Version
as at 12 April 2024

Misuse of Drugs Act 1975

Public Act	1975 No 116
Date of assent	10 October 1975
Commencement	see section 1(2)

Contents

Note

The Parliamentary Counsel Office has made editorial and format changes to this version using the powers under subpart 2 of Part 3 of the Legislation Act 2019.

Note 4 at the end of this version provides a list of the amendments included in it.

This Act is administered by the Ministry of Health.

An Act to consolidate and amend the Narcotics Act 1965 and to make further provision for the prevention of misuse of drugs

1 Short Title and commencement

(1) This Act may be cited as the Misuse of Drugs Act 1975.

(2) This Act shall come into force on a date to be appointed for the commencement thereof by the Governor-General by Order in Council.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 1(2): this Act brought into force, on 1 June 1977, by clause 2 of the Misuse of Drugs Act Commencement Order 1977 (SR 1977/36).

Section 1(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

2 Interpretation

(1) In this Act, unless the context otherwise requires,—

approved laboratory means a laboratory for the time being approved under section 5A

associate coroner means a person who holds office as an associate coroner under the Coroners Act 2006

carrier includes every person engaged in carrying goods (including mail) for hire or reward by any means, and whether by land, water, or air

CBD product has the meaning given in section 2A

Class A controlled drug means the controlled drugs specified or described in Schedule 1

Class B controlled drug means the controlled drugs specified or described in Schedule 2

Class C controlled drug means the controlled drugs specified or described in Schedule 3; and includes any temporary class drug and any controlled drug analogue

controlled drug means any substance, preparation, mixture, or article specified or described in Schedule 1, Schedule 2, or Schedule 3; and includes any temporary class drug and any controlled drug analogue

controlled drug analogue means any substance, such as the substances specified or described in Part 7 of Schedule 3, that has a structure substantially similar to that of any controlled drug; but does not include—

(a) any substance specified or described in Schedule 1 or Schedule 2 or Parts 1 to 6 of Schedule 3; or

(b) any pharmacy-only medicine or prescription medicine or restricted medicine within the meaning of the Medicines Act 1981; or

(c) an approved product within the meaning of the Psychoactive Substances Act 2013

(d) a non-psychoactive THC analogue

coroner includes an associate coroner to the extent that they have the jurisdiction of a coroner under the Coroners Act 2006

cultivate includes sow or plant; and **cultivation** has a corresponding meaning

dentist means a health practitioner who is, or is deemed to be, registered with the Dental Council established by section 114(2) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of dentistry

dependent means being in a state of periodic or chronic intoxication, produced by the repeated consumption, smoking, or other use of a controlled drug detrimental to the person in relation to whom the word is used, and involving a compulsive desire to continue consuming, smoking, or otherwise using the drug or a tendency to increase the dose of the drug; and **dependency** has a corresponding meaning

designated prescriber has the same meaning as it has in section 2(1) of the Medicines Act 1981

drug and substance checking service provider or **service provider** means an individual or entity licensed as a drug and substance checking service provider under clause 4 of Schedule 6

drug information body means an agency, an association, or a body that gathers and analyses information about the use or prevalence (or both) of controlled drugs and psychoactive substances in New Zealand

drug or substance, in relation to a drug and substance checking service provider, includes a sample of a drug or substance

entity, in relation to a drug and substance checking service provider, includes—

(a) a body corporate:

(b) a corporation sole:

(c) in the case of a trust that has—

(i) only 1 trustee, the trustee acting in their capacity as trustee:

(ii) more than 1 trustee, the trustees acting jointly in their capacity as trustees:

(d) an unincorporated body (including a partnership)

Medical Officer of Health means a Medical Officer of Health within the meaning of the Health Act 1956; and includes the officers referred to in section 22 of that Act

medical practitioner means a health practitioner who is, or is deemed to be, registered with the Medical Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of medicine

midwife means a health practitioner who is, or is deemed to be, registered with the Midwifery Council established by section 114(3) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of midwifery

Minister means the Minister of Health

non-psychoactive THC analogue means a substance that—

(a) occurs naturally in cannabis; and

(b) is not capable of inducing more than a minor psychoactive effect, by any means, in a person; and

(c) has a structure substantially similar to that of—

(i) a tetrahydrocannabinol; or

(ii) an isomer, ester, or ether of a tetrahydrocannabinol; or

(iii) an ester or ether of an isomer of a tetrahydrocannabinol; or

(iv) a salt of any substance described in subparagraphs (i) to (iii)

nurse practitioner means a health practitioner who—

(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of nurse practitioner functions; and

(b) holds a current practising certificate

Nursing Council means the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003

optometrist means a person—

(a) who is, or is deemed to be, registered with the Optometrists and Dispensing Opticians Board as a practitioner of optometry; and

(b) for whom the Optometrists and Dispensing Opticians Board has authorised a scope of practice that includes prescribing medicines

Optometrists and Dispensing Opticians Board means the Optometrists and Dispensing Opticians Board continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003

pharmacist means a health practitioner who is, or is deemed to be, registered with the Pharmacy Council established by section 114(5) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of pharmacy

precursor substance means any substance specified or described in Part 1 or Part 2 or Part 3 of Schedule 4

produce includes compound; and **production** has a corresponding meaning

prohibited plant means—

(a) any plant of the genus *Cannabis*:

(b) any plant of the species *Papaver somniferum*:

(c) *Erythroxylon coca* and *Erythroxylon novagranatense* (syn E *truxillense*) and every other species of the genus *Erythroxylon* from which a controlled drug can be produced:

(d) any plant of the species *Lophophora williamsii* or *Lophophora lewinii*:

(e) any fungus of the genera *Conocybe*, *Panaeolus*, or *Psilocybe* from which a controlled drug can be produced or which contains a controlled drug:

(f) any other plant which is declared to be a prohibited plant by regulations made under this Act

psychoactive substance has the same meaning as in section 9 of the Psychoactive Substances Act 2013

registered health professional means a health practitioner who is, or is deemed to be, registered with an authority established or continued by section 114 of the Health Practitioners Competence Assurance Act 2003 as a practitioner of a particular health profession

registered nurse means a health practitioner who—

(a) is, or is deemed to be, registered with the Nursing Council of New Zealand continued by section 114(1)(a) of the Health Practitioners Competence Assurance Act 2003 as a practitioner of the profession of nursing and whose scope of practice permits the performance of registered nurse functions; and

(b) holds a current practising certificate

responsible person, in relation to an entity that is, or is applying to be, a drug and substance checking service provider, means—

(a) a director, partner, or trustee of the entity; or

(b) if the entity does not have directors, partners, or trustees, a person who acts in relation to the entity in the same or a similar fashion as a director, partner, or trustee would were the entity a company, partnership, or trust

standing order has the same meaning as it has in section 2(1) of the Medicines Act 1981

supply includes distribute, give, and sell

temporary class drug means any substance, preparation, mixture, or article specified as a temporary class drug by an order made under section 4C

veterinarian means a veterinarian or a specialist within the meaning of section 4 of the Veterinarians Act 2005

Vienna Convention means the United Nations Convention Against Illicit Traffic in Narcotic Drugs and Psychotropic Substances adopted in Vienna on 19 December 1988

worker, in relation to a service provider, means a person who carries out work in any capacity for the service provider, including work as—

(a) an employee; or

(b) a contractor or subcontractor; or

(c) a volunteer (being a person who carries out work on a voluntary basis, whether or not the person receives out-of-pocket expenses).

(1A) Any reference in this Act to an **amount, level, or quantity at and over which a controlled drug is presumed to be for supply** is a reference to the amount, level, or quantity specified in Schedule 5.

(1B) In this Act, a person **requires palliation** if, in the opinion of a medical practitioner or nurse practitioner, the person has an advanced progressive life-limiting condition and is nearing the end of their life.

(2) For the purposes of this Act, the things which a person has in his possession include any thing subject to his control which is in the custody of another.

(3) In calculating for the purposes of this Act the percentage of any substance present in a preparation, the percentage in the case of a liquid preparation shall, unless otherwise prescribed, be calculated on the basis that a preparation containing 1 part percent of any substance means a preparation in which 1 gram of the substance, if a solid, or 1 millilitre of the substance, if a liquid, is contained in every 100 millilitres of the preparation and so in proportion for any greater or less percentage.

(4) In calculating for the purposes of this Act the percentage of morphine present in a preparation it shall be calculated as in respect of anhydrous morphine.

(5) For the purposes of this Act, a salt of any controlled drug shall be deemed to contain that drug.

Compare: 1965 No 45 s 2; SR 1966/82 rr 2, 2A, 15(1), 25A(1); SR 1967/173 r 2; SR 1973/100 r 7; Misuse of Drugs Act 1971 s 37(3) (UK)

Section 2(1) **approved laboratory**: inserted, on 1 July 1992, by section 2 of the Misuse of Drugs Amendment Act 1992 (1992 No 49).

Section 2(1) **associate coroner**: inserted, on 5 April 2023, by section 36 of the Coroners Amendment Act 2023 (2023 No 8).

Section 2(1) **carrier**: amended, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Section 2(1) **CBD product**: inserted, on 18 December 2018, by section 4(1) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 2(1) **Class A controlled drug**: inserted, on 2 September 1996, by section 2(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Section 2(1) **Class B controlled drug**: inserted, on 2 September 1996, by section 2(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Section 2(1) **Class C controlled drug**: inserted, on 2 September 1996, by section 2(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Section 2(1) **Class C controlled drug**: amended, on 13 August 2019, by section 4(1) of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 2(1) **controlled drug**: replaced, on 2 September 1996, by section 2(1) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Section 2(1) **controlled drug**: amended, on 13 August 2019, by section 4(2) of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 2(1) **controlled drug analogue**: inserted, on 13 January 1988, by section 2(1) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 2(1) **controlled drug analogue** paragraph (b): amended, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

Section 2(1) **controlled drug analogue** paragraph (c): inserted, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

Section 2(1) **controlled drug analogue** paragraph (d): inserted, on 18 December 2018, by section 4(2) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 2(1) **coroner**: inserted, on 5 April 2023, by section 36 of the Coroners Amendment Act 2023 (2023 No 8).

Section 2(1) **dentist**: replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **designated prescriber**: inserted, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 2(1) **drug and substance checking service provider** or **service provider**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **drug and substance checking service provider** or **service provider**: repealed, on 7 December 2021, by section 11 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

Section 2(1) **drug information body**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **drug or substance**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **entity**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **medical practitioner**: replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **midwife**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **non-psychoactive THC analogue**: inserted, on 18 December 2018, by section 4(1) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 2(1) **nurse practitioner**: replaced, on 31 January 2018, by section 4(2) of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

Section 2(1) **Nursing Council**: inserted, on 1 July 2014, by section 41 of the Medicines Amendment Act 2013 (2013 No 141).

Section 2(1) **optometrist**: inserted, on 1 July 2014, by section 41 of the Medicines Amendment Act 2013 (2013 No 141).

Section 2(1) **Optometrists and Dispensing Opticians Board**: inserted, on 1 July 2014, by section 41 of the Medicines Amendment Act 2013 (2013 No 141).

Section 2(1) **pharmacist**: replaced, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **precursor substance**: inserted, on 12 May 1998, by section 2 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 2(1) **precursor substance**: amended, on 22 June 2005, by section 3(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 2(1) **prohibited plant** paragraph (e): replaced, on 13 January 1988, by section 2(2) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 2(1) **psychoactive substance**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **psychoactive substance**: repealed, on 7 December 2021, by section 11 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

Section 2(1) **registered health professional**: inserted, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **registered midwife**: repealed, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 2(1) **registered nurse**: inserted, on 31 January 2018, by section 4(1) of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

Section 2(1) **responsible person**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1) **standing order**: inserted, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 2(1) **temporary class drug**: inserted, on 13 August 2019, by section 4(3) of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 2(1) **temporary class drug**: repealed, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

Section 2(1) **temporary class drug notice**: repealed, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

Section 2(1) **veterinarian**: inserted, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 2(1) **veterinary surgeon**: repealed, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 2(1) **Vienna Convention**: inserted, on 12 May 1998, by section 2 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 2(1) **worker**: inserted, on 7 December 2021, by section 4 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 2(1A): inserted, on 22 June 2005, by section 3(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 2(1B): inserted, on 18 December 2018, by section 4(3) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 2(5): inserted, on 13 January 1988, by section 2(3) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

2A Meaning of CBD product

(1) **CBD product** means a product that—

(a) contains cannabidiol; and

(b) either—

(i) does not contain a specified substance; or

(ii) contains specified substances in an amount that is no more than 2% of the sum of the amount of cannabidiol and the amount of specified substances in the product; and

(c) does not contain any other controlled drug; and

(d) does not contain any other psychoactive substance (as defined in section 9 of the Psychoactive Substances Act 2013).

(2) In this section, **specified substance** means a substance that—

(a) naturally occurs in cannabis; and

(b) is—

(i) a tetrahydrocannabinol; or

(ii) an isomer, ester, or ether of a tetrahydrocannabinol; or

(iii) an ester or ether of an isomer of a tetrahydrocannabinol; or

(iv) a salt of any substance described in subparagraphs (i) to (iii); or

(v) a substance that has a structure substantially similar to that of any substance described in subparagraphs (i) to (iv); and

(c) for substances listed in paragraph (b)(ii) to (v), is capable of inducing more than a minor psychoactive effect, by any means, in a person.

Section 2A: inserted, on 18 December 2018, by section 5 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

2AA Transitional, savings, and related provisions

The transitional, savings, and related provisions set out in Schedule 1AA have effect according to their terms.

Section 2AA: inserted, on 7 December 2021, by section 5 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

3 Act to bind the Crown

(1) Subject to subsection (2), this Act shall bind the Crown.

(2) The Governor-General may, by Order in Council, exempt any instrument of the Executive Government of New Zealand, either absolutely or to such extent and subject to such conditions as may be specified in the Order in Council, from all or any of the provisions of this Act, and in that event, or to that extent and subject to compliance with any such conditions, this Act, or the provisions of this Act so specified, as the case may require, shall not bind the Crown in right of that instrument.

(3) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1965 No 45 s 3

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 3(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

3A Classification of drugs

The classification of a drug under this Act is based on the risk of harm the drug poses to individuals, or to society, by its misuse; and accordingly—

(a) drugs that pose a very high risk of harm are classified as Class A drugs; and

(b) drugs that pose a high risk of harm are classified as Class B drugs; and

(c) drugs that pose a moderate risk of harm are classified as Class C drugs.

Section 3A: inserted, on 15 November 2000, by section 3 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

4 Amendment of schedules that identify controlled drugs and precursor substances, and set amount, level, or quantity at and over which controlled drugs are presumed to be for supply

(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend Schedule 1, Schedule 2, Schedule 3, and Schedule 4, by doing any 1 or more of the following to any 1 or more of those schedules:

(a) adding the name or description of any substance, preparation, mixture, or article to a schedule; or

(b) removing the name or description of any substance, preparation, mixture, or article from a schedule; or

(c) moving the name or description of any substance, preparation, mixture, or article from one schedule, or Part or clause of a schedule, and inserting that name or description in another schedule, or Part or clause of a schedule.

(1A) An Order in Council may not be made under subsection (1) in relation to a controlled drug if the effect of the Order in Council is—

(a) to remove the controlled drug from all of Schedules 1 to 3; or

(b) to move the controlled drug—

(i) from Schedule 1 to Schedule 2 or Schedule 3; or

(ii) from Schedule 2 to Schedule 3; or

(iii) from Part 1 of Schedule 2 or of Schedule 3 to another Part of the same schedule.

(1B) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend Schedule 5 by doing any of the following:

(a) altering the amount, level, or quantity at and over which any controlled drug is presumed to be for supply:

(b) adding any substance, preparation, mixture, or article that is to be classified as a controlled drug to clause 1 of Schedule 5 and the amount, level, or quantity at and over which it is presumed to be for supply.

(1C) An Order in Council may not be made under subsection (1B)(a) in relation to a controlled drug unless the name or description of the controlled drug is, at the same time, being moved from Schedule 1, 2, or 3, or from a Part or clause of Schedule 1, 2, or 3 to another of those schedules, Parts, or clauses.

(1D) An Order in Council may not be made under subsection (1B)(b) in relation to a substance, preparation, mixture, or article unless its name or description is, at the same time, being added to Schedule 1, 2, or 3.

(2) An Order in Council made under subsection (1) or subsection (1B) may not come into force except in accordance with a commencement order made under section 4A.

(3) *[Repealed]*

(4) The Governor-General may, by Order in Council,—

(a) amend the name or description of any substance, preparation, mixture, or article named or described in Schedule 1, Schedule 2, Schedule 3, or Schedule 5, if the amendment is necessary for the purpose of rendering that name or description consistent with international scientific usage:

(b) update Schedule 1, Schedule 2, Schedule 3, or Schedule 5, if the update is necessary for the purpose of clarifying content or correcting drafting errors:

(c) add to, or remove from, Schedule 4 the name or description of any substance included in that schedule, if the amendment is necessary for the purpose of giving effect to any changes to the Annex to the Vienna Convention.

(5) No Order in Council may be made under paragraph (a) or paragraph (b) of subsection (4) if it has the effect of classifying, changing the classification of, or declassifying any substance, preparation, mixture, or article.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under subsection (1) or (1B)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It is not disallowable because an exemption applies under Schedule 3 of the Legislation Act 2019	LA19 s 115(d), Sch 3

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation made under subsection (4)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 4: replaced, on 15 November 2000, by section 4 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

Section 4 heading: amended, on 22 June 2005, by section 4(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(1A): inserted, on 22 June 2005, by section 4(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(1B): inserted, on 22 June 2005, by section 4(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(1C): inserted, on 22 June 2005, by section 4(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(1D): inserted, on 22 June 2005, by section 4(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(2): amended, on 22 June 2005, by section 4(3) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(3): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4(4)(a): amended, on 22 June 2005, by section 4(5) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(4)(b): amended, on 22 June 2005, by section 4(5) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4A Procedure for bringing Order in Council made under section 4(1) or (1B) into force

(1) Subject to subsection (2), the Governor-General may, by Order in Council, make a commencement order bringing any Order in Council made under section 4(1) or (1B) into force.

