 96(Sch. item 3) on 17.3.98: Government Gazette 12.3.98 p. 520
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Confiscation Act 1997, No. 108/1997

Assent Date: 23.12.97
Commencement Date: S. 152 on 1.7.98:
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Public Sector Reform (Miscellaneous Amendments) Act 1998, No. 46/1998

Assent Date: 26.5.98
Commencement Date: S. 7(Sch. 1) on 1.7.98: s. 2(2)
Current State: This information relates only to the provision/s amending the **Drugs, Poisons and Controlled Substances Act 1981**

Proclamation, S.R. No. 43/1984

Date of Making: 14.2.84
Date of Commencement: 14.2.84

Proclamation, S.R. No. 277/1984

Date of Making: 17.7.84
Date of Commencement: 17.7.84

Proclamation, S.R. No. 1/1985

Date of Making: 18.12.84

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<i>Date of Commencement:</i>	18.12.84
Proclamation, S.R. No. 2/1985	
<i>Date of Making:</i>	12.12.84
<i>Date of Commencement:</i>	12.12.84
Proclamation, S.R. No. 77/1985	
<i>Date of Making:</i>	26.2.85
<i>Date of Commencement:</i>	26.2.85
Proclamation, S.R. No. 90/1985	
<i>Date of Making:</i>	5.12.84
<i>Date of Commencement:</i>	5.12.84
Proclamation, S.R. No. 91/1985	
<i>Date of Making:</i>	20.12.83
<i>Date of Commencement:</i>	20.12.83
Proclamation, S.R. No. 92/1985	
<i>Date of Making:</i>	14.2.84
<i>Date of Commencement:</i>	14.2.84
Proclamation, S.R. No. 93/1985	
<i>Date of Making:</i>	15.5.84
<i>Date of Commencement:</i>	15.5.84
Proclamation, S.R. No. 94/1985	
<i>Date of Making:</i>	13.6.84
<i>Date of Commencement:</i>	13.6.84
Proclamation, S.R. No. 165/1985	
<i>Date of Making:</i>	16.10.84
<i>Date of Commencement:</i>	16.10.84
Proclamation, S. R. No. 187/1985	
<i>Date of Making:</i>	28.5.85
<i>Date of Commencement:</i>	28.5.85
Proclamation, S. R. No. 208/1985	
<i>Date of Making:</i>	4.6.85
<i>Date of Commencement:</i>	4.6.85
Proclamation, S.R. No. 268/1985	
<i>Date of Making:</i>	25.6.85
<i>Date of Commencement:</i>	25.6.85
Proclamation, S.R. No. 92/1986	
<i>Date of Making:</i>	16.4.86
<i>Date of Commencement:</i>	16.4.86
Proclamation, S.R. No. 179/1986	
<i>Date of Making:</i>	8.7.86
<i>Date of Commencement:</i>	8.7.86
Proclamation, S.R. No. 82/1987	
<i>Date of Making:</i>	14.4.87
<i>Date of Commencement:</i>	14.4.87