(2) The commencement order may be made only after the Order in Council made under section 4(1) or (1B) has been approved by resolution of the House of Representatives.

(3) A resolution of the House of Representatives approving an Order in Council made under section 4(1) or (1B) may be made at any time after—

(a) the date that is 28 days after the date on which the order is published; or

(b) if the order is published during the period commencing on 24 December in one year and ending on 15 January in the following year, 15 February of that following year.

(4) An Order in Council made under section 4(1) or (1B) lapses if—

(a) a motion to approve the Order in Council is defeated; or

(b) no motion to approve the Order in Council is agreed to within 1 year of its date of making.

(5) An order under subsection (1) is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 4A: replaced, on 15 November 2000, by section 4 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

Section 4A heading: amended, on 22 June 2005, by section 5(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4A(1): amended, on 22 June 2005, by section 5(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4A(2): amended, on 22 June 2005, by section 5(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4A(3): amended, on 22 June 2005, by section 5(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4A(3)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4A(3)(b): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4A(4): amended, on 22 June 2005, by section 5(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4A(5): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4B Matters to which Minister must have regard before recommending Order in Council under section 4(1) or (1B)

(1) Before recommending to the Governor-General that an Order in Council be made under section 4(1), the Minister must, in respect of each substance, preparation, mixture, or article (**drug**) referred to in the proposed Order in Council,—

(a) consult with, and consider any advice given by, the Expert Advisory Committee on Drugs established under section 5AA, about the drug; and

(b) have regard to the matters set out in subsection (2).

(2) The matters that the Minister must have regard to under subsection (1)(b), and on which the Expert Advisory Committee on Drugs must give advice, are—

(a) the likelihood or evidence of drug abuse, including such matters as the prevalence of the drug, levels of consumption, drug seizure trends, and the potential appeal to vulnerable populations; and

(b) the specific effects of the drug, including pharmacological, psychoactive, and toxicological effects; and

(c) the risks, if any, to public health; and

(d) the therapeutic value of the drug, if any; and

(e) the potential for use of the drug to cause death; and

(f) the ability of the drug to create physical or psychological dependence; and

(g) the international classification and experience of the drug in other jurisdictions; and

(h) any other matters that the Minister considers relevant.

(3) Before recommending to the Governor-General that an Order in Council be made under section 4(1B), the Minister must, in relation to the amount, level, or quantity at and over which any controlled drug is to be presumed to be for supply in the proposed Order in Council,—

(a) consult with, and consider any advice given by, the Expert Advisory Committee on Drugs established under section 5AA, about the amount, level, or quantity at and over which a controlled drug might be presumed to be for supply; and

(b) have regard to the matters in subsection (4).

(4) The matters that the Minister must have regard to under subsection (3)(b), and on which the Expert Advisory Committee on Drugs may give advice, are—

(a) the amount of the drug that could reasonably be possessed for personal use, including, without limitation, levels of consumption, the ability of the drug to create physical or psychological dependence, and the specific effects of the drug; and

(b) the amount, level, or quantity at and over which the drug is presumed to be for supply in other jurisdictions; and

(c) any other matters that the Minister considers relevant.

Section 4B: inserted, on 15 November 2000, by section 4 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

Section 4B heading: amended, on 22 June 2005, by section 6(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4B(2): amended, on 22 June 2005, by section 6(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4B(3): inserted, on 22 June 2005, by section 6(3) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 4B(4): inserted, on 22 June 2005, by section 6(3) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

4C Temporary class drug order

(1) The Minister may, by an order published under the Legislation Act 2019, specify any substance, preparation, mixture, or article as a temporary class drug.

(2) The Minister must not make an order if the substance, preparation, mixture, or article is already a Class A controlled drug, a Class B controlled drug, a Class C controlled drug (except a controlled drug analogue), or a precursor substance.

(3) The Minister must not make an order unless satisfied that the substance, preparation, mixture, or article that is to be specified in the order—

(a) poses, or may pose, a risk of harm to individuals or to society; and

(b) has not been classified under this Act, except as a controlled drug analogue.

(4) An order may describe the substance, preparation, mixture, or article by either or both of the following:

(a) its chemical name, or one of its chemical names:

(b) a description of the substance, preparation, mixture, or article, in the form that the Minister considers appropriate for the purposes of the order.

(5) An order must state the date on which the order comes into force, and that date must not be earlier than the day after the date of the publication of the order.

(6) An order under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section

Publication	The maker must: • publish it in the *Gazette* • (while it is in force) make it, and information about its effects, available on the Ministry of Health's website in a form that is publicly accessible	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 4C: inserted, on 13 August 2019, by section 5 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 4C(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4C(5): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4C(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4C Temporary class drug notice

[Repealed]

Section 4C: repealed, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

4D Effect of temporary class drug order

(1) This section applies to every temporary class drug while it remains subject to a temporary class drug order.

(2) The temporary class drug must be treated for all purposes as if the drug were a controlled drug that is specified or described in Part 1 of Schedule 3.

(3) *See* section 7(5) for a prosecutorial discretion that applies to possession and use offences for all controlled drugs (including temporary class drugs).

(4) A substance that has a structure substantially similar to the temporary class drug must not be treated as a controlled drug analogue just because of that similarity.

Section 4D: inserted, on 13 August 2019, by section 5 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

4D Effect of temporary class drug notice

[Repealed]

Section 4D: repealed, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

4E Further action relating to temporary class drugs

(1) While a temporary class drug order is in place, the Minister must seek advice, as the Minister considers appropriate, under section 5 or 5AA (or both) about the temporary class drug and its appropriate classification (if any, including as a precursor substance) under this Act.

(2) *[Repealed]*

Section 4E: inserted, on 13 August 2019, by section 5 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 4E(2): repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4E Duration of temporary class drug notice

[Repealed]

Section 4E: repealed, on 18 July 2013, by section 110(1) of the Psychoactive Substances Act 2013 (2013 No 53).

4F Duration of temporary class drug order

(1) A temporary class drug order expires at the earliest of—

(a) the close of the day that is 1 year after the date on which the order came into force; and

(b) the date on which the substance, preparation, mixture, or article is—

(i) classified as a Class A controlled drug; or

(ii) classified as a Class B controlled drug; or

(iii) classified as a Class C controlled drug; or

(iv) added to Schedule 4 as a precursor substance; and

(c) its revocation by the Minister.

(2) A temporary class drug order may be renewed by the Minister—

(a) before the date of its expiry as calculated under subsection (1); and

(b) on 1 occasion only; and

(c) only for the purpose of allowing sufficient time for the Minister to obtain the advice that is to be sought under section 4E(1).

(3) The following are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements):

(a) a revocation under subsection (1)(c); and

(b) a renewal under subsection (2).

Legislation Act 2019 requirements for secondary legislation made under subsection (1)(c)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation made under subsection (2)		
Publication	The maker must: • publish it in the *Gazette* • (while it is in force) make it, and information about its effects, available on the Ministry of Health's website in a form that is publicly accessible	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 4F: inserted, on 13 August 2019, by section 5 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 4F(1)(c): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 4F(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

4G Status of temporary class drug order

[Repealed]

Section 4G: repealed, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5 Advisory and technical committees

(1) The Minister may from time to time appoint such advisory or technical committees as he thinks fit to advise him for any of the purposes of this Act, and may from time to time determine the functions of any such committee.

(2) There may be paid out of money appropriated by Parliament for the purpose to the members of any committee appointed under this section remuneration by way of fees, salary, or allowances and travelling allowances and expenses in accordance with the Fees and Travelling Allowances Act 1951, and the provisions of that Act shall apply accordingly as if the committee were a statutory board within the meaning of that Act.

(3) Subject to the provisions of this Act and of any regulations made under this Act, every such committee may regulate its own procedure.

5AA Expert Advisory Committee on Drugs

(1) The Minister must establish an Expert Advisory Committee on Drugs to advise the Minister on drug classification matters.

(2) The functions of the Committee are—

(a) to carry out medical and scientific evaluations of controlled drugs, and any other narcotic or psychotropic substances, preparations, mixtures, or articles; and

(b) to make recommendations to the Minister about—

(i) whether and how controlled drugs or other substances, preparations, mixtures, or articles should be classified; and

(ii) the amount, level, or quantity at and over which any substance, preparation, mixture, or article that is a controlled drug (or is proposed to be classified as a controlled drug), and that is to be specified or described in clause 1 of Schedule 5, is to be presumed to be for supply; and

(iii) the level at and over which controlled drugs to which clause 2 of Schedule 5 applies are presumed to be for supply; and

(c) to increase public awareness of the Committee's work, by (for instance) the timely release of papers, reports, and recommendations.

(3) The Committee must comprise—

(a) up to 5 people who, between them, have appropriate expertise in—

(i) pharmacology:

(ii) toxicology:

(iii) drug and alcohol treatment:

(iv) psychology:

(v) community medicine; and

(b) up to 3 people employed in the public service (as defined in section 10 of the Public Service Act 2020) who between them have appropriate expertise in—

(i) public health:

(ii) the appropriateness and safety of pharmaceuticals and their availability to the public:

(iii) border control; and

(c) 1 Police employee; and

(ca) 1 employee of the Ministry of Justice who has appropriate expertise in matters relating to the justice system; and

(d) 1 person representing the views of consumers of drug treatment services.

(4) The Minister must appoint 1 member as chairperson of the Committee.

(5) Subsections (2) and (3) of section 5 apply to the Expert Advisory Committee on Drugs as if it were a committee established under section 5.

Section 5AA: inserted, on 15 November 2000, by section 5 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

Section 5AA(2)(b)(ii): replaced, on 22 June 2005, by section 7(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 5AA(2)(b)(iii): inserted, on 22 June 2005, by section 7(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 5AA(3)(b): amended, on 7 August 2020, by section 135 of the Public Service Act 2020 (2020 No 40).

Section 5AA(3)(c): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 5AA(3)(ca): inserted, on 22 June 2005, by section 7(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

5A Approved laboratories

(1) The Minister may from time to time, by notice, approve any laboratory for the purposes of this Act.

(2) Any approval by the Minister of a laboratory as an approved laboratory for the purposes of this Act may be given on such terms and conditions as the Minister thinks fit and as are specified in the notice approving that laboratory.

(3) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 5A: inserted, on 1 July 1992, by section 3 of the Misuse of Drugs Amendment Act 1992 (1992 No 49).

Section 5A(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 5A(3): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

5B Functions of Minister

For the purposes of this Act, the functions of the Minister include the provision and publication of reports, information, and advice concerning the misuse of drugs and the treatment of persons suffering from the misuse of drugs.

Section 5B: inserted, on 15 November 2000, by section 6 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

6 Dealing with controlled drugs

(1) Except as provided in section 8 or 35DD, or pursuant to a licence under this Act, or as otherwise permitted by regulations made under this Act, no person shall—

(a) import into or export from New Zealand any controlled drug; or

(b) produce or manufacture any controlled drug; or

(c) supply or administer, or offer to supply or administer, any Class A controlled drug or Class B controlled drug to any other person, or otherwise deal in any such controlled drug; or

(d) supply or administer, or offer to supply or administer, any Class C controlled drug to a person under 18 years of age; or

(e) sell, or offer to sell, any Class C controlled drug to a person of or over 18 years of age; or

(f) have any controlled drug in his possession for any of the purposes set out in paragraphs (c), (d), or (e).

(2) Every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to—

(a) imprisonment for life where a Class A controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(b) imprisonment for a term not exceeding 14 years where paragraph (a) does not apply but a Class B controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(c) imprisonment for a term not exceeding 8 years in any other case.

(2A) Every person who conspires with any other person to commit an offence against subsection (1) commits an offence against this Act and is liable on conviction to imprisonment for a term—

(a) not exceeding 14 years where a Class A controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(b) not exceeding 10 years where paragraph (a) does not apply but a Class B controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(c) not exceeding 7 years in any other case.

(3) *[Repealed]*

(4) Notwithstanding anything in Part 1 or section 39 or section 81 of the Sentencing Act 2002, where any person is convicted of an offence relating to a Class A controlled drug—

(a) against paragraph (c) or paragraph (f) of subsection (1); or

(b) against paragraph (a) or paragraph (b) of subsection (1) committed in circumstances indicating to the Judge or court an intention to offend against paragraph (c) of that subsection,—

the Judge or court shall impose a sentence of imprisonment (within the meaning of that Act) unless, having regard to the particular circumstances of the offence or of the offender, including the age of the offender if he is under 20 years of age, the Judge or court is of the opinion that the offender should not be so sentenced.

(4A) Without limiting anything in subsection (4) or in Part 1 or section 39 or section 81 of the Sentencing Act 2002, where any person is convicted of an offence relating to a Class A controlled drug or a Class B controlled drug against any of paragraphs (a), (b), (c), and (f) of subsection (1), the Judge or court, if he or it decides to impose a sentence of imprisonment, shall consider whether or not he or it should also impose a fine.

(5) For the purposes of paragraph (e) of subsection (1), if it is proved that a person has supplied a controlled drug to another person he shall until the contrary is proved be deemed to have sold that controlled drug to that other person.

(6) For the purposes of subsection (1)(f), a person is presumed until the contrary is proved to be in possession of a controlled drug for any of the purposes in subsection (1)(c), (d), or (e) if he or she is in possession of the controlled drug in an amount, level, or quantity at or over which the controlled drug is presumed to be for supply (*see* section 2(1A)).

(7) *[Repealed]*

Compare: 1965 No 45 s 5(1)(a), (b), (d), (e), (2), (3), (6)

Section 6(1): amended, on 7 December 2021 (immediately after being amended by section 12 of the Drug and Substance Checking Legislation Act 2020), by section 6 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 6(1)(a): replaced, on 31 January 2018, by section 5 of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

Section 6(2): replaced, on 16 October 1978, by section 3(1) of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 6(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 6(2A): inserted, on 16 October 1978, by section 4(1) of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 6(2A): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 6(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 6(4): replaced, on 1 October 1985, by section 150(1) of the Criminal Justice Act 1985 (1985 No 120).

Section 6(4): amended on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 6(4A): replaced, on 1 October 1985, by section 150(1) of the Criminal Justice Act 1985 (1985 No 120).

Section 6(4A): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 6(4A): amended, on 30 June 2002, by section 186 of the Sentencing Act 2002 (2002 No 9).

Section 6(6): replaced, on 22 June 2005, by section 8 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 6(7): repealed, on 22 June 2005, by section 8 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

7 Possession and use of controlled drugs

(1) Except as provided in section 8 or 35DD, or pursuant to a licence under this Act, or as otherwise permitted by regulations made under this Act, no person shall—

(a) procure or have in his possession, or consume, smoke, or otherwise use, any controlled drug; or

(b) supply or administer, or offer to supply or administer, any Class C controlled drug to any other person, or otherwise deal in any such controlled drug.

(2) Subject to subsection (3), but without prejudice to any liability under section 6, every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction—

(a) to imprisonment for a term not exceeding 6 months or to a fine not exceeding $1,000 or to both where a Class A controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(b) to imprisonment for a term not exceeding 3 months or to a fine not exceeding $500 or to both in any other case:

provided that, where any person is convicted of an offence against subsection (1) relating only to a Class C controlled drug and is liable to a penalty under paragraph (b), the Judge or District Court Judge shall not impose a custodial sentence (being a sentence under which a person is liable to be detained in a prison within the meaning of the Corrections Act 2004) unless, by reason of the offender's previous convictions or of any exceptional circumstances relating to the offence or the offender, the Judge or District Court Judge is of the opinion that such a sentence should be imposed.

(3) In any proceedings for an offence against this section in respect of the possession of a controlled drug, in which it is proved that the defendant had a controlled drug in his possession, it shall be a defence for him to prove—

(a) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of preventing another from committing or continuing to commit an offence in connection with that drug and that as soon as possible after taking possession of it he took all reasonable steps to

destroy the drug or to deliver it into the possession of a person lawfully entitled to have possession of it; or

(b) that, knowing or suspecting it to be a controlled drug, he took possession of it for the purpose of delivering it into the possession of a person lawfully entitled to have possession of it and that as soon as possible after taking possession of it he took all reasonable steps to deliver it into the possession of such a person.

(3A) In any proceedings for an offence against subsection (1)(a) in respect of possessing or using any plant or plant material of the genus *Cannabis* or any cannabis preparation, the defendant has a defence if, at the time of the possession or use, the defendant had been diagnosed by a medical practitioner or nurse practitioner as requiring palliation.

(4) Nothing in subsection (3) or (3A) shall prejudice any defence which it is open to a person charged with an offence against this section to raise apart from that subsection.

(5) To avoid doubt, it is affirmed that there is a discretion to prosecute for an offence against subsection (1)(a), and a prosecution should not be brought unless it is required in the public interest.

(6) When considering whether a prosecution is required in the public interest, in addition to any other relevant matters, consideration should be given to whether a health-centred or therapeutic approach would be more beneficial to the public interest.

Compare: 1965 No 45 s 6; Misuse of Drugs Act 1971 s 5(4), (6) (UK)

Section 7(1): amended, on 7 December 2021(immediately after being amended by section 13 of the Drug and Substance Checking Legislation Act 2020), by section 7 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 7(2) proviso: amended, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 7(2) proviso: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 7(3A): inserted, on 18 December 2018, by section 6(1) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 7(4): amended, on 18 December 2018, by section 6(2) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 7(5): inserted, on 13 August 2019, by section 6 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Section 7(6): inserted, on 13 August 2019, by section 6 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

8 Exemptions from sections 6 and 7

(1) Despite sections 6 and 7,—

(a) any medical practitioner, dentist, or veterinarian may prescribe, produce, manufacture, supply, or administer controlled drugs:

(b) any pharmacist or any person with the authority and under the immediate supervision of a pharmacist may produce, manufacture, or supply controlled drugs—

(i) listed in the pharmaceutical schedule within the meaning of the Pae Ora (Healthy Futures) Act 2022 for the purposes of a person eligible for a subsidy for the supply of controlled drugs; or

(ii) for the purposes of the hospital in which he or she is employed; or

(iii) pursuant to a prescription or order issued by a medical practitioner, dentist, nurse practitioner, optometrist, midwife, designated prescriber, or veterinarian:

(c) any person for whom a controlled drug is supplied by a medical practitioner or dentist, or prescribed by a medical practitioner or dentist and lawfully supplied, may administer that drug to himself or herself in accordance with the advice of the medical practitioner or dentist who supplied or prescribed it:

(d) any person having the care of a patient for whom a controlled drug is supplied by a medical practitioner or dentist, or prescribed by a medical practitioner or dentist and lawfully supplied, may administer that drug to that patient in accordance with the advice of the medical practitioner or dentist who supplied or prescribed it:

(e) any person having the care of an animal for which a controlled drug is supplied by a veterinarian, or prescribed by a veterinarian and lawfully supplied, may administer that drug to that animal in accordance with the advice of the veterinarian who supplied or prescribed it:

(f) Health New Zealand established by section 11 of the Pae Ora (Healthy Futures) Act 2022 or other corporate body, and any individual person who is the manager or person licensed to carry on a hospital or any other institution, that has the care of patients for whom controlled drugs are lawfully prescribed or supplied may possess those drugs for the purposes of the treatment of those patients:

(g) any person in the service of the Crown, or any Medical Officer of Health or any pharmacist approved by a Medical Officer of Health, may procure and possess a controlled drug for the purposes of and in connection with his or her official duties:

(h) any carrier may possess a controlled drug in the course of carriage to such extent as is necessary or incidental to the carrier's business:

(i) any person who is permitted by or under this Act to import, export, supply, or administer a controlled drug may procure that drug from a person lawfully entitled to supply it and may possess that drug in the manner and for the purposes expressed or implied in that authority:

(j) any person who is licensed or otherwise permitted under this Act to cultivate a prohibited plant may possess any controlled drug derived from that plant in the manner and for the purposes expressed or implied in that authority:

(k) any person who is permitted by or under this Act to possess a controlled drug may procure that drug from a person lawfully entitled to supply it, and may supply or use that drug in the manner and for the purposes expressed or implied in that authority:

(l) a person may, while entering or leaving New Zealand, possess a controlled drug required for treating the medical condition of the person or any other person in his or her care or control, if the quantity of drug is no greater than that required for treating the medical condition for 1 month, and the drug was—

(i) lawfully supplied to the person by a medical practitioner, nurse practitioner, optometrist, midwife, designated prescriber, or dentist in New Zealand; or

(ii) prescribed by a medical practitioner, nurse practitioner, optometrist, midwife, designated prescriber, or dentist, and lawfully supplied to the person in New Zealand; or

(iii) lawfully supplied to the person overseas and supplied for the purpose of treating a medical condition:

(m) a designated prescriber, nurse practitioner, optometrist, or midwife who is authorised by regulations made under this Act to prescribe controlled drugs of any specified class or description may prescribe, supply, or administer such drugs:

(n) a person who is authorised to issue a standing order may include in a standing order authority to supply and administer controlled drugs of any specified class or description, and a person who is authorised under a standing order to supply and administer any controlled drugs may supply and administer those drugs in accordance with that standing order.

(2) However, subsection (1) is subject to any prohibitions, limitations, restrictions, or conditions imposed by any regulations made under this Act.

(3) Nothing in subsection (1) or (2) overrides—

(a) sections 22 to 25; or

(b) any prohibitions, limitations, restrictions, or conditions imposed under any of those sections.

(4) Despite section 6(1)(a), any person may import, export, supply, administer, or possess any controlled drug specified or described in Part 6 of Schedule 3.

(5) However, subsection (4) is subject to any prohibitions, limitations, restrictions, or conditions imposed by any regulations made under this Act.

(6) Nothing in subsection (4) or (5) overrides—

(a) section 22; or

(b) any prohibitions, limitations, restrictions, or conditions imposed under that section; or

(c) any other enactment.

(6A) Despite section 7(1)(a), a person who has a certificate from a medical practitioner or nurse practitioner certifying that the person requires palliation may procure, possess, consume, smoke, or otherwise use any plant or plant material of the genus *Cannabis* or any cannabis preparation.

(7) In this section,—

(a) a reference to a person of any of the following descriptions is a reference to that person acting in the course of his or her practice or employment:

(i) medical practitioner:

(ii) dentist:

(iii) veterinarian:

(iv) pharmacist:

(v) midwife:

(vi) nurse practitioner:

(vii) optometrist:

(viii) designated prescriber:

(ix) person authorised under a standing order authority; and

(b) a reference to the supply of controlled drugs includes an offer to supply a controlled drug.

Section 8: replaced, on 31 January 2018, by section 6 of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

Section 8(1)(b)(i): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 8(1)(f): amended, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 8(6A): inserted, on 18 December 2018, by section 7 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

9 Cultivation of prohibited plants

(1) Except pursuant to a licence under this Act, or as otherwise permitted by regulations made under this Act, no person shall cultivate any prohibited plant.

(2) Subject to subsection (4), every person who contravenes subsection (1) commits an offence against this Act and is liable on conviction to imprisonment for a term not exceeding 7 years.

(3) *[Repealed]*

(4) It shall be a defence to a charge under subsection (1) if the person charged proves that the prohibited plant to which the charge relates was of the species *Papaver somniferum*, and that it was not intended to be a source of any controlled drug or that it was not being developed as a strain from which a controlled drug could be produced.

Compare: 1965 No 45 s 5(1)(c), (2), (5)

Section 9(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 9(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

10 Aiding offences against corresponding law of another country

(1) Every person commits an offence against this Act who, in New Zealand, aids, incites, counsels, or procures the doing or omission in any place outside New Zealand of any act, if that act or omission—

(a) is punishable under the provisions of any law corresponding to section 6, 9, 12A, or 12AB and in force in that place; or

(b) would if done or omitted in New Zealand constitute an offence against section 6, 9, 12A, or 12AB.

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term—

(a) not exceeding 14 years where the relevant act or omission is punishable under the provisions of any law corresponding to section 6 or would if done or omitted in New Zealand constitute an offence against that section:

(b) not exceeding 7 years in any other case.

(3) *[Repealed]*

(4) It is a defence to a charge under paragraph (b) of subsection (1) if the doing or omission of the act to which the charge relates was not an offence under the law of the place where it was, or was to be, done or omitted.

(5) Nothing in subsection (1) or subsection (4) shall derogate from any provision in the Crimes Act 1961.

(6) *[Repealed]*

Compare: 1965 No 45 s 5A; 1970 No 27 s 3

Section 10(1)(a): amended, on 22 June 2005, by section 9 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 10(1)(b): amended, on 22 June 2005, by section 9 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 10(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 10(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 10(4): amended, on 12 May 1998, by section 4 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 10(6): repealed, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

11 Theft, etc, of controlled drugs

(1) Every person commits an offence against this Act and is liable on conviction to imprisonment for a term not exceeding 7 years who—

(a) steals a controlled drug; or

(b) with intent to defraud by any false pretence, either directly or through the medium of any contract obtained by the false pretence, obtains possession of or title to a controlled drug, or procures a controlled drug to be delivered to any person other than himself; or

(c) receives a controlled drug obtained by any offence, or by any act, wherever committed, that, if committed in New Zealand, would constitute an offence, knowing that the controlled drug had been dishonestly obtained or being reckless as to whether or not the controlled drug had been stolen or so obtained.

(2) Section 246(2) to (5) of the Crimes Act 1961 shall apply in respect of any proceedings for an offence against paragraph (c) of subsection (1).

(3) Sections 219, 220, 222, 240, and 246(2) to (5) of the Crimes Act 1961 shall apply, with such modifications as may be necessary, for the purpose of construing subsection (1).

Compare: 1965 No 45 s 6A; 1970 No 27 s 4(1)

Section 11(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 11(1)(c): replaced, on 1 October 2003, by section 34 of the Crimes Amendment Act 2003 (2003 No 39).

Section 11(1)(c): amended, on 1 July 2013, by section 4(1)(a) of the Misuse of Drugs Amendment Act 2013 (2013 No 31).

Section 11(1)(c): amended, on 1 July 2013, by section 4(1)(b) of the Misuse of Drugs Amendment Act 2013 (2013 No 31).

Section 11(2): amended, on 1 October 2003, by section 34 of the Crimes Amendment Act 2003 (2003 No 39).

Section 11(3): amended, on 1 July 2013, by section 4(2)(a) of the Misuse of Drugs Amendment Act 2013 (2013 No 31).

Section 11(3): amended, on 1 July 2013, by section 4(2)(b) of the Misuse of Drugs Amendment Act 2013 (2013 No 31).

Section 11(3): amended, on 1 October 2003, by section 34 of the Crimes Amendment Act 2003 (2003 No 39).

12 Use of premises or vehicle, etc

(1) Every person commits an offence against this Act who knowingly permits any premises or any vessel, aircraft, hovercraft, motor vehicle, or other mode of

conveyance to be used for the purpose of the commission of an offence against this Act.

(1A) It is not an offence against subsection (1) for a person to permit any premises or mode of conveyance to be used by a drug and substance checking service provider for the purpose of performing the functions specified in section 35DB knowing that the service provider will be providing services to individuals who may be committing offences against this Act.

(1A) *[Repealed]*

(2) Every person who commits an offence against this section is liable on conviction to imprisonment for a term—

(a) not exceeding 10 years where a Class A controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(b) not exceeding 7 years where paragraph (a) does not apply but a Class B controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(c) not exceeding 3 years in any other case.

(3) *[Repealed]*

Compare: 1965 No 45 s 7(1)(a)

Section 12 heading: amended, on 16 October 1978, by section 6 of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 12(1): amended, on 16 October 1978, by section 6 of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 12(1A): inserted, on 7 December 2021, by section 8 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Section 12(1A): repealed, on 7 December 2021, by section 14 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

Section 12(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12A Equipment, material, and substances used in production or cultivation of controlled drugs

(1) Every person commits an offence against this Act who supplies, produces, or manufactures—

(a) any equipment or material that is capable of being used in, or for, the commission of an offence against section 6(1)(b) or section 9; or

(b) any precursor substance—

knowing that the equipment, material, or substance is to be used in, or for, the commission of an offence against those provisions.

(2) Every person commits an offence against this Act who has in his or her possession—

(a) any equipment or material that is capable of being used in, or for, the commission of an offence against section 6(1)(b) or section 9; or

(b) any precursor substance—

with the intention that the equipment, material, or substance is to be used in, or for, the commission of an offence against that provision.

(3) Every person who commits an offence against this section is liable on conviction,—

(a) in the case of an offence against subsection (1), to imprisonment for a term not exceeding 7 years:

(b) in the case of an offence against subsection (2), to imprisonment for a term not exceeding 5 years.

(4) *[Repealed]*

Section 12A: inserted, on 12 May 1998, by section 5 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 12A(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12A(4): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12AB Offence to knowingly import or export precursor substances for unlawful use

(1) Every person commits an offence who—

(a) imports into New Zealand any precursor substance knowing that it will be used to commit an offence under section 6(1)(b) (which is the offence of producing or manufacturing any controlled drug); or

(b) exports from New Zealand any precursor substance knowing that it will be used to commit an offence under a provision of the law of the country to which the precursor substance is being exported that corresponds to an offence under section 6(1)(b).

(2) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 7 years.

(3) *[Repealed]*

Section 12AB: inserted, on 22 June 2005, by section 10 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12AB(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12AB(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12AC Offence to import or export precursor substance without reasonable excuse

(1) Every person commits an offence who, without reasonable excuse, imports into, or exports from, New Zealand any precursor substance.

(2) Without limiting the circumstances under subsection (1) in which a person may have a reasonable excuse, a person has a reasonable excuse if—

(a) he or she imports a precursor substance into New Zealand in order that—

(i) a medical practitioner, dentist, or veterinarian may, in the circumstances referred to in section 8(1)(a), produce or manufacture a controlled drug from the precursor substance; or

(ii) a pharmacist or any person with the authority and under the immediate supervision of a pharmacist may, in any of the circumstances referred to in section 8(1)(b), produce or manufacture a controlled drug from the precursor substance; or

(iii) the precursor substance be used for a lawful purpose (including, without limitation, an agricultural, commercial, or industrial purpose); or

(b) the precursor substance that he or she is importing into, or exporting from, New Zealand has been lawfully supplied to that person for his or her own medical use; or

(c) he or she exports a precursor substance from New Zealand in order that the precursor substance be used for a purpose that is authorised or lawful under the law of the country to which it is being exported.

(3) *[Repealed]*

(4) *[Repealed]*

(5) A person who commits an offence under subsection (1) is liable on conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding $1,000, or both.

Section 12AC: inserted, on 22 June 2005, by section 10 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12AC(3): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12AC(4): repealed, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 12AC(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12B Laundering proceeds of drug offences

[Repealed]

Section 12B: repealed, on 7 November 2015, by section 4 of the Misuse of Drugs Amendment Act 2015 (2015 No 106).

12BA Charges for money laundering

[Repealed]

Section 12BA: repealed, on 7 November 2015, by section 5 of the Misuse of Drugs Amendment Act 2015 (2015 No 106).

12C Commission of offences outside New Zealand

(1) Subject to subsection (2), every person commits an offence against this Act who, outside New Zealand, does or omits to do any act that would, if done or omitted in New Zealand, constitute an offence against—

(a) section 6; or

(b) section 9; or

(c) section 12A; or

(ca) section 12AB.

(d) *[Repealed]*

(2) No proceedings for an offence against subsection (1) may be brought unless—

(a) the person to be charged is a New Zealand citizen; or

(b) the person to be charged is present in New Zealand.

(3) Every person who commits an offence against this section is liable on conviction to the same penalty to which the person would have been liable had that person committed the offence in New Zealand.

(4) Subsection (1) does not apply if the doing or omission of the act to which the charge relates was not an offence under the law of the place where the act was done or omitted.

(5) Despite subsection (4), if a person is charged with an offence against this section, it is to be presumed, unless the person charged puts the matter at issue, that the doing or omission of the act to which the charge relates was an offence under the law of the place where the act was done or omitted.

(6) Section 28A applies to proceedings for offences against this section.

Section 12C: inserted, on 12 May 1998, by section 5 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 12C(1)(ca): inserted, on 22 June 2005, by section 12 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12C(1)(ca): amended, on 7 November 2015, by section 6(1) of the Misuse of Drugs Amendment Act 2015 (2015 No 106).

Section 12C(1)(d): repealed, on 7 November 2015, by section 6(2) of the Misuse of Drugs Amendment Act 2015 (2015 No 106).

Section 12C(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

12D Drugs smuggling outside New Zealand, etc: application of sections 12E and 12F, supplementary provisions, and definitions

Application of sections 12E and 12F

(1) Sections 12E and 12F apply to any ship that is in any of the following:

(a) New Zealand's exclusive economic zone:

(b) the high seas:

(c) the exclusive economic zone of another State.

Supplementary provisions relating to offences under sections 12E and 12F

(2) For the purposes of sections 12E(1)(b) and (2)(d) and 12F(1)(b) and (2)(d), in a case where it is another person who intends to import the controlled drugs or prohibited equipment or material into New Zealand, it does not matter if—

(a) the other person is not on a ship to which section 12E or 12F applies:

(b) D does not know the other person's identity:

(c) D does not know of the other person's intention to import the controlled drugs or prohibited equipment or material into New Zealand.

(3) For the purposes of sections 12E(2)(a) and 12F(2)(a), it does not matter if D does not know the identity of the other ship.

(4) For the purposes of sections 12E(3)(b) and (4)(a) and 12F(3)(b) and (4)(a), it does not matter if—

(a) the other person is not on a ship to which section 12E or 12F applies:

(b) D does not know the other person's identity:

(c) D does not know of the exportation of, or of the other person's intention to export, the controlled drugs or prohibited equipment or material from New Zealand.

(5) For the purposes of sections 12E and 12F, it does not matter if any intended importation or exportation does not actually occur.

(6) Section 28A applies to proceedings for an offence under section 12E or 12F.

(7) Section 29C does not apply to an offence under section 12E or 12F.

Definitions

(8) In this section and sections 12E and 12F,—

exclusive economic zone, in relation to New Zealand, has the meaning given to that term in section 9 of the Territorial Sea, Contiguous Zone, and Exclusive Economic Zone Act 1977

high seas means all parts of the sea not included in—

(a) the internal waters, territorial sea, or exclusive economic zone of New Zealand or another State; or

(b) the archipelagic waters of an archipelagic State

prohibited equipment or material means—

(a) a precursor substance; or

(b) any equipment or material, other than a precursor substance, that is capable of being used in, or for, the commission of an offence under section 6(1)(b)

ship has the meaning given to that term in section 5(1) of the Customs and Excise Act 2018.

Section 12D: inserted, on 1 October 2018, by section 7 of the Maritime Powers Extension Act 2018 (2018 No 38).

12E Drugs smuggling outside New Zealand, etc: controlled drugs

Offences

(1) A person (**D**) who is on a ship to which this section applies commits an offence if—

(a) there are controlled drugs on the ship and—

(i) the controlled drugs are in D's possession; or

(ii) D is knowingly concerned in the transportation, holding, or handling of the controlled drugs on the ship; and

(b) D or another person intends to import those controlled drugs into New Zealand; and

(c) the importation would (if completed) be an offence under section 6(1)(a).

(2) A person (**D**) who is on a ship (**D's ship**) to which this section applies commits an offence if—

(a) there are controlled drugs on another ship to which this section applies; and

(b) there is an arrangement for moving those controlled drugs onto D's ship; and

(c) D knowingly—

(i) takes steps to implement, or to facilitate the implementation of, the arrangement; or

(ii) makes preparations for the arrival of those controlled drugs onto D's ship; and

(d) D or another person intends to import those controlled drugs into New Zealand; and

(e) the importation would (if completed) be an offence under section 6(1)(a).

(3) A person (**D**) who is on a ship to which this section applies commits an offence if—

(a) there are controlled drugs on the ship and—

(i) the controlled drugs are in D's possession; or

(ii) D is knowingly concerned in the transportation, holding, or handling of the controlled drugs on the ship; and

(b) another person exported those controlled drugs from New Zealand; and

(c) the exportation was an offence under section 6(1)(a).