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Proclamation, S.R. No. 254/1987	
<i>Date of Making:</i>	29.9.87
<i>Date of Commencement:</i>	29.9.87
Proclamation, S.R. No. 366/1987	
<i>Date of Making:</i>	8.12.87
<i>Date of Commencement:</i>	8.12.87
Proclamation, S.R. No. 138/1989	
<i>Date of Making:</i>	14.6.89
<i>Date of Commencement:</i>	14.6.89
Proclamation, S.R. No. 23/1990	
<i>Date of Making:</i>	13.2.90
<i>Date of Commencement:</i>	13.2.90
Proclamation, S.R. No. 250/1990	
<i>Date of Making:</i>	18.9.90
<i>Date of Commencement:</i>	18.9.90
Proclamation, S.R. No. 314/1990	
<i>Date of Making:</i>	7.11.90
<i>Date of Commencement:</i>	7.11.90
Proclamation, S.R. No. 194/1991	
<i>Date of Making:</i>	8.10.91
<i>Date of Commencement:</i>	8.10.91
Proclamation, S.R. No. 230/1992	
<i>Date of Making:</i>	4.8.92
<i>Date of Commencement:</i>	4.8.92
Proclamation, S.R. No. 263/1992	
<i>Date of Making:</i>	8.9.92
<i>Date of Commencement:</i>	8.9.92
Proclamation, S.R. No. 289/1992	
<i>Date of Making:</i>	27.10.92
<i>Date of Commencement:</i>	27.10.92
Proclamation, S.R. No. 305/1992	
<i>Date of Making:</i>	17.11.92
<i>Date of Commencement:</i>	17.11.92
Proclamation, S.R. No. 350/1992	
<i>Date of Making:</i>	22.12.92
<i>Date of Commencement:</i>	27.1.93: para. (1)
Proclamation, S.R. No. 67/1993	
<i>Date of Making:</i>	4.5.93
<i>Date of Commencement:</i>	4.5.93
Proclamation, S.R. No. 69/1993	
<i>Date of Making:</i>	11.5.93
<i>Date of Commencement:</i>	11.5.93
Proclamation, S.R. No. 86/1993	

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Date of Making: 8.6.93

Date of Commencement: 8.6.93

Proclamation, S.R. No. 136/1993

Date of Making: 20.7.93

Date of Commencement: 20.7.93

Government Gazette, 29 December 1983, page 4187

3. Explanatory Details

¹ Pt 2 Div. 4: Sections 19–21 of the **Drugs, Poisons and Controlled Substances (Amendment) Act 1994**, No. 12/1994 read as follows:

19. *Transitional provisions relating to licences, permits and warrants*

- (1) An application for a new licence, permit or warrant or for the renewal of a licence, permit or warrant under the provisions of the Principal Act in force before the commencement of this sub-section is deemed to be an application under the Principal Act as amended by this Part for a licence, permit or warrant.
- (2) A licence, permit or warrant—
 - (a) in force under the Principal Act immediately before the commencement of this sub-section (including a suspended licence, permit or warrant); or
 - (b) issued under the **Poisons Act 1962** continued by the Principal Act and in force immediately before the commencement of this sub-section (including a suspended licence, permit or warrant)—

must be taken to have been issued under the Principal Act as amended by this Part and may be renewed, amended, suspended or cancelled accordingly.
- (3) The amendments to the Principal Act made by section 9 do not affect the continuity or suspension of a licence, permit or warrant in force immediately before the commencement of this sub-section.

20. Transitional provisions for short-term licences, permits and warrants

- (1) In this section, "**specified authority**" means—
- (a) a permit for educational, advisory or research purposes or for the provision of health services that was in force under the Principal Act immediately before the commencement of this section; or
 - (b) a licence, permit or warrant in force under the **Poisons Act 1962** continued by the Principal Act and in force immediately before the commencement of this section; or
 - (c) a licence under section 19 of the Principal Act or an industrial permit under section 21(1)(a) of the Principal Act in force immediately before the commencement of this section.
- (2) If the anniversary of the date of issue of a specified authority falls between 1 January and 30 June—
- (a) that specified authority expires on 31 December in the year in which this section commences; and
 - (b) a licence, permit or warrant (which corresponds as nearly as practicable to the original) is to be issued under the Principal Act as amended by this Act for a period commencing on 1 January immediately following that date of expiry and ending in the next year on the anniversary of the date of issue of the original specified authority.
- (3) If the anniversary of the date of issue of a specified authority falls between 1 July and 31 December—
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- (a) that specified authority expires on 31 December in the year in which this section commences; and
 - (b) a licence, permit or warrant (which corresponds as nearly as practicable to the original) is to be issued under the Principal Act as amended by this Act for a period commencing on 1 January immediately following that date of expiry and ending on the date in that year that corresponds with the anniversary of the date of issue of the original specified authority.
- (4) Any further licence, permit or warrant issued to that person must be in accordance with the Principal Act as amended by this Act.
 - (5) The Chief General Manager may charge pro rata fees in accordance with the regulations for a licence, permit or warrant issued under this section.