(4) A person (**D**) who is on a ship (**D's ship**) to which this section applies commits an offence if—

(a) another person intends to export, or has exported, controlled drugs from New Zealand; and

(b) the exportation would (if completed) be, or was, an offence under section 6(1)(a); and

(c) there is an arrangement for moving those controlled drugs onto D's ship; and

(d) D knowingly—

(i) takes steps to implement, or to facilitate the implementation of, the arrangement; or

(ii) makes preparations for the arrival of those controlled drugs onto D's ship.

Penalty

(5) A person who commits an offence under this section is liable on conviction in accordance with section 6(2)(a) to (c).

Defence

(6) It is a defence to a prosecution for an offence under subsection (1) or (3) if the person charged (**D**) proves,—

(a) as the case may be, that—

(i) D was in possession of the controlled drugs solely for the purpose of preventing their use or trafficking:

(ii) D was knowingly concerned in the transportation, holding, or handling of the controlled drugs solely for the purpose of preventing their use or trafficking; and

(b) that, as soon as possible after D became aware that the controlled drugs were on the ship,—

(i) D took all reasonable steps to inform the person in charge of the ship that the controlled drugs were on the ship; or

(ii) if D was the person in charge of the ship, D took all reasonable steps to inform at least 1 of the following that the controlled drugs were on the ship:

(A) a representative of the company operating the ship (other than a representative who was on the ship):

(B) an appropriate governmental authority at the port that, at the time D became aware that the controlled drugs were on the ship, was the next intended port of arrival for the ship.

Section 12E: inserted, on 1 October 2018, by section 7 of the Maritime Powers Extension Act 2018 (2018 No 38).

12F Drugs smuggling outside New Zealand, etc: prohibited equipment or material

Offences

(1) A person (**D**) who is on a ship to which this section applies commits an offence if—

(a) there is prohibited equipment or material on the ship and—

(i) the prohibited equipment or material is in D's possession; or

(ii) D is knowingly concerned in the transportation, holding, or handling of the prohibited equipment or material on the ship; and

(b) D or another person intends to import that prohibited equipment or material into New Zealand; and

(c) D or the other person (as the case may be) knows that, if the importation is completed, that prohibited equipment or material will be used in New Zealand to commit an offence under section 6(1)(b).

(2) A person (**D**) who is on a ship (**D's ship**) to which this section applies commits an offence if—

(a) there is prohibited equipment or material on another ship to which this section applies; and

(b) there is an arrangement for moving that prohibited equipment or material onto D's ship; and

(c) D knowingly—

(i) takes steps to implement, or to facilitate the implementation of, the arrangement; or

(ii) makes preparations for the arrival of that prohibited equipment or material onto D's ship; and

(d) D or another person intends to import that prohibited equipment or material into New Zealand; and

(e) D or the other person (as the case may be) knows that, if the importation is completed, that prohibited equipment or material will be used in New Zealand to commit an offence under section 6(1)(b).

(3) A person (**D**) who is on a ship to which this section applies commits an offence if—

(a) there is prohibited equipment or material on the ship and—

(i) the prohibited equipment or material is in D's possession; or

(ii) D is knowingly concerned in the transportation, holding, or handling of the prohibited equipment or material on the ship; and

(b) another person exported that prohibited equipment or material from New Zealand knowing that it will be used to commit an offence under a provision of the law of the country to which it is being exported that corresponds to an offence under section 6(1)(b).

(4) A person (**D**) who is on a ship (**D's ship**) to which this section applies commits an offence if—

(a) another person intends to export, or has exported, prohibited equipment or material from New Zealand knowing that it will be used to commit an offence under a provision of the law of the country to which it would be, or is being, exported that corresponds to an offence under section 6(1)(b); and

(b) there is an arrangement for moving that prohibited equipment or material onto D's ship; and

(c) D knowingly—

(i) takes steps to implement, or to facilitate the implementation of, the arrangement; or

(ii) makes preparations for the arrival of that prohibited equipment or material onto D's ship.

Penalty

(5) A person who commits an offence under this section is liable on conviction to imprisonment for a term not exceeding 7 years.

Defence

(6) It is a defence to a prosecution for an offence under subsection (1) or (3) if the person charged (**D**) proves,—

(a) as the case may be, that—

(i) D was in possession of the prohibited equipment or material solely for the purpose of preventing its use or trafficking:

(ii) D was knowingly concerned in the transportation, holding, or handling of the prohibited equipment or material solely for the purpose of preventing its use or trafficking; and

(b) that, as soon as possible after D became aware that the prohibited equipment or material was on the ship,—

(i) D took all reasonable steps to inform the person in charge of the ship that the prohibited equipment or material was on the ship; or

(ii) if D was the person in charge of the ship, D took all reasonable steps to inform at least 1 of the following that the prohibited equipment or material was on the ship:

(A) a representative of the company operating the ship (other than a representative who was on the ship):

(B) an appropriate governmental authority at the port that, at the time D became aware that the prohibited equipment or material was on the ship, was the next intended port of arrival for the ship.

Section 12F: inserted, on 1 October 2018, by section 7 of the Maritime Powers Extension Act 2018 (2018 No 38).

13 Miscellaneous offences

(1) Every person commits an offence against this Act who—

(a) has in that person's possession any pipe or other utensil (not being a needle or syringe) for the purpose of the commission of an offence against this Act; or

(aa) has in that person's possession for the purpose of committing an offence under this Act any needle or syringe—

(i) that he or she obtained from a person (a **supplier**) who he or she could not have reasonably believed at the time of the acquisition was a pharmacist, pharmacy employee, approved medical practitioner, or an authorised representative; or

(ii) that another person (an **acquirer**) obtained on his or her behalf from a supplier who the acquirer could not have reasonably believed at the time the needle or syringe was obtained was a pharmacist, pharmacy employee, approved medical practitioner, or an authorised representative; or

(iii) other than a needle or syringe that he or she obtained in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes; or

(iv) other than a needle or syringe that the acquirer obtained on his or her behalf in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes; or

(b) except as may be provided by regulations made under this Act, has in his possession the seed or fruit (not in either case being a controlled drug) of any prohibited plant which he is not authorised under this Act to cultivate.

(1A) However, in any proceedings for an offence against subsection (1)(a) of possessing a pipe or other utensil (not being a needle or syringe) for the purpose of possessing or using any plant or plant material of the genus *Cannabis* or any

cannabis preparation, the defendant has a defence if, at the time of possessing the pipe or other utensil, the defendant had been diagnosed by a medical practitioner or nurse practitioner as requiring palliation.

(2) Subsection (4) of section 9 shall apply in relation to a charge under paragraph (b) of subsection (1) of this section as if, in the said subsection (4), a reference to the seed or fruit of a prohibited plant were substituted for the reference to the prohibited plant.

(2A) No pharmacist, pharmacy employee, approved medical practitioner, or authorised representative commits an offence by selling or supplying any needle or syringe in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes.

(3) Every person who commits an offence against this section is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding $500 or to both.

(4) For the purposes of this section, unless the context otherwise requires,—

approved medical practitioner means a medical practitioner who has been approved by the Director-General of Health under any regulations made under section 37 for the purposes of those regulations

authorised representative means, in relation to an agency, an association, or a body approved by the Director-General of Health, a person for the time being approved by the Director-General as a representative of that agency, association, or body

needle means a needle forming part of, or attached to, or designed for attachment to and use with, a syringe

pharmacy employee means a person employed in a pharmacy within the meaning of the Medicines Act 1981.

Compare: 1965 No 45 s 7

Section 13(1)(a): replaced, on 13 January 1988, by section 3 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 13(1)(aa): replaced, on 22 June 2005, by section 13(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13(1A): inserted, on 18 December 2018, by section 8 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 13(2A): inserted, on 22 June 2005, by section 13(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13(3): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 13(4): inserted, on 22 June 2005, by section 13(3) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

14 Licences

(1) Licences granted under this Act shall be in such form and be subject to such conditions as may be prescribed, or permitted to be designed or imposed, and

shall be issued by such persons as may be prescribed, by regulations made under this Act.

(2) No licence to import into or export from New Zealand opium prepared for smoking shall be granted under this Act.

(3) Except in the case of a licence issued for the purpose of research or study, no licence granted under this Act shall authorise the consumption, injection, or smoking of any controlled drug.

(4) Except with the approval of the Minister, no licence shall be granted under this Act to any person who has been convicted of an offence against this Act or any Act repealed by this Act or by the Narcotics Act 1965 or whose licence under any such Act has been revoked by reason of his failure to comply with the conditions thereof or by reason of the breach of the provisions of any such Act or of any regulation made thereunder.

(5) If at any time the laws of a country or territory prohibit or restrict the importation of a controlled drug into that country or territory, any licence to export that controlled drug from New Zealand may contain conditions calculated to prevent any contravention of those laws in relation to the controlled drug which is the subject of the licence.

(6) Without prejudice to his liability under any other provision of this Act, every person commits an offence against this Act who contravenes or fails to comply with any condition of a licence granted to him under this Act.

(7) This section does not apply in relation to licences for drug and substance checking service providers.

Compare: 1965 No 45 s 8; SR 1966/82 r 4(8); SR 1973/100 r 3

Section 14(7): inserted, on 7 December 2021, by section 9 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

15 False statements

Every person commits an offence against this Act and is liable on conviction to imprisonment for a term not exceeding 1 year or to a fine not exceeding $1,000 or to both who, for the purpose of obtaining, whether for himself or any other person, the grant or renewal of any licence under this Act or for any other purpose in relation to this Act,—

(a) makes any declaration or statement which to his knowledge is false in any particular; or

(b) utters, produces, or makes use of any declaration or statement which to his knowledge is false in any particular; or

(c) knowingly utters, produces, or makes use of any document that is not genuine.

Compare: 1965 No 45 s 9

Section 15: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

16 Obstruction of officers

Every person commits an offence against this Act who wilfully obstructs, hinders, resists, or deceives any other person in the execution of any powers conferred on that other person by or pursuant to this Act.

Compare: 1965 No 45 s 10

17 Liability of principal for acts of agent, etc

(1) Where an offence is committed against this Act or against any regulation made under this Act by any person acting as the agent or servant of another person, or being otherwise subject to the supervision or instructions of another person for the purposes of any employment in the course of which the offence was committed, that other person shall, without prejudice to the liability of the first mentioned person, be liable under this Act in the same manner and to the same extent as if he had personally committed the offence if it is proved that the act which constituted the offence was committed with his consent or connivance or that it was attributable to any neglect on his part.

(2) Where any body corporate is convicted of an offence against this Act or against any regulation made under this Act, every director and every person concerned in the management of the company shall be guilty of a like offence if it is proved that the act which constituted the offence was committed with his consent or connivance or that it was attributable to any neglect on his part.

Compare: 1965 No 45 s 11

18 Seizing and destroying prohibited plants and seeds

(1) The following persons may take any or all of the actions described in subsection (2):

- (a) a constable:
- (b) a Customs officer:
- (c) an officer of the Ministry of Health:
- (d) a Medical Officer of Health:
- (e) an assistant thought to be necessary by any of the persons in paragraphs (a) to (d).

(2) The actions are to seize and destroy any of the following:

- (a) a prohibited plant that is not being cultivated in accordance with—
  - (i) the conditions of a licence granted under this Act; or
  - (ii) regulations made under this Act:
- (b) the seed of a prohibited plant that is not in the possession of a person—
  - (i) authorised under this Act to cultivate the plant; or
  - (ii) permitted by regulations made under this Act to have the seed in his or her possession.

Section 18: replaced, on 1 October 2012, by section 332 of the Search and Surveillance Act 2012 (2012 No 24).

18A Internal search of person under arrest

[Repealed]

Section 18A: repealed, on 1 October 2012, by section 332 of the Search and Surveillance Act 2012 (2012 No 24).

19 Power to demand production of records and to inspect stocks of controlled drugs

(1) Any constable or any other person authorised by the Minister shall for the purposes of the enforcement of the provisions of this Act have power to enter the premises of any person who carries on the business of a producer, manufacturer, seller, or distributor of any controlled drug, or who otherwise undertakes the supply or administration of any controlled drug, and to demand the production of and to inspect any books or documents relating to dealings in any controlled drug, and to inspect, weigh, measure, and record the stocks of controlled drugs.

(2) If in the opinion of any Medical Officer of Health there is reasonable ground for suspecting that any person is in possession of any controlled drug for the purpose of sale, or for the purpose of manufacturing any preparation for sale, or for use in or in connection with his profession, trade, or calling, or any occupation whether paid or unpaid, in breach of this Act or of any regulations made under this Act, the Medical Officer of Health may require that person to produce for his inspection or to produce to any person specially authorised by the Medical Officer of Health in that behalf, any books or documents dealing with the reception, possession, purchase, sale, or delivery of the controlled drug.

(3) Any person acting under, or pursuant to an authority under, subsection (1) or subsection (2) may make copies of or extracts from any such books or documents, and the copies or extracts, certified as such by that person, shall be deemed to be true and correct copies or extracts, unless the contrary is proved.

(4) Every person commits an offence against this Act who refuses or neglects to comply with any demand or requisition made pursuant to this section.

(5) *[Repealed]*

Compare: 1965 No 45 s 13

Section 19(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 19(5): repealed, on 1 April 1987, by section 25(1) of the Official Information Amendment Act 1987 (1987 No 8).

20 Statements regarding drug dependent persons

(1) If a Medical Officer of Health has reason to believe that any person is or is likely to become dependent on any controlled drug, he may, for the purpose

of preventing or restricting the supply of controlled drugs to that person, or of assisting in the cure or mitigation or avoidance of the dependence of that person, publish statements relating to that person to all or any of the members of all or any of the classes of persons set out in subsection (3).

(2) Every statement made under subsection (1) shall be privileged unless the publication is proved to be made with malice.

(3) The classes of persons referred to in subsection (1) are as follows:

(a) employees of Health New Zealand established by section 11 of the Pae Ora (Healthy Futures) Act 2022:

(aa) *[Repealed]*

(b) a hospital care operator within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001:

(c) managers of prisons within the meaning of the Corrections Act 2004:

(d) managers of treatment centres within the meaning of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017:

(e) medical practitioners:

(f) dentists:

(fa) midwives:

(fb) designated prescribers:

(fc) nurse practitioners:

(fd) optometrists:

(g) Police employees:

(h) persons who deal in controlled drugs in the course of business.

(4) Nothing in subsection (1) or subsection (2) shall limit or affect any right or duty which a Medical Officer of Health may otherwise possess to publish a statement to any person.

(5) Every person commits an offence against this Act who, except in the course of duty as a member of a class set out in subsection (3) or as an officer or servant of the Crown, publishes any information obtained, whether by him or any other person, from a statement made pursuant to subsection (1), or any comment on any such statement.

Compare: 1965 No 45 s 20

Section 20(3)(a): replaced, on 1 July 2022, by section 104 of the Pae Ora (Healthy Futures) Act 2022 (2022 No 30).

Section 20(3)(aa): repealed, on 1 July 1993, by section 32 of the Health Sector (Transfers) Act 1993 (1993 No 23).

Section 20(3)(b): replaced, on 1 October 2002, by section 58(1) of the Health and Disability Services (Safety) Act 2001 (2001 No 93).

Section 20(3)(c): replaced, on 1 June 2005, by section 206 of the Corrections Act 2004 (2004 No 50).

Section 20(3)(d): replaced, on 21 February 2018, by section 122(1) of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4).

Section 20(3)(fa): inserted, on 28 August 1990, by section 15 of the Nurses Amendment Act 1990 (1990 No 107).

Section 20(3)(fa): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 20(3)(fb): inserted, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 20(3)(fc): inserted, on 1 July 2014, by section 43 of the Medicines Amendment Act 2013 (2013 No 141).

Section 20(3)(fd): inserted, on 1 July 2014, by section 43 of the Medicines Amendment Act 2013 (2013 No 141).

Section 20(3)(g): amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

21 Power of court to restrict publication of name of controlled drug

(1) Where, in the course of proceedings in any court or before a coroner, reference is made to any controlled drug, the court or coroner may in its or his discretion order that the name of that drug shall not be published in relation to those proceedings at any time before the expiration of a period of 5 years from the date of the final disposal of those proceedings:

provided that no order made under this subsection shall apply to the publication of that name to scientists or to members of the legal, medical, dental, veterinary, nursing, or pharmaceutical professions or to persons studying to become scientists or members of those professions or in any publication of a scientific or technical character solely or mainly intended for circulation among scientists or members of those professions or persons so studying or in any publication published by or on behalf of the Crown.

(2) Where the publication of the name of a controlled drug is prohibited under this section in relation to any proceedings every person commits an offence against this Act who, within the said period of 5 years, publishes the name of that drug or any name or particulars likely to lead to the identification of that drug as the controlled drug to which reference was made in those proceedings.

(3) Nothing in this section shall be construed to limit the provisions of any other enactment relating to the prohibition or regulation of the publication of reports or particulars relating to any judicial proceedings.

Compare: 1965 No 45 s 20A; 1970 No 27 s 5

22 Powers of Minister to prohibit importation, etc, of controlled drugs

(1) The Minister may from time to time, by notice, prohibit the import, manufacture, production, procuring, possession, supply, administration, or other use of any specified controlled drug, either absolutely or subject to such conditions as he thinks fit, for any specified period not exceeding 1 year:

provided that this power shall not be exercised more than once in respect of any controlled drug so specified.

(1A) The Minister may from time to time, by notice, prohibit the importation, supply, possession for the purpose of sale or supply, or offering for sale of any class of pipe, other utensil, or identifiable component of a pipe or other utensil, not being a needle or syringe, that may be used for administering any controlled drug or in the preparation of any controlled drug to be administered, either absolutely or subject to such conditions as the Minister thinks fit.

(2) Every person commits an offence against this Act who,—

(a) being a person permitted by or under this Act to import, manufacture, produce, procure, possess, supply, administer, or otherwise use, as the case may require, a controlled drug specified in a notice under subsection (1); or

(b) were it not for a notice issued under subsection (1), would be permitted by or under this Act to import, manufacture, produce, procure, possess, supply, administer, or otherwise use, as the case may require, a controlled drug specified in that notice,—

contravenes or fails to comply with that notice.

(3) Every person commits an offence against this Act who—

(a) supplies, possesses for the purpose of sale or supply, or offers for sale a pipe, other utensil, or identifiable component of a pipe or other utensil whose sale, possession for the purpose of sale or supply, or offering for sale (as the case may be) is absolutely prohibited by a notice issued under subsection (1A); or

(b) supplies, possesses for the purpose of sale or supply, or offers for sale a pipe, other utensil, or identifiable component of a pipe or other utensil otherwise than in accordance with any condition under which that pipe, other utensil, or identifiable component of a pipe or other utensil may, under a notice issued under subsection (1A), be supplied, possessed for the purpose of sale or supply, or offered for sale (as the case may be); or

(c) imports a pipe, other utensil, or identifiable component of a pipe or other utensil otherwise than in accordance with any condition under which that pipe, other utensil, or identifiable component of a pipe or other utensil may, under a notice issued under subsection (1A), be imported.

(4) Subject to subsection (5), every person who commits an offence against subsection (3) is liable on conviction,—

(a) in the case of an individual, to imprisonment for a term not exceeding 3 months or to a fine not exceeding $1,000, or to both; or

(b) in the case of a body corporate, to a fine not exceeding $5,000.

(5) Where—

(a) a body corporate is convicted of an offence against subsection (3); and

(b) under section 17(2), a person (being a director or person concerned in the management of that body corporate) is also guilty of that offence,—

that person is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $5,000, or to both.

(6) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Compare: 1960 No 97 s 28

Legislation Act 2019 requirements for secondary legislation made under subsection (1)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	It is not required to be presented to the House of Representatives because a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation made under subsection (1A)		
Publication	The maker must publish it in the *Gazette*	LA19 ss 73, 74(1)(a), Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 22 heading: amended, on 21 August 1997, by section 2 of the Misuse of Drugs Amendment Act 1997 (1997 No 57).

Section 22(1): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 22(1A): inserted, on 13 January 1988, by section 4(1) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 22(1A): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 22(1A): amended, on 9 August 2011, by section 6(1)(a) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 22(1A): amended, on 9 August 2011, by section 6(1)(b) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 22(2): replaced, on 21 August 1997, by section 2(1) of the Misuse of Drugs Amendment Act 1997 (1997 No 57).

Section 22(3): replaced, on 9 August 2011, by section 6(2) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Section 22(4): inserted, on 21 August 1997, by section 2(1) of the Misuse of Drugs Amendment Act 1997 (1997 No 57).

Section 22(4): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 22(5): inserted, on 21 August 1997, by section 2(1) of the Misuse of Drugs Amendment Act 1997 (1997 No 57).

Section 22(5): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 22(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

23 Powers of Minister to prohibit prescribing, etc

(1) Subject to subsection (2), the Minister may at any time, by notice in the *Gazette*,—

(a) prohibit any specified medical practitioner, dentist, midwife, nurse practitioner, optometrist, designated prescriber, or veterinarian from prescribing controlled drugs:

(aa) *[Repealed]*

(b) prohibit any specified person from exercising all or any of the rights conferred by section 8, whether those rights are so conferred on persons generally or on a particular class of person to which that person belongs.

(2) The Minister shall not exercise any power conferred on him by subsection (1)—

(a) in the case of a medical practitioner, except on the recommendation of the Medical Council of New Zealand; or

(b) in the case of a dentist, except on the recommendation of the Dental Council of New Zealand; or

(c) in the case of a veterinarian, except on the recommendation of the Veterinary Council of New Zealand; or

(ca) in the case of a midwife, except on the recommendation of the Midwifery Council; or

(d) in the case of a pharmacist, except on the recommendation of the Pharmacy Council; or

(da) in the case of a nurse practitioner, except on the recommendation of the Nursing Council; or

(db) in the case of an optometrist, except on the recommendation of the Optometrists and Dispensing Opticians Board; or

(e) in the case of any designated prescriber to whom paragraph (d) does not apply, except on the recommendation of the Council or Board, specified in regulations made under this Act, that has jurisdiction in respect of the class of registered health professional to which the designated prescriber belongs.

(3) The Minister may at any time, by notice in the *Gazette*, revoke any notice given under subsection (1).

(4) Notwithstanding anything in any other Act, each Council and each Board referred to in subsection (2) shall, for the purpose of considering and determining whether or not to make a recommendation to the Minister under that subsection, have jurisdiction to inquire into any prescribing of or dealing in controlled drugs by a member of the profession with which it is concerned,

and any matter incidental thereto, when such prescribing or dealing has been brought or otherwise comes to its attention.

(5) For the purposes of subsection (4), each such Council or Board has and may exercise any powers with respect to summoning witnesses, administering oaths, hearing evidence and other matters of procedure, and with respect to the payment and receiving of costs and expenses, conferred on it or any disciplinary committee or disciplinary tribunal, in relation to disciplinary proceedings, by the enactment under which the Council or Board is constituted.

(5A) Despite subsection (5), it is not necessary, unless the Council or Board so requires, for any other body to conduct an investigation or inquiry or to be represented at the inquiry conducted by the Council or Board.

(6) Without prejudice to the liability of any person under any other provision of this Act, every medical practitioner, dentist, midwife, nurse practitioner, optometrist, designated prescriber, or veterinarian who prescribes any controlled drug in contravention of a notice under subsection (1) commits an offence against this Act and is liable on conviction—

(a) to imprisonment for a term not exceeding 6 months or to a fine not exceeding $1,000 or to both where a Class A controlled drug or a Class B controlled drug was the controlled drug or one of the controlled drugs in relation to which the offence was committed:

(b) to imprisonment for a term not exceeding 3 months or to a fine not exceeding $200 or to both, in any other case.

(7) *[Repealed]*

Compare: SR 1966/82 rr 13(2), 21, 35

Section 23(1)(a): amended, on 1 July 2014, by section 44(1) of the Medicines Amendment Act 2013 (2013 No 141).

Section 23(1)(a): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 23(1)(a): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 23(1)(a): amended, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(1)(aa): repealed, on 1 July 2014, by section 44(2) of the Medicines Amendment Act 2013 (2013 No 141).

Section 23(2)(c): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 23(2)(ca): inserted, on 28 August 1990, by section 16(2) of the Nurses Amendment Act 1990 (1990 No 107).

Section 23(2)(ca): amended, on 17 December 2016, by section 68 of the Statutes Amendment Act 2016 (2016 No 104).

Section 23(2)(ca): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 23(2)(d): amended, on 22 June 2005, by section 15 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 23(2)(da): inserted, on 1 July 2014, by section 44(3) of the Medicines Amendment Act 2013 (2013 No 141).

Section 23(2)(db): inserted, on 1 July 2014, by section 44(3) of the Medicines Amendment Act 2013 (2013 No 141).

Section 23(2)(e): inserted, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(4): amended, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(5): replaced, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(5A): inserted, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(6): amended, on 1 July 2014, by section 44(4) of the Medicines Amendment Act 2013 (2013 No 141).

Section 23(6): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 23(6): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 23(6): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 23(6): amended, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 23(7): repealed, on 1 July 2014, by section 44(5) of the Medicines Amendment Act 2013 (2013 No 141).

24 Offence to prescribe, administer, or supply controlled drug in certain cases

(1) A health practitioner commits an offence if, in the course of, or for the purpose of, treating a person for drug dependency, the health practitioner—

(a) prescribes, administers, or supplies a controlled drug for or to the person; and

(b) does so although having reason to believe that the person is dependent on that or any other controlled drug.

(2) Subsection (1) does not apply to—

(a) the treatment of a patient, within the meaning of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017, while the patient is in a treatment centre, within the meaning of that Act:

(b) the emergency treatment of a patient in a hospital care institution within the meaning of section 58(4) of the Health and Disability Services (Safety) Act 2001 for a period not exceeding 3 days:

(c) the treatment of any restricted person.

(3) Subsection (1) is subject to section 24A.

(4) In this section,—

health practitioner has the same meaning as in section 5(1) of the Health Practitioners Competence Assurance Act 2003

restricted person has the same meaning as in section 25(1).

Section 24: replaced, on 31 January 2018, by section 7 of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

Section 24(2)(a): replaced, on 21 February 2018, by section 122(1) of the Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4).

24A Medical practitioners, nurse practitioners, designated prescriber nurses, and designated prescriber pharmacists may prescribe controlled drugs to people dependent on controlled drugs

(1) Section 24(1) does not apply to a medical practitioner who—

(a) is specified under subsection (7)(a) (**a specified medical practitioner**); or

(b) is—

(i) working in a place specified under subsection (7)(b) (**a specified place**); and

(ii) authorised, in writing by a specified medical practitioner working in the specified place, to prescribe controlled drugs; or

(c) is—

(i) employed as a medical officer in a hospital care institution specified under subsection (7)(b)(i); and

(ii) authorised, in writing by the person in charge of that institution, who is acting under the general or specific directions of a Medical Officer of Health, to prescribe controlled drugs.

(2) Section 24(1) does not apply to a nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist who is—

(a) working in a specified place; and

(b) authorised, in writing by a specified medical practitioner working in the specified place, to prescribe controlled drugs.

(3) Section 24(1) does not apply to a medical practitioner, nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist who is acting in accordance with a written permission that is given—

(a) by a medical practitioner to whom subsection (1)(a), (b), or (c) applies; and

(b) for a specified period not exceeding 3 months.

(4) A permission given under subsection (3) may from time to time be renewed for a further specified period not exceeding 3 months by—

(a) the medical practitioner who gave it; or

(b) any other medical practitioner to whom subsection (1)(a), (b), or (c) applies.

(5) A period specified under subsection (3)(b) or (4) may be longer than 3 months if the Medical Officer of Health agrees.

(6) A permission given under subsection (3) or renewed under subsection (4)—

(a) may at any time be withdrawn by the medical practitioner who gave or renewed it, by written notice to the person to whom it was given; and

(b) is deemed to have been withdrawn when the medical practitioner who gave or renewed it is no longer a medical practitioner to whom subsection (1)(a), (b), or (c) applies.

(7) The Minister may from time to time, by notice in the *Gazette*,—

(a) specify by name any medical practitioner as a medical practitioner who may, subject to any general or special conditions imposed by the Minister on the recommendation of the Director-General of Health, prescribe, administer, or supply controlled drugs for the purpose of this section:

(b) specify by name or description as a place at which controlled drugs may be prescribed, administered, or supplied for the purposes of this section—

(i) any hospital care institution; or

(ii) any clinic, or other place in which a medical practitioner specified under paragraph (a) works.

(8) When, for the purposes of subsection (2)(b), a specified medical practitioner authorises a nurse practitioner, designated prescriber nurse, or designated prescriber pharmacist to prescribe controlled drugs, the specified medical practitioner must comply with any applicable guidelines issued by the Director-General of Health.

(9) The Minister may, from time to time, by notice in the *Gazette*, revoke or amend a notice under subsection (7).

(10) In this section,—

designated prescriber nurse means a registered nurse who—

(a) is a designated prescriber; and

(b) is acting within his or her scope of practice

designated prescriber pharmacist means a pharmacist who—

(a) is a designated prescriber; and

(b) is acting within his or her scope of practice

hospital care institution has the same meaning as in section 58(4) of the Health and Disability Services (Safety) Act 2001.

Section 24A: inserted, on 31 January 2018, by section 7 of the Misuse of Drugs Amendment Act 2016 (2016 No 80).

25 Restrictions on supply to particular persons

(1) In this section **restricted person** means a person who is the subject of a notice given under subsection (3) and for the time being in force.

(2) Every person commits an offence against this Act who,—

(a) in contravention of a notice which has been served on him pursuant to subsection (3) or subsection (4), or which has otherwise come to his attention, prescribes for or supplies to a restricted person, knowing him to be a restricted person, any controlled drug; or

(b) knowing himself to be a restricted person, procures or attempts to procure a prescription or a controlled drug from a person who is for the time being prohibited, by a notice under subsection (3) or subsection (4), from issuing the prescription or supplying the controlled drug to him.

(3) Where a Medical Officer of Health is satisfied that any person has been obtaining a controlled drug over a prolonged period and is likely to seek further supplies of a controlled drug, or prescriptions for the supply of a controlled drug, he may from time to time, by notice in such form as he thinks fit, given generally or to any person authorised by or under this Act to supply controlled drugs, prohibit every medical practitioner and dentist from issuing prescriptions for the supply of, and every person from supplying, any controlled drugs to the first-mentioned person, subject to such exceptions, relating to particular medical practitioners or dentists or sources of supply, or particular controlled drugs, or the frequency or quantity of prescriptions or supply, as may be specified in the notice.

(4) The Medical Officer of Health may at any time by a like notice revoke, or vary, or modify any prohibition, condition, or exception contained in a notice given by him under this section.

(5) A copy of any notice under subsection (3) or subsection (4) shall be served, either personally or by registered post, on the restricted person, but failure to comply with this requirement shall not invalidate the notice.

(6) Any person who is aggrieved by the issue of a notice under this section, or by the refusal of the Medical Officer of Health to revoke, vary, or modify, any prohibition, condition, or exception contained in any such notice, may appeal in writing to the Minister whose decision shall be final.

Compare: SR 1966/82 rr 13(2), 26

26 Arrest by Customs officers

If any officer of Customs has reasonable cause to believe or suspect that any person, in contravention of this Act, has imported into or exported from New Zealand any controlled drug, or has been concerned in such import or export, he may arrest that person without a warrant.

Compare: 1965 No 45 s 14

27 General penalty

Every person who commits an offence against this Act for which no penalty is provided elsewhere than in this section is liable on conviction to imprisonment for a term not exceeding 3 months or to a fine not exceeding $500 or to both.

Compare: 1965 No 45 s 15

Section 27: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

28 Time for filing charging document

Despite anything to the contrary in section 25 of the Criminal Procedure Act 2011,—

(a) a charging document in respect of an offence against section 6, 9, or 10 of this Act may be filed at any time; and

(b) the limitation period in respect of any other offence against this Act, or any regulations made under it, ends on the date that is 4 years after the date on which the offence was committed.

Section 28: replaced, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

28A Consent of Attorney-General required in proceedings under section 12C, 12E, or 12F

(1) No charging document may be filed for an offence against section 12C, 12E, or 12F except with the consent of the Attorney-General.

(2) A person who is alleged to have committed an offence against section 12C, 12E, or 12F may be arrested, or a warrant for the arrest of the person may be issued and executed, and any such person may be remanded in custody or on bail, even if the Attorney-General's consent to the filing of the charging document has not been obtained, but no further or other proceedings may be taken until that consent has been obtained.

(3) The Attorney-General may, before deciding whether or not to give his or her consent under subsection (1), make such inquiries as he or she thinks fit.

Section 28A: inserted, on 12 May 1998, by section 6 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 28A heading: amended, on 1 October 2018, by section 13(1) of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 28A(1): amended, on 1 October 2018, by section 13(2) of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 28A(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 28A(2): amended, on 1 October 2018, by section 13(2) of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 28A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

29 Mistake as to nature of controlled drug or precursor substance

Where, in any proceedings for an offence against any of the provisions of section 6 or section 7 or section 12A or section 12AB or section 12AC or section 12E or section 12F, it is necessary, if the defendant is to be convicted of the offence charged, for the prosecution to prove that some substance, preparation, mixture, or article involved in the alleged offence was the controlled drug or precursor substance which the prosecution alleges it to have been, and it is proved that the substance, preparation, mixture, or article was that controlled drug or precursor substance, the defendant shall not be acquitted of the offence charged by reason only of the fact that he did not know or may not have known that the substance, preparation, mixture, or article in question was the particular controlled drug or precursor substance alleged.

Section 29 heading: amended, on 12 May 1998, by section 7 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 29: amended, on 1 October 2018, by section 14 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 29: amended, on 22 June 2005, by section 16 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 29: amended, on 12 May 1998, by section 7(a) of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 29: amended, on 12 May 1998, by section 7(b) of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

29A Issue of usable quantity

(1) On the Judge-alone trial of any person charged with an offence against this Act in which it is alleged that the defendant had in his possession any controlled drug in contravention of this Act, it shall not be necessary for the prosecution to prove that the amount of the controlled drug in the defendant's possession was of a usable quantity, unless the defendant puts the matter in issue.

(2) Where, in the course of a Judge-alone trial, the defendant puts in issue the question of whether or not the amount of any controlled drug alleged to have been in his possession was of a usable quantity, the District Court Judge shall, if requested to do so by the prosecutor, adjourn the hearing for such period as he considers sufficient to enable the prosecutor to arrange for the attendance in court of a witness or witnesses to adduce evidence that that amount was of a usable quantity; and, if the prosecutor has closed his case before the said question is put in issue, the District Court Judge shall also grant the prosecutor leave to re-open his case for the purpose of adducing evidence that the amount of the drug was of a usable quantity.

Section 29A: inserted, on 16 October 1978, by section 7 of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 29A(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 29A(2): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 29A(2): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

29B Special provisions where offence relating to cannabis preparations alleged

For the purposes of any proceedings for an offence against any of the provisions of section 6 or section 7 in relation to any cannabis preparation the following provisions shall apply:

(a) it shall be for the prosecution to prove that the preparation to which the charge relates contains any tetrahydrocannabinols:

(b) subject to paragraph (a), the preparation shall be deemed to have been produced by subjecting cannabis plant material to some kind of processing unless it is in a form that is clearly recognisable as plant material:

(c) **plant material** means the whole or any part of the leaf, flower, or stalk of any plant (of whatever species):

(d) the question of whether or not any preparation is in a form that is clearly recognisable as plant material shall, in the event of dispute between the prosecutor and the defendant, be determined by the jury (or, if there is no jury, by the Judge as a question of fact) by means of a visual inspection unaided by any microscope or magnifying glass (other than spectacles ordinarily worn) or by any other device.

Section 29B: inserted, on 13 January 1983, by section 6 of the Misuse of Drugs Amendment Act 1982 (1982 No 151).