21. *Chief General Manager's powers in respect of short-term licences, permits and warrants*

- (1) The Chief General Manager may, in his or her discretion, amend, suspend or cancel any licence, permit or warrant referred to in section 20.
- (2) Without limiting sub-section (1), the Chief General Manager may, at the holder's request, cancel a licence or permit referred to in section 20 if this is necessary to enable that licence or permit and other licences or permits issued to the holder (whether referred to in section 20 or issued under the Principal Act) to expire simultaneously.

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² S. 34: Section 5 of the **Drugs, Poisons and Controlled Substances (Amendment) Act 1994**, No. 12/1994, reads as follows:

5. Transitional provisions for permits for drugs of addiction

An application for a permit under section 34 of the Principal Act made immediately before the commencement of this section must be taken to be an application under section 34 as amended by this Part.

³ Schs 1–9 (Repealed):

Sch 1 substituted by S.R. Nos 268/1985, 250/1990 para. (3), amended by S.R. No. 230/1992 para. (3), substituted by S.R. No. 67/1993 para. (3), amended by S.R. No. 86/1993 para. (3), repealed by No. 42/1993 s. 59.

Sch. 2 amended by No. 10002 s. 15(a)(i)(ii), S.R. Nos 77/1985, para. (1), 93/1985 regs 1, 2, 94/1985 para. (a)(i)–(xiv), 165/1985 para. (a), 208/1985 regs 1(a)(b), 2(a)(b), substituted by S.R. No. 268/1985, amended by S.R. Nos 92/1986 reg. 1, 82/1987 reg. 3(a), 254/1987 reg. 3(a), substituted by S.R. No. 250/1990 para. (4), amended by S.R. Nos 194/1991 para. (3), 230/1992 paras (4)(5), 263/1992 para. (3), 289/1992 para. (3), 305/1992 para. 3, 350/1992 para. 4, substituted by S.R. No. 67/1993 para. (4), amended by S.R. Nos 86/1993 para. (4)(a)(b), 136/1993 para. (3), repealed by No. 42/1993 s. 59.

Sch. 3 amended by No. 10002 s. 15(b)(i)–(iv), S.R. Nos 94/1985 para. (b)(i)–(ix), 165/1985 para. (b), 187/1985, 208/1985 reg. 3(a)(b), substituted by S.R. No. 268/1985, amended by S.R. Nos 254/1987 reg. 3(b)(i)–(iii), 23/1990 para. (3)(a), substituted by S.R. No. 250/1990 para. (5), amended by S.R. Nos 194/1991 para. (4), 230/1992 paras (4)(6), 263/1992 para.(4), 289/1992 para. (4), substituted by S.R. No. 67/1993 para. (5), amended by S.R. Nos 86/1993 para. (5)(a)–(c), 136/1993 para. (4), repealed by No. 42/1993 s. 59.

Sch. 4 amended by No. 10002 s. 15(c)(i)–(xxix) (as amended by No. 25/1990 s. 4(2)(a)(i)), GG 29.12.83 p. 4187, S.R. Nos 43/1984 regs 1, 2, 277/1984 para. (a)(i)–(vi), 2/1985 para. (a)(i)–(iv), 77/1985 para. (2), 90/1985 para. (a), 94/1985 para. (c)(i)–(xxi), 165/1985 para. (c)(i)–(iv), 208/1985 regs 4(a)–(i), 5(a)–(l), substituted by S.R. No. 268/1985, amended by S.R. Nos 92/1986 reg. 2, 82/1987 reg. 3(b), 254/1987 reg. 3(c)(i)(ii), 23/1990 para. 3(b), substituted by S.R. No. 250/1990 para. (6), amended by S.R. Nos 194/1991 para. (5), 230/1992 para. (4)(7), 263/1992 para. (5), 289/1992 para. (5), 305/1992 para. (4), 350/1992 para. (5), substituted by S.R. No. 67/1993 para. (6), amended by

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S.R. Nos 86/1993 para. (6)(a)–(zm), 136/1993 para. (5)(a)–(p), repealed by No. 42/1993 s. 59.