29C Special provisions where offence relating to controlled drug analogues alleged

It shall be a defence to a charge relating to the possession of any controlled drug analogue in contravention of any of the provisions of this Act if the defendant proves that he or she had the substance—

(a) for some purpose other than—

(i) consuming, smoking, snorting, or injecting by any person, or using in any other manner intended to have a pharmacological effect on the user; and

(ii) supplying or administering it to any other person; or

(b) for the purpose of supplying it or administering it to any other person in accordance with any procedure approved by the Director-General of Health.

Section 29C: inserted, on 13 January 1988, by section 5 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

30 Burden of proof

In any proceedings against any person in respect of any offence against this Act or against any regulations made under this Act in which it is proved that he had in his possession any controlled drug, or did any act in relation to a controlled

drug which would have amounted to that offence if such act were not done pursuant to section 8 or to a licence under this Act or as otherwise permitted by regulations under this Act, the burden of proving that he had such controlled drug in his possession, or did such act, pursuant to the said section 8 or to any such licence or as so permitted shall lie on him.

Compare: 1965 No 45 s 17

Section 30: amended, on 7 December 2021, by section 15 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

Section 30: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

31 Evidence of analysis

(1) For the purposes of this section, the term **analyst** means—

(a) any person who is designated by the Minister by notice as the analyst in charge of an approved laboratory; or

(b) any person who works in an approved laboratory and who is authorised, by the analyst in charge of that laboratory, to act as an analyst for the purposes of this Act, either generally or in any particular case.

(2) Subject to subsections (3) and (4), in any proceedings for an offence against this Act, a certificate purporting to be signed by an analyst, and certifying that, on a date stated in the certificate, the substance, preparation, mixture, or article to which the certificate relates was received by the signatory personally in any case or (where the substance, preparation, mixture, or article was delivered in a sealed package using a traceable system) by any other person (being a person who works in an approved laboratory and who is authorised, by the analyst in charge of that laboratory, to receive it), from the member of the Police or employee of the Police Department or officer of Customs named in the certificate, and that upon analysis that substance, preparation, mixture, or article was found to be or to contain a particular controlled drug or precursor substance (whether of a specified or an unspecified weight) or a particular prohibited plant, or a particular part of a particular prohibited plant, or a seed or fruit of a particular prohibited plant, specified or described in the certificate, shall until the contrary is proved be sufficient evidence—

(a) of the qualifications and authority of the person by whom the analysis was carried out; and

(b) of the authority of the person who signed the certificate to sign that certificate; and

(c) of the facts stated in the certificate.

(2A) Where the substance, preparation, mixture, or article was delivered in a sealed package using a traceable system and received by any person (not being the person who signed the certificate but being a person who works in an approved laboratory and who is authorised, by the analyst in charge of that laboratory, to receive it) from any person referred to in subsection (2),—

(a) the person who made the analysis may give evidence of receipt by that other person of the substance, preparation, mixture, or article that is the subject of the analysis; and

(b) such evidence shall, in the absence of evidence to the contrary, be admissible as sufficient proof of the proper receipt of the substance, preparation, mixture, or article by the person who made the analysis.

(3) A certificate referred to in subsection (2) shall be admissible in evidence only if—

(a) at least 7 clear days before the hearing at which the certificate is tendered, a copy of that certificate is served, by or on behalf of the prosecutor, on the defendant and the defendant is at the same time informed in writing that the prosecutor does not propose to call the person who made the analysis as a witness at the hearing; and

(b) the defendant does not, by notice in writing given to the prosecutor at least 3 clear days before the hearing, require the person who made the analysis to be called by the prosecutor as a witness at the hearing.

(4) Notwithstanding anything in subsection (3), a certificate referred to in subsection (2) shall not be admissible in evidence if the court, either of its own motion or on the application of the defendant made either before or after the commencement of the hearing, in its discretion directs that the result of the analysis shall be disregarded unless that result is proved by the oral evidence of the person who made the analysis.

(5) In this section—

member of the Police includes the following persons:

(a) a member of the Royal New Zealand Naval Police:

(b) a member of the New Zealand Army Military Police:

(c) a member of the Senior Air Security Specialist trade, or of the Air Security Specialist trade, of the Royal New Zealand Air Force:

(d) an officer of the Air Security specialisation of the Operational Support Branch of the Royal New Zealand Air Force

served means served as if the certificate were a document required to be served in accordance with rules made under the Criminal Procedure Act 2011.

(6) A notice under this section is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 31(1): replaced, on 1 July 1992, by section 5(1) of the Misuse of Drugs Amendment Act 1992 (1992 No 49).

Section 31(1)(a): amended, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 31(2): replaced, on 13 January 1988, by section 6(1) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 31(2): amended, on 7 July 2010, by section 4(1) of the Misuse of Drugs Amendment Act 2010 (2010 No 72).

Section 31(2): amended, on 12 May 1998, by section 8 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 31(2): amended, on 1 July 1992, by section 5(2) of the Misuse of Drugs Amendment Act 1992 (1992 No 49).

Section 31(2A): replaced, on 1 July 1992, by section 5(3) of the Misuse of Drugs Amendment Act 1992 (1992 No 49).

Section 31(2A): amended, on 7 July 2010, by section 4(2) of the Misuse of Drugs Amendment Act 2010 (2010 No 72).

Section 31(5): inserted, on 7 January 1981, by section 3(2) of the Misuse of Drugs Amendment Act 1980 (1980 No 64).

Section 31(5) **member of the Police**: replaced, on 22 October 2003, by section 5 of the Misuse of Drugs Amendment Act 2003 (2003 No 86).

Section 31(5) **member of the Police** paragraph (c): replaced, on 27 March 2008, by section 4 of the Misuse of Drugs Amendment Act 2008 (2008 No 13).

Section 31(5) **member of the Police** paragraph (d): replaced, on 27 March 2008, by section 4 of the Misuse of Drugs Amendment Act 2008 (2008 No 13).

Section 31(5) **served**: amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 31(6): replaced, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

32 Forfeiture

(1) Every person convicted of an offence against this Act shall, in addition to any penalty imposed pursuant to this Act, forfeit to Her Majesty, by virtue of such conviction, all articles, if any, in respect of which the offence was committed and in the possession of such person.

(2) Articles forfeited under the provisions of subsection (1) shall be sold, destroyed, or otherwise disposed of as the Minister directs.

(3) If, on the conviction of any person for an offence against section 6, the Judge or District Court Judge is satisfied that money found in the possession of that person was received by that person in the course of or consequent upon the commission of that offence, or was in the possession of that person for the purpose of facilitating the commission of an offence against that section, the Judge or District Court Judge may, in addition to any other penalty imposed pursuant to this Act, order that that money be forfeited to the Crown.

(4) If, on the conviction of any person for an offence against section 6, the court is satisfied that any motor vehicle, aircraft, or ship or boat or other vessel owned by the convicted person (whether solely or as joint tenant or tenant in common

with any other person or persons) or in which he has any interest (whether pursuant to a hire purchase agreement, leasing agreement, or otherwise) at the time of his conviction was used by the convicted person in the commission of that offence (whether or not he was the driver or person in charge), the court shall, unless in the circumstances of the case the court considers that it would be unjust to do so, order, in addition to any other penalty imposed under this Act, that the motor vehicle, aircraft, or ship or boat or other vessel be forfeited to Her Majesty.

(5) If the court is considering whether to make an order for forfeiture under subsection (4), sections 128(5), 130, and 131 of the Sentencing Act 2002 apply to the extent that they are applicable and subject to any necessary modifications.

(6) If an order for forfeiture is made under subsection (4), the following provisions of the Sentencing Act 2002 apply to the extent that they are applicable and subject to any necessary modifications and the exception in paragraph (b):

(a) sections 132 to 136:

(b) section 137, except that section 137(3)(c) and (g) do not apply and, instead, any proceeds of sale remaining after payment in accordance with section 137(3)(a), (b), and (d) to (fb) must be paid into a Crown Bank Account:

(c) sections 138, 138A, and 140:

(d) section 140A (including section 140A(4), which applies despite section 137(3)(c) not otherwise being applicable):

(e) sections 141A and 142.

Compare: 1965 No 45 s 18

Section 32(3): amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 32(4): inserted, on 7 January 1981, by section 4 of the Misuse of Drugs Amendment Act 1980 (1980 No 64).

Section 32(5): replaced, on 1 August 2012, by section 4 of the Misuse of Drugs Amendment Act 2011 (2011 No 40).

Section 32(6): inserted, on 1 August 2012, by section 4 of the Misuse of Drugs Amendment Act 2011 (2011 No 40).

33 Notification of conviction of medical practitioners, etc

(1) If a person who is a veterinarian, medical practitioner, pharmacist, dentist, midwife, nurse practitioner, optometrist, or designated prescriber is convicted of any offence against this Act or regulations made under it, the court must send particulars of the conviction to—

(a) the Registrar of the Veterinary Council of New Zealand, if the person is a veterinarian; or

(b) the responsible authority for the health profession to which the person belongs, in any other case.

(2) In this section, **responsible authority** has the meaning given to it in section 5(1) of the Health Practitioners Competence Assurance Act 2003.

Section 33: replaced, on 1 July 2014, by section 46 of the Medicines Amendment Act 2013 (2013 No 141).

34 Protection of persons acting under authority of Act

A person who does any act in pursuance or intended pursuance of any of the functions conferred on him by or under this Act shall not be under any civil or criminal liability in respect thereof, whether on the ground of want of jurisdiction, or mistake of law or fact, or on any other ground, unless he has acted in bad faith or without reasonable care.

Compare: 1965 No 45 s 21

34A Protection of constables

(1) In this section the term **undercover officer** means a constable whose identity is for the time being concealed for the purpose of a particular investigation of any suspected offence against this Act or of any person suspected of such an offence; and includes any other constable who is for the time being directing or assisting that constable in the course of that investigation.

(2) No prosecution for an offence against this Act, or against any regulations made under this Act, shall be commenced or continued against any constable in respect of any act committed by him at a time or during a period when he was acting as an undercover officer, except with the leave of the Attorney-General.

(3) A certificate signed by the Commissioner of Police to the effect that, at any specified time or during any specified period, the constable named in the certificate was acting as an undercover officer shall, for the purposes of subsection (2), be conclusive evidence of that fact.

Section 34A: inserted, on 16 October 1978, by section 9 of the Misuse of Drugs Amendment Act 1978 (1978 No 65).

Section 34A heading: amended, on 1 October 2008, pursuant to section 116(a)(iv) of the Policing Act 2008 (2008 No 72).

Section 34A(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 34A(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 34A(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

35 Crimes deemed to be included in extradition treaties

(1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act,—

(a) each crime described in section 6 or section 9, including—

(i) attempting or conspiring to commit that crime; or

(ii) aiding, abetting, inciting, counselling, or procuring any person to commit that crime; and

(b) each crime described in section 10,—

if not already described in the treaty, is deemed to be an offence described in any extradition treaty referred to in subsection (2).

(2) Subsection (1) applies to any treaty concluded before 1 June 1977 and for the time being in force between New Zealand and any country which is a party to the Single Convention on Narcotic Drugs 1961, as amended by the Protocol amending that Convention, done at Geneva on 25 March 1972, or to the Convention on Psychotropic Substances 1971.

(3) If under subsection (1) a crime is deemed to be an offence described in an extradition treaty, a person may be surrendered in accordance with the provisions of the Extradition Act 1999 for that crime even if the act or omission occurred before the date on which the crime was deemed to be an offence described in the extradition treaty.

(4) Subsection (3) does not apply in respect of an act or omission that, had it occurred within the jurisdiction of New Zealand, would not at that time have constituted an offence under New Zealand law.

(5) For the purposes of this section, **country** includes any territory for whose international relations the Government of a country is responsible and to which the extradition treaty and the Single Convention on Narcotic Drugs as amended by the Protocol amending that Convention or, as the case may be, the Convention on Psychotropic Substances, extends.

Section 35: replaced, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

35A Further provision on crimes to be treated as included in extradition treaties

(1) For the purposes of the Extradition Act 1999 and any Order in Council in force under section 15 or section 104 of that Act, every offence described in any of sections 6, 9, 12A, 12AB, 12B, 12C, 12E, and 12F (including attempting or conspiring to commit that offence, aiding, abetting, inciting, counselling, or procuring any person to commit that offence) and every offence described in section 10, if not already described in the treaty, is to be treated as being an offence described in any extradition treaty concluded before the commencement of this section and for the time being in force between New Zealand and any foreign country which is a party to the Vienna Convention.

(2) When subsection (1) requires any offence to be treated as being an offence described in an extradition treaty, a person whose surrender is sought under the Extradition Act 1999 in respect of an act or omission which amounts to that offence is liable to be surrendered in accordance with the provisions of that Act, whether the act or omission occurred before or after the date on which

the offence became, by virtue of subsection (1), an offence described in the extradition treaty.

(3) This section does not apply in respect of an act or omission that, had it occurred within the jurisdiction of New Zealand, would not at that time have constituted an offence under New Zealand law.

(4) For the purposes of this section, **foreign country** includes any territory for whose international relations the Government of a foreign country is responsible and to which the extradition treaty and the Vienna Convention extend.

Section 35A: inserted, on 16 March 1999, by section 10 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 35A(1): amended, on 1 October 2018, by section 15 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 35A(1): amended, on 22 June 2005, by section 17 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 35A(1): amended, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

Section 35A(2): amended, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

Section 35A(3): replaced, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

35B Surrender of offenders

[Repealed]

Section 35B: repealed, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

35C Restrictions on surrender of offenders

(1) Without limiting the grounds on which surrender must or may be refused under the Extradition Act 1999, but subject to subsection (2), no court in New Zealand may order the surrender, or the detention for the purposes of surrender, of a person to another country in respect of any act or omission that amounts to an offence described in any of sections 6, 9, 10, 12A, 12AB, 12B, 12C, 12E, and 12F if the Attorney-General certifies that the case is being or is about to be considered to determine whether or not proceedings should be brought in New Zealand against that person in respect of the act or omission.

(2) If, in any case to which subsection (1) applies, it is subsequently determined that proceedings should not be brought in New Zealand against the person in respect of the act or omission, the Attorney-General must advise the court accordingly, and the court must proceed with the matter as if the Attorney-General's certificate had never been given.

Section 35C: replaced, on 1 September 1999, by section 111 of the Extradition Act 1999 (1999 No 55).

Section 35C(1): amended, on 1 October 2018, by section 16 of the Maritime Powers Extension Act 2018 (2018 No 38).

Section 35C(1): amended, on 22 June 2005, by section 18 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

35D Evidence

For any purpose in connection with this Act, a certificate, given by the Secretary of Foreign Affairs and Trade certifying—

(a) that any country is or is not, or was or was not at any material time, a party to—

(i) the Single Convention on Narcotic Drugs 1961, as amended by the Protocol amending that Convention, done at Geneva on 25 March 1972; or

(ii) the Convention on Psychotropic Substances 1971; or

(iii) the Vienna Convention; or

(b) that the Government of any country is or is not, or was or was not, at any material time, responsible for the international relations of any territory,—

is sufficient evidence of that fact.

Section 35D: inserted, on 16 March 1999, by section 10 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Drug and substance checking

Heading: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DA Licensing of drug and substance checking service providers

The Director-General of Health may license drug and substance checking service providers under Schedule 6.

Section 35DA: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DB Functions of service provider

(1) The functions of a service provider are to do 1 or more of the following:

(a) provide accurate and appropriate information and harm reduction advice to help individuals make informed decisions about drug and substance use:

(b) test any drug or substance (which may be a controlled drug or psychoactive substance) that an individual presents for checking to ascertain the composition and likely identity of the drug or substance:

(c) advise the individual who presented a drug or substance for checking of the outcome of the testing:

(d) return a drug or substance to the individual who presented it for checking:

(e) dispose of any sample of a drug or substance used in testing:

(f) dispose of, or arrange for the disposal of, any drug or substance surrendered by any individual for disposal:

(g) arrange for a sample of a drug or substance (including one that has been surrendered for disposal) to be tested by an approved laboratory:

(h) train, or arrange for the training of, the service provider's workers to perform the functions specified in paragraphs (a) to (g) (including by using, for training purposes, drugs or substances that have been surrendered for disposal).

(2) A service provider must perform the functions referred to in subsection (1) in accordance with the conditions of their licence.

Section 35DB: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DC Possession or supply of controlled drug for purpose of performing functions

(1) A service provider's licence entitles them to do 1 or more of the following for the purpose of performing the provider's functions:

(a) possess a controlled drug for as long as is reasonably necessary to perform the provider's functions:

(b) return a controlled drug to the individual who submitted it for checking:

(c) send a controlled drug to an approved laboratory for testing.

(2) Subsection (1) is subject to the conditions of the service provider's licence.

(3) In this section and section 35DD, **controlled drug** includes a sample of a controlled drug.

Section 35DC: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DD Supplying or surrendering controlled drug to service provider

An individual may do 1 or both of the following:

(a) supply a controlled drug to a service provider for the purpose of checking:

(b) surrender a controlled drug to a service provider for the purpose of disposal.

Section 35DD: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Drug and substance checking: general licence conditions

Heading: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDA General licence conditions set out in sections 35DDB to 35DDK

Sections 35DDB to 35DDK set out conditions that apply to every service provider's licence.

Section 35DDA: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDB Service provider must display copy of licence

A service provider must clearly display a copy of their licence when, and at the site where, the service provider is performing any of the functions specified in section 35DB(1)(a) to (d).

Section 35DDB: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDC Service provider must not perform functions in residential premises

A service provider must not perform any of their functions in a residential premises (as defined in section 2(1) of the Residential Tenancies Act 1986).

Section 35DDC: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDD Service provider must not charge individuals for drug checking services

A service provider must not charge any fee to an individual for testing or disposing of a drug or substance for that individual.

Section 35DDD: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDE Service provider must not require or collect, etc, certain information

(1) This section applies in relation to an individual who does 1 or both of the following:

(a) presents a drug or substance to a service provider for checking:

(b) surrenders a drug or substance to a service provider for disposal.

(2) The service provider must not—

(a) require the individual to disclose demographic information (such as their age, sex, ethnicity, or cultural background) as a condition of providing service to the individual; or

(b) collect, maintain, use, or disclose any personal information about the individual.

(3) However, subsection (2)(b) does not prevent a service provider from collecting, maintaining, using, or disclosing personal information about the individual in the course of providing other health services to the individual.

(4) In this section,—

collect has the meaning given by section 7(1) of the Privacy Act 2020

other health services means health services as defined in section 2(1) of the Health and Disability Commissioner Act 1994 other than services carried out in the performance of any function specified in section 35DB

personal information has the meaning given by section 7(1) of the Privacy Act 2020.

Section 35DDE: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDF Service provider must provide accurate and appropriate harm reduction advice with test results

(1) A service provider must ensure that, when an individual who presents a drug or substance for checking is advised of the outcome of the testing, the individual is given accurate and appropriate advice in accordance with this section.

(2) The advice must be about the following harms and how they may be reduced or avoided:

(a) if the test indicates the likely identity of the drug or substance, the harms associated with that drug or substance:

(b) if the test does not indicate the likely identity of the drug or substance but the service provider considers that, in the circumstances, they are able to form a view on its likely identity,—

(i) the harms associated with that drug or substance; and

(ii) the harms associated with taking a drug or substance of an unknown identity:

(c) in any other case where the test does not indicate the likely identity of the drug or substance, the harms associated with taking a drug or substance of an unknown identity.

(3) The service provider does not breach subsection (2) if, despite reasonable efforts being made to give the advice, the individual refuses to receive it.

(4) *See* clause 6 of Schedule 6 (which relates to what the Director-General of Health must have regard to when deciding whether advice of the kind required by this section is accurate and appropriate).

Section 35DDF: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDG Service provider must store controlled drugs or psychoactive substances securely

A service provider must securely store all controlled drugs or psychoactive substances in their possession.

Section 35DDG: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDH Service provider must report loss or removal of controlled drug or psychoactive substance

(1) This section applies if a controlled drug or psychoactive substance in a service provider's possession is lost or removed from their possession without the service provider's authority.

(2) After the service provider becomes aware of the loss or removal, they must report the loss or removal—

(a) immediately to a member of the Police; and

(b) as soon as is reasonably practicable to the Director-General of Health (but, in any case, before the end of the following month).

Section 35DDH: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDI Service provider must report data

A service provider must report all test results that they provide to individuals, and the number of individuals advised of test results, to—

(a) the Director-General of Health; and

(b) a drug information body specified in regulations made under this Act.

Section 35DDI: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDJ Service provider must keep records

(1) A service provider must keep a record of—

(a) the number of tests carried out by the service provider; and

(b) the number of individuals advised of test results by the service provider; and

(c) for each drug or substance that the service provider tests and returns to the individual who submitted it for checking,—

(i) the purported identity (if known) of the drug or substance; and

(ii) the test result; and

(d) for each drug or substance that the service provider has in their possession for the purpose of disposal or arranging testing by an approved laboratory, the information specified in subsection (2); and

(e) for each drug or substance that the service provider has in their possession for the purpose of training, the information specified in subsection (3).

(2) The information required by subsection (1)(d) is—

(a) the purported identity (if known) of the drug or substance; and

(b) if the drug or substance has been tested by the service provider, the test result; and

(c) the weight of the drug or substance; and

(d) whichever of the following applies:

(i) if the drug or substance is disposed of by the service provider, how and when it was disposed of:

(ii) if the drug or substance is provided to another person for disposal, when, how, and to whom it was provided:

(iii) if the drug or substance is provided to an approved laboratory for testing, when, how, and to which laboratory it was provided.

(3) The information required by subsection (1)(e) is—

(a) the identity of the drug or substance as indicated by testing performed by the service provider or an approved laboratory; and

(b) the weight of the drug or substance; and

(c) if the drug or substance is destroyed while being used for training, how and when that occurred.

(4) The service provider must retain each record for the period prescribed by regulations made under this Act.

(5) In this section, **purported identity** means the identity under which the drug or substance is sold or supplied to the individual who presents it to the service provider (as reported to the service provider by that individual).

Section 35DDJ: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DDK Service provider must facilitate monitoring

(1) A service provider must,—

(a) if requested in writing by the Director-General of Health, provide the Director-General with any information that the Director-General reasonably requires to monitor the service provider's compliance with this Act, its regulations, or their licence conditions; and

(b) allow an authorised person to access any site where the service provider is performing any of the functions specified in section 35DB.

(2) An authorised person who accesses a site under subsection (1)(b)—

(a) must do so only for the purpose of monitoring the service provider's compliance with this Act, its regulations, or their licence conditions; and

(b) must, if requested by the service provider, show the service provider written evidence of the person's authorisation from the Director-General of Health; and

(c) must make all reasonable efforts to avoid disrupting the service provider in their performance of any of the functions specified in section 35DB; and

(d) must not be present in a part of the site where an individual is presenting a drug or substance for checking or being advised of the results of testing of the drug or substance (unless the individual gives their express permission for the authorised person to be present); and

(e) must not make a visual or audio recording of—

(i) the site; or

(ii) any individual who presents a drug or substance to the service provider for checking or is advised of the results of testing of the drug or substance; or

(iii) any individual who surrenders a drug or substance to the service provider for disposal.

(3) In this section, **authorised person** means a person who, for the purpose of monitoring service providers' compliance with this Act, its regulations, and their licence conditions, is authorised by the Director-General of Health to access sites where service providers perform any of the functions specified in section 35DB.

Section 35DDK: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Drug and substance checking: offences and other matters

Heading: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DE Offence relating to breach of conditions of licence

(1) A service provider must not breach any conditions of their licence.

(2) A service provider commits an offence and is liable on conviction to a fine not exceeding $5,000 if the service provider, without reasonable excuse, contravenes subsection (1).

(3) However, this section does not apply to a contravention of the condition set out in section 35DDF (service provider must provide accurate and appropriate harm reduction advice with test results).

Section 35DE: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DF Offence to provide checking services, etc, without being licensed

(1) A person must not carry out any of the functions specified in section 35DB(1)(b) to (e) without being licensed as a service provider under section 35DA.

(2) A person commits an offence and is liable on conviction to a fine not exceeding $20,000 if the person, without reasonable excuse, contravenes subsection (1).

Section 35DF: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DG Liability of responsible persons, etc, if service provider is entity

(1) This section applies (instead of section 17) if a service provider that is an entity commits an offence against this Act.

(2) Every responsible person and person concerned in the management of the entity commits the same offence if it is proved—

(a) that the act that constituted the offence took place with the authority, permission, or consent of the responsible person or person concerned in the management of the entity; or

(b) that the responsible person or person concerned in the management of the entity knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it.

(3) A responsible person or person concerned in the management of the entity may be convicted of the offence even if the entity is not convicted of the offence.

(4) This section applies to a person concerned in the management of an entity despite section 35DH.

Section 35DG: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DH Protections from liabilities of service provider

(1) A worker of a service provider is not liable for anything they do or fail to do in the course of the performance or intended performance of the service provider's functions, unless it is shown that they acted in bad faith or without reasonable care.

(2) A worker of a service provider is not liable for any liability of the service provider.

Section 35DH: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

35DI Use of service and test result not admissible in civil or criminal proceedings

The following is not admissible as evidence in civil or criminal proceedings against an individual who presents a drug or substance for checking by a service provider:

(a) evidence that the individual presented a drug or substance to the service provider or in any other way used services of the service provider that relate to the functions specified in section 35DB:

(b) the result of a test carried out by the service provider in relation to the drug or substance.

Section 35DI: inserted, on 7 December 2021, by section 10 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Drug and substance checking

[Repealed]

Heading: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DA Drug and substance checking service providers

[Repealed]

Section 35DA: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DB Functions of service provider

[Repealed]

Section 35DB: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DC Possession or supply of controlled drug for purpose of performing functions

[Repealed]

Section 35DC: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DD Supplying or surrendering controlled drug to service provider

[Repealed]

Section 35DD: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DE Offence relating to breach of terms or conditions of appointment

[Repealed]

Section 35DE: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DF Offence to provide checking services, etc, without being appointed under section 35DA

[Repealed]

Section 35DF: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DG Service providers not to collect, etc, personal information

[Repealed]

Section 35DG: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DH Protections from liabilities of service provider

[Repealed]

Section 35DH: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

35DI Test result not admissible in criminal proceedings

[Repealed]

Section 35DI: repealed, on 7 December 2021, by section 16 of the Drug and Substance Checking Legislation Act 2020 (2020 No 63).

Review of certain provisions

Heading: inserted, on 18 December 2018, by section 9 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

35E Review and report on operation of sections 7(3A), 8(6A), and 13(1A)

(1) The Minister must, not later than 2 years after the commencement of this section, require the Ministry of Health—

(a) to commence a review of the operation of sections 7(3A), 8(6A), and 13(1A) since the commencement of those subsections; and

(b) to prepare a report on the review for the Minister.

(2) The review and report required under subsection (1) must be completed within 12 months of the review commencing.

(3) As soon as practicable after receiving the report, the Minister must present a copy of it to the House of Representatives.

(4) The report on the review must include recommendations to the Minister on—

(a) the implementation of the exception and defences provided by sections 7(3A), 8(6A), and 13(1A) for people who require palliation; and

(b) whether any amendments to those provisions are necessary or desirable.

Section 35E: inserted, on 18 December 2018, by section 9 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

36 Application of Customs and Excise Act 2018

(1) Sections 176, 178, 191, 199, 205, 206, 210, 211, 212, 213, 214, 215, 220, 221, 224, 225, 227, 231, 237, 244, 245, 247, 248, 249, and 252 of the Customs and Excise Act 2018 apply in relation to the controlled drugs and precursor substances referred to in subsection (2) as if they were prohibited imports or exports under that Act.

(2) The controlled drugs and precursor substances are—

(a) any controlled drug, other than a controlled drug specified or described in Part 6 of Schedule 3; and

(b) any precursor substance specified or described in Schedule 4.

Section 36: replaced, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

37 Regulations

(1) The Governor-General may from time to time, by Order in Council, make regulations for all or any of the following purposes:

(a) providing for the issue of licences for the import, export, possession, production, manufacture, procuring, supply, administration, or use of controlled drugs and the cultivation of prohibited plants:

(b) prescribing the form, duration, terms, and conditions of any licence under this Act and enabling additional conditions to be imposed:

(c) prescribing the fees payable for licences under this Act and providing for the cancellation and suspension of such licences:

(d) permitting the import, export, possession, production, manufacture, procuring, supply, administration, or use of controlled drugs, and the cultivation of prohibited plants, otherwise than pursuant to a licence under this Act but subject to such conditions or restrictions as may be prescribed by or imposed under the regulations:

(e) prohibiting, limiting, restricting, and imposing conditions on, either generally or in relation to particular cases or classes of case or particular classes of person, the prescribing, production, manufacture, procuring, supply, use, or possession of controlled drugs pursuant to any provision of section 8:

(f) requiring persons who are engaged in the import, export, production, manufacture, procuring, supply, or administration of any controlled drug, or who utilise any controlled drug in the course of or in connection with their profession, trade, or calling, or any occupation whether paid or unpaid, or who otherwise undertake the supply or administration of any controlled drug, to keep records in such form and manner and to furnish information with respect to such matters as may be prescribed:

(fa) regulating the issue of standing orders that authorise the supply and administration of controlled drugs, imposing conditions, limitations, requirements, or restrictions in relation to the contents of standing orders of that kind and their use, and providing for any other matters that are necessary or desirable for the administration of standing orders of that kind:

(g) regulating the issue by medical practitioners, dentists, midwives, nurse practitioners, optometrists, designated prescribers, and veterinarians of prescriptions for the supply of any controlled drug, and requiring persons issuing or dispensing prescriptions in respect of any such drug to furnish such information relating to those prescriptions as may be prescribed:

(ga) prescribing the circumstances in which, and the conditions under which, any person or class of persons may possess needles or syringes notwithstanding that those needles or syringes may be intended to be used for the purpose of the commission of offences against this Act:

(gb) regulating the sale, exchange, or supply of needles or syringes—

(i) by medical practitioners or pharmacists generally, or by those approved for the purpose by the Director-General of Health; or

(ii) by authorised representatives of any agency, association, or body approved for the purpose by the Director-General of Health,—

notwithstanding that those needles or syringes may be intended by the persons to whom they are sold or supplied, or with whom they are exchanged, to be used for the commission of offences against this Act:

(h) requiring any medical practitioner who attends a person whom he considers, or has reasonable grounds to suspect, is dependent on controlled drugs of any description to furnish such particulars with respect to that person as may be prescribed:

(i) prohibiting, regulating, or restricting the supply of controlled drugs to any person so dependent and the issue of prescriptions for such supply:

(j) regulating the dispensing and compounding of controlled drugs:

(k) regulating the packing, labelling, storage, carriage, and destruction of controlled drugs:

(l) declaring plants to be prohibited plants:

(m) controlling or restricting the cultivation and destruction of prohibited plants and the sale, distribution, possession, and destruction of the seeds or fruit of prohibited plants:

(n) providing for the weighing, counting, measuring, sealing, seizing, and taking of samples of controlled drugs:

(o) prohibiting, regulating, or restricting advertisements for controlled drugs, and statements made in any such advertisement:

(p) providing for the waiver of fees in whole or in part in particular cases or classes of cases and for the total or partial refund of fees:

(q) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this Act, and the amounts of fines that may be imposed in respect of any such offences, which fines shall be an amount not exceeding $500 and, where the offence is a continuing one, a further amount not exceeding $20 for every day or part of a day during which the offence has continued:

(r) exempting, or providing for the exemption of, any persons or classes of persons, or excepting any controlled drugs, from any provision of any regulation made under this Act which imposes conditions or obligations:

(s) generally for prohibiting, controlling, or restricting the import, export, possession, production, manufacture, procuring, supply, administration, and use of controlled drugs:

(t) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

(2) Any regulations made under subsection (1) may—

(a) be expressed to apply to controlled drugs generally, or to particular controlled drugs or classes of controlled drugs specified or described in the regulations, and may make different provision for different controlled drugs or classes of controlled drugs so specified or described:

(b) provide for depriving persons of any rights, privileges, or exemptions, conferred on any class of person to which those persons belong, by any such regulations.

(3) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

(4) If regulations authorise a person to grant exemptions referred to in subsection (1)(r),—

(a) an exemption is secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements), unless it applies only to 1 or more named persons; and

(b) the regulations must contain a statement to that effect.

Compare: 1965 No 45 s 23; 1960 No 97 s 53(2)(h), (o); Misuse of Drugs Act 1971 s 10(2)(g), (h), (i) (UK)

Legislation Act 2019 requirements for secondary legislation referred to in subsection (3)		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Legislation Act 2019 requirements for secondary legislation referred to in subsection (4)(a)		
Publication	See the relevant publication, presentation, and disallowance table in the secondary legislation referred to in subsection (3)	LA19 ss 73, 74, Sch 1 cl 14
Presentation	The Minister must present it to the House of Representatives, unless a transitional exemption applies under Schedule 1 of the Legislation Act 2019	LA19 s 114, Sch 1 cl 32
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 37(1)(fa): inserted, on 22 October 2003, by section 6 of the Misuse of Drugs Amendment Act 2003 (2003 No 86).

Section 37(1)(g): amended, on 1 July 2014, by section 47 of the Medicines Amendment Act 2013 (2013 No 141).

Section 37(1)(g): amended, on 22 December 2005, by section 105 of the Veterinarians Act 2005 (2005 No 126).

Section 37(1)(g): amended, on 18 September 2004, by section 175(1) of the Health Practitioners Competence Assurance Act 2003 (2003 No 48).

Section 37(1)(g): amended, on 15 October 1999, by section 16 of the Medicines Amendment Act 1999 (1999 No 117).

Section 37(1)(g): amended, on 28 August 1990, by section 18 of the Nurses Amendment Act 1990 (1990 No 107).

Section 37(1)(ga): inserted, on 13 January 1988, by section 7 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 37(1)(gb): inserted, on 13 January 1988, by section 7 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Section 37(3): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

Section 37(4): inserted, on 28 October 2021, by regulation 79 of the Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247).

37A Regulations setting minimum quality standards

(1) Without limiting section 37, the Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations to prescribe the minimum quality standard that must be met by a product or class of product—

(a) that contains a controlled drug; and

(b) that may be cultivated, manufactured, produced, imported, or supplied under a licence granted under this Act.

(2) Regulations made under this section may prescribe minimum quality standards for the product or for the processes by which the product is cultivated, manufactured, produced, imported, or supplied.

(3) Regulations made under this section may—

(a) apply generally to a product or class of products; or

(b) apply to a product or class of products only if specified criteria are met.

(4) Regulations made under this section that relate to products that contain any part of any plant of the genus *Cannabis*, cannabis fruit, or cannabis seed must not require that the variety of plant contained in the product was brought into New Zealand with authorisation, if the variety is established in New Zealand at the time the product is manufactured or produced.

(5) The Minister must, no later than 1 year after the date on which the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 comes into force, recommend the making of regulations under this section that relate to products that contain any part of any plant of the genus *Cannabis*, cannabis fruit, or cannabis seed.

(6) Regulations under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114, Sch 1 cl 32(1)(a)
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 37A: inserted, on 18 December 2018, by section 10 of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Section 37A(6): inserted, on 28 October 2021, by section 3 of the Secondary Legislation Act 2021 (2021 No 7).

37B Regulations relating to drug and substance checking service providers

(1) Without limiting section 37, the Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations for 1 or more of the following purposes:

(a) prescribing any particulars, information, documents, or other material that must be included in or with an application for a licence to be a drug and substance checking service provider (a **licence**):

(b) prescribing the form of licences:

(c) prescribing conditions of licences:

(d) providing for the renewal of licences:

(e) specifying a drug information body for the purposes of section 35DDI:

(f) prescribing the period for which service providers must retain the records required by section 35DDJ.

(2) Regulations made under subsection (1)(c) may (without limitation) prescribe conditions that specify—

(a) how the service provider must comply with any of the conditions imposed by sections 35DDA to 35DDK; or

(b) other requirements that relate to any of those conditions.