Sch 5. amended by No. 10002 s. 15(d)(i)–(ix) (as amended by No. 25/1990 s. 4(2)(a)(ii)), S.R. Nos 94/1985 para. (d)(i)–(iv), 165/1985 para. (d), 208/1985 reg. 6, substituted by S.R. Nos 268/1985, 250/1990 para. (7), 194/1991 para. (6), 230/1992 paras (4)(8), 263/1992 para. (6), 289/1992 para. (6), 305/1992 para. (5), 350/1992 para. (6), substituted by S.R. No. 67/1993 para. (7), amended by S.R. Nos 86/1993 para. (7)(a)–(d), 136/1993 para. (6)(a)–(h), repealed by No. 42/1993 s. 59.

Sch 6. amended by No. 10002 s. 15(e)(i)–(xiii), GGs 29.12.83 pp 4187, 4188, 22.2.84 p. 575, S.R. Nos 43/1984 reg. 3, 2/1985 para. (b)(i)(ii), 90/1985 para. (b), 94/1985 para. (e)(i)–(vi), 165/1985 para. (e)(i)–(iv), 208/1985 regs 7(a)–(h), 8(a)–(h), substituted by S.R. No. 268/1985, amended by No. 12/1987 s. 36(5)(b)(i)(ii)(A)(B), S.R. Nos 254/1987 reg. 3(d)(i)–(iii), 366/1987 reg. 3, substituted by S.R. No. 250/1990 para. (8), amended by S.R. Nos 194/1991 para. (7), 230/1992 paras (4)(9), 263/1992 para. (7), 289/1992 para. (7), 305/1992 para. (6), substituted by S.R. No. 67/1993 para. (8), amended by S.R. Nos 68/1993 para. (8)(a)–(k), 136/1993 para. (7)(a)–(g), repealed by No. 42/1993 s. 59.

Sch. 7 amended by No. 10002 s. 15(f)(i)–(xii), GG 22.2.84 p. 575, S.R. Nos 277/1984 para. (b)(i)–(vi), 2/1985 para. (c)(i), 77/1985 para. (3), 94/1985 paras (f)(i)(g)(i)–(vii), 165/1985 para. (f), 208/1985 regs 9(a)–(c), 10(a)–(e), substituted by S.R. No. 268/1985, amended by S.R. Nos 92/1986 reg. 3, 82/1987 reg. 3(c), 23/1990 para. (3)(c), substituted by S.R. No. 250/1990 para. (9), amended by S.R. Nos 194/1991 paras (8)(9), 230/1992 paras (4)(10)(11), 263/1992 paras (8)(9), 289/1992 paras (8)(9), 305/1992 paras (7)(8), 350/1992 para. (7), substituted by S.R. No. 67/1993 para. (9), amended by S.R. Nos 86/1993 para. (9)(a)–(c), 136/1993 paras (8)(a)–(m), (9)(a)–(v), repealed by No. 42/1993 s. 59.

Sch 8. amended by S.R. No. 208/1985 reg. 11, substituted by S.R. No. 268/1985, amended by S.R. No. 179/1986 reg. 2, substituted by S.R. No. 250/1990 para. (10), amended by S.R. Nos 194/1991 para. (10), 230/1992 para. (10), 305/1992 para. (9), substituted by S.R. No. 67/1993 para. (10), amended by S.R. Nos 86/1993 para. (10), 136/1993 para. (10)(a)(b), repealed by No. 42/1993 s. 59.

Sch 9. repealed by No. 42/1993 s. 59.