(3) Regulations made under subsection (1)(d) may (without limitation)—

(a) provide for a licence to continue in effect (despite clause 8 of Schedule 6) if an application to renew the licence is made within a specified period:

(b) prescribe any particulars, information, documents, or other material that must be included in or with an application to renew a licence:

(c) provide for the Director-General of Health to—

(i) require particulars, information, documents, or other material to be included in or with an application to renew a licence:

(ii) refuse to process an application if a required particular, piece of information, document, or piece of other material is not included in or with an application:

(iii) require further particulars, information, documents, or other material to be provided before deciding whether to renew a licence:

(d) prescribe criteria for the renewal of licences:

(e) provide for the review of decisions relating to applications for the renewal of licences.

(4) Regulations made under this section are secondary legislation (*see* Part 3 of the Legislation Act 2019 for publication requirements).

Legislation Act 2019 requirements for secondary legislation made under this section		
Publication	PCO must publish it on the legislation website and notify it in the *Gazette*	LA19 s 69(1)(c)
Presentation	The Minister must present it to the House of Representatives	LA19 s 114
Disallowance	It may be disallowed by the House of Representatives	LA19 ss 115, 116

This note is not part of the Act.

Section 37B: inserted, on 7 December 2021, by section 11 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

38 Effect on Poisons Act 1960

[Repealed]

Section 38: repealed, on 2 July 2001, by section 149 of the Hazardous Substances and New Organisms Act 1996 (1996 No 30).

39 Repeals

(1) The Narcotics Act 1965 and the Narcotics Amendment Act 1970 are hereby repealed.

(2) Any reference in any enactment or in any document to a narcotic within the meaning of the Narcotics Act 1965 shall hereafter, unless the context otherwise requires, be read as a reference to a controlled drug within the meaning of this Act.

40 Revocations

The following Orders in Council are hereby revoked, namely:

(a) the Narcotics Order 1966:

(b) the Narcotics Order 1967:

(c) the Narcotics Order (No 2) 1967:

(d) the Narcotics Order 1968.

41 Application to Niue

Amendment(s) incorporated in the Act(s).

Schedule 1AA
Transitional, savings, and related provisions

s 2AA

Schedule 1AA: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Part 1
Provisions relating to Drug and Substance Checking Legislation Act 2021

Schedule 1AA Part 1: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

1 Interpretation

In this Part,—

existing service provider means a drug and substance checking service provider who—

(a) was appointed under old section 35DA; and

(b) still held the appointment immediately before old section 35DA was repealed

old section 35DA means section 35DA as it was immediately before its repeal

repeal, in relation to old section 35DA, means its repeal by section 16 of the Drug and Substance Checking Legislation Act 2020.

Schedule 1AA clause 1: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Issue of licences under clause 4 of Schedule 6

Heading: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

2 When Director-General of Health may issue licences under clause 4 of Schedule 6

The Director-General of Health may not issue a licence under clause 4 of Schedule 6 until regulations made under section 37B come into force.

Schedule 1AA clause 2: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Continuation of current appointments

Heading: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

3 Appointments of existing service providers continued

(1) An existing service provider must be treated as still holding an appointment under old section 35DA for the period that—

(a) starts immediately after the repeal of old section 35DA (regardless of whether that is on or before the commencement of the Drug and Substance Checking Legislation Act 2021); and

(b) ends under clause 4 of this schedule.

(2) For the purposes of subclause (1),—

(a) this Act and the Psychoactive Substances Act 2013, as they were immediately before their amendment by subpart 2 of Part 1 and subpart 2 of Part 2 of the Drug and Substance Checking Legislation Act 2020, continue to apply in relation to the existing service provider; and

(b) the terms and conditions of the existing service provider's appointment are the same as those that applied immediately before that amendment.

(3) Section 109(3A) of the Medicines Act 1981 applies to the existing service provider as if they held a licence issued under clause 4 of Schedule 6 (and the terms and conditions of their appointment were the conditions of their licence).

(4) Subclause (1)—

(a) applies despite any limit imposed on the duration of the appointment by the Director-General of Health before this clause comes into force; but

(b) does not limit the Director-General's authority to revoke the appointment after this clause comes into force.

Schedule 1AA clause 3: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

4 When continued appointments end

(1) An existing service provider's appointment ends if they do not apply for a licence to be issued under clause 4 of Schedule 6 within 1 month after regulations made under section 37B come into force.

(2) If an existing service provider applies for a licence before the deadline under subclause (1), their appointment ends when—

(a) the Director-General of Health issues the existing service provider a licence under clause 4 of Schedule 6; or

(b) the Director-General of Health decides not to issue the existing service provider a licence under that clause and their right of review under clause 11 of Schedule 6 is exhausted.

Schedule 1AA clause 4: inserted, on 7 December 2021, by section 12 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Schedule 1
Class A controlled drugs

s 2(1)

1 The following substances, namely:

Acetorphine (*0*^{3}-acetyl-7,8-dihydro-7 α-[1 (*R*)-hydroxy-1-methylbutyl]-*0*^{6}-methyl-6,14-*endo*ethenomorphine)

Acetylfentanyl

Acryloylfentanyl

5F-ADB Methyl (2S)-2-{[1-(5-fluoropentyl)-1H-indazole-3-carbonyl]amino}-3,3-dimethylbutanoate

AMB-FUBINACA Methyl (2S)-2-({1-[(4-fluorophenyl)methyl]-1H-indazole-3-carbonyl}amino)-3-methylbutanoate

Amides and carbamates of methamphetamine

Bufotenine (3-(2-dimethylaminoethyl)-5-hydroxyindole)

Butyrfentanyl

Cantharidin (hexahydro-3a,7a-dimethyl-4,7-epoxyisobenzofuran-1,3-dione)

Carfentanil

Cocaine (methyl ester of benzoylecgonine), except when contained in a Class C controlled drug

Cyclopropylfentanyl

Desomorphine (dihydrodeoxymorphine)

DET (*N*,*N*-diethyltryptamine)

DMA (2-amino-1-(2,5-dimethoxyphenyl)propane)

DMHP (3-(1,2-dimethylheptyl)-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo [*b*,*d*] pyran)

DMT (*N*,*N*-dimethyltryptamine)

DOB (2-amino-1-(4-bromo-2,5-dimethoxyphenyl)propane) (also known as bromo-DMA)

Etorphine (7,8-dihydro-7 α-[1 (*R*)-hydroxy-1-methylbutyl]-*0*^{6}-methyl-6,14-*endo*ethenomorphine)

4-Fluoroisobutyrfentanyl (4-FIBF)

Furanylfentanyl

Heroin (diacetylmorphine)

Ketobemidone (4-*meta*-hydroxyphenyl-1-methyl-4-propionylpiperidine)

Lysergic acid (essential precursor for manufacture of LSD)

Lysergide (*N*,*N*-diethyllysergamide or lysergic acid diethylamide)

MDA (2-amino-1-(3,4-methylenedioxyphenyl) propane)

Mescaline (3,4,5-trimethoxyphenethylamine)

Methamphetamine (2-methylamino-1-phenylpropane)

Methoxyacetylfentanyl

5-methoxydimethyltryptamine (5-methoxy-*N*,*N*-dimethyltryptamine)

2-methoxy-4,5-methylenedioxyamphetamine (2-amino-1-(2-methoxy-4,5-methylenedioxyphenyl) propane) (also known as MMDA or MMDA-2)

3-methoxy-4,5-methylenedioxyamphetamine (2-amino-1-(3-methoxy-4,5-methylenedioxyphenyl) propane) (also known as MMDA)

MPTP (1-methyl-4-phenyl-1,2,5,6-tetrahydropyridine)

Ocfentanil

Parahexyl (3-hexyl-1-hydroxy-7,8,9,10-tetrahydro-6,6,9-trimethyl-6*H*-dibenzo [*b*,*d*] pyran)

PCE (N-ethyl-1-phenylcyclohexylamine)

PCPY (1-(1-phenylcyclohexyl)pyrrolidine)

PEPTP (1-(2-phenylethyl)-4-phenyl-1,2,5,6-tetrahydropyridine)

Phencyclidine (1-(1-phenylcyclohexyl) piperidine)

PHP (1-(1-phenylcyclohexyl)pyrrolidine)

Piperidyl benzilates (*N*-methylpiperidyl benzilates and *N*-ethylpiperidyl benzilates but excluding the methobromide salts)

PMA (2-amino-1-(4-methoxyphenyl)propane)

Psilocine (3-(2-dimethylaminoethyl)-4-hydroxyindole)

Psilotsin (3-(2-dimethylaminoethyl)-4-hydroxyindole)

Psilocybine (3-(2-dimethylaminoethyl) indol-4-yl dihydrogen phosphate)

α-Pyrrolidinovalerophenone (α-PVP)

STP,DOM (2-amino-1-(2,5-dimethoxy-4-methyl) phenylpropane)

TCP (1-[1-(2-thienyl)cyclohexyl]piperidine)

Tetrahydrofuranylfentanyl (THF-F)

TMA (2-amino-1-(3,4,5-trimethoxyphenyl)propane)

U-47700

U-48800

U-49900.

Schedule 1 clause 1 **Acetylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Acryloylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **5F-ADB**: inserted, on 13 August 2019, by section 7 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Schedule 1 clause 1 **AMB-FUBINACA**: inserted, on 13 August 2019, by section 7 of the Misuse of Drugs Amendment Act 2019 (2019 No 42).

Schedule 1 clause 1 **Amides and carbamates of methamphetamine**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **4-bromo-2,5-dimethoxyamphetamine**: repealed, on 2 September 1996, by section 6(1)(a) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **Butyrfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Carfentanil**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Cocaine**: inserted, on 13 January 1988, by section 8 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 1 clause 1 **Cyclopropylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **2,5-dimethoxyamphetamine**: repealed, on 2 September 1996, by section 6(1)(b) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **DMA**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **DOB**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **4-Fluoroisobutyrfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Furanylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Lysergic acid**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **Methamphetamine**: inserted, on 30 May 2003, by clause 4 of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 1 clause 1 **Methoxyacetylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **4-methoxyamphetamine**: repealed, on 2 September 1996, by section 6(1)(c) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **2-methoxy-4,5-methylenedioxyamphetamine**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **3-methoxy-4,5-methylenedioxyamphetamine**: replaced, on 2 September 1996, by section 6(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **MPTP**: inserted, on 13 January 1988, by section 8 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 1 clause 1 **Ocfentanil**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **PCE**: inserted, on 21 May 1981, by clause 2 of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 1 clause 1 **PCPY**: inserted, on 21 May 1981, by clause 2 of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 1 clause 1 **PEPTP**: inserted, on 13 January 1988, by section 8 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 1 clause 1 **PHP**: inserted, on 21 May 1981, by clause 2 of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 1 clause 1 **PMA**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **α-Pyrrolidinovalerophenone**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **TCP**: inserted, on 21 May 1981, by clause 2 of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 1 clause 1 **Tetrahydrocannabinols**: repealed, on 2 September 1996, by section 6(1)(d) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **Tetrahydrofuranylfentanyl**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **Thalidomide**: repealed, on 9 August 2011, by section 7 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 1 clause 1 **TMA**: inserted, on 2 September 1996, by section 6(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **3,4,5-trimethoxyamphetamine**: repealed, on 2 September 1996, by section 6(1)(e) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 1 clause 1 **U-47700**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **U-48800**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 1 clause 1 **U-49900**: inserted, on 15 December 2022, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

2 The isomers of the substances mentioned in this schedule whenever the existence of such isomers is possible within the specific chemical designation.

3 The esters and ethers of the substances mentioned in this schedule and the esters and ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this schedule and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4.

Schedule 2
Class B controlled drugs

s 2(1)

Part 1

1 The following substances, namely:

AB-CHMINACA

AB-FUBINACA

AB-PINACA

5F-AKB-48

AM-2201

Amphetamine (2-amino-1-phenylpropane)

Cannabis preparations: that is, any preparation containing any tetrahydrocannabinols, including cannabis resin (commonly known as hashish) and cannabis oil (commonly know as hash oil), produced by subjecting cannabis plant material to any kind of processing (but does not include a CBD product)

N-ethyl pentylone

Ethylone

Fentanyl

JWH-018

MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl) propane)

MDMB-CHMICA

Methcathinone

Morphine

MT-45

25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)

25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)

25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)

Opium

Para-methoxymethylamphetamine (PMMA)

5F-PB-22

Tetrahydrocannabinols, except when contained in a Class C controlled drug or a CBD product

UR-144

XLR-11.

Schedule 2 Part 1 clause 1 **AB-CHMINACA**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **AB-FUBINACA**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **AB-PINACA**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **5F-AKB-48**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **AM-2201**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **Amphetamine**: inserted, on 9 September 2005, by clause 4(1) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2005 (SR 2005/175).

Schedule 2 Part 1 clause 1 **Cannabis**: replaced, on 13 January 1983, by section 7 of the Misuse of Drugs Amendment Act 1982 (1982 No 151).

Schedule 2 Part 1 clause 1 **Cannabis**: amended, on 18 December 2018, by section 11(1)(a) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Schedule 2 Part 1 clause 1 **Cocaine**: repealed, on 13 January 1988, by section 9(1) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 2 Part 1 clause 1 **N-ethyl pentylone**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **Ethylone**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **Fentanyl**: inserted, on 1 July 2023, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **JWH-018**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **MDMA**: inserted, on 9 September 2005, by clause 4(1) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2005 (SR 2005/175).

Schedule 2 Part 1 clause 1 **MDMB-CHMICA**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **Methcathinone**: inserted, on 30 May 2003, by clause 5(1) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 2 Part 1 clause 1 **MT-45**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **25B-NBOMe**: inserted, on 22 December 2016, by clause 3 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 2 Part 1 clause 1 **25C-NBOMe**: inserted, on 22 December 2016, by clause 3 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 2 Part 1 clause 1 **25I-NBOMe**: inserted, on 22 December 2016, by clause 3 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 2 Part 1 clause 1 **Para-methoxymethylamphetamine**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **5F-PB-22**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **Tetrahydrocannabinols**: inserted, on 2 September 1996, by section 7(1) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 1 clause 1 **Tetrahydrocannabinols**: amended, on 18 December 2018, by section 11(1)(b) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Schedule 2 Part 1 clause 1 **UR-144**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 1 clause 1 **XLR-11**: inserted, on 15 December 2022, by clause 5(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

2 The isomers of the substances mentioned in clause 1 whenever the existence of such isomers is possible within the specific chemical designation, except for isomers of tetrahydrocannabinols if the isomers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.

Schedule 2 Part 1 clause 2: amended, on 18 December 2018, by section 11(2) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Schedule 2 Part 1 clause 2: amended, on 31 May 2002, by clause 3(2)(a) of the Misuse of Drugs (Classification of Fantasy) Order 2001 (SR 2001/383).

3 The esters and ethers of the substances mentioned in clause 1 and the esters and ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible, except for esters and ethers of tetrahydrocannabinols or of isomers of tetrahydrocannabinols if the esters and ethers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.

Schedule 2 Part 1 clause 3: amended, on 18 December 2018, by section 11(3) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Schedule 2 Part 1 clause 3: amended, on 31 May 2002, by clause 3(2)(b) of the Misuse of Drugs (Classification of Fantasy) Order 2001 (SR 2001/383).

4 The salts of the substances mentioned in clause 1 and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3, except for the salts of tetrahydrocannabinols or the salts of the substances excluded from clauses 2 and 3 if the salts naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person.

Schedule 2 Part 1 clause 4: amended, on 18 December 2018, by section 11(4) of the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54).

Schedule 2 Part 1 clause 4: amended, on 31 May 2002, by clause 3(2)(c) of the Misuse of Drugs (Classification of Fantasy) Order 2001 (SR 2001/383).

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4.

6 The substance gamma-hydroxybutyrate (**GHB**) (commonly known as fantasy) and—

(a) the esters, ethers, and amides of GHB; and

(b) all substances from which GHB can be derived, including (without limitation)—

(i) 1,4-butanediol:

(ii) gamma-aminobutyric acid:

(iii) gamma-butyrolactone:

(iv) gamma-hydroxybutyraldehyde; and

(c) the salts of GHB (including sodium oxybate) and the salts of any substance referred to in paragraph (a) or paragraph (b); and

(d) any substance, preparation, or mixture containing any proportion of GHB or any substance referred to in any of paragraphs (a) to (c).

Schedule 2 Part 1 clause 6: inserted, on 31 May 2002, by clause 3(1) of the Misuse of Drugs (Classification of Fantasy) Order 2001 (SR 2001/383).

Part 2

1 The following substances, namely:

Benzphetamine (2-benzylmethylamino-1-phenylpropane)

Cathinone (2-amino-1-phenylpropan-1-one)

DOET (2-amino-1-(2,5-dimethoxy-4-ethylphenyl) propane)

Ephedrine

N-ethyl MDA (2-ethylamino-1-(3,4-methylenedioxyphenyl) propane)

N-ethylamphetamine (2-ethylamino-1-phenylpropane)

Fencamfamine (N-ethyl-3-phenylbicyclo[2.2.1]heptan-2-amine)

Fenethylline (3,7-dihydro-1,3-dimethyl-7-[2-[(1-methyl-2-phenylethyl)-amino]ethyl]-1H-purine-2,6-dione)

Fenproporex (2-(2-cyanoethylamino)-1-phenylpropane)

N-hydroxy MDA (2-hydroxyamino-1-(3,4-methylenedioxyphenyl) propane)

Lisdexamfetamine

Mefenorex (2-(3-chloropropylamino)-1-phenylpropane)

Mephedrone

Methaqualone (2-methyl-3-(2-methylphenyl)-4(3H)-quinazolinone)

4-methylaminorex (*cis*-2-amino-4-methyl-5-phenyl-2-oxazoline)

Methylone

Methylphenidate (α-phenyl-2-piperidineacetic acid methyl ester)

4-methylthioamphetamine

Norpseudoephedrine (*threo*-2-amino-1-hydroxy-1-phenylpropane), including cathine

Propylhexedrine (1-cyclohexyl-2-methylaminopropane)

Pyrovalerone (1-(4-methylphenyl)-2-(1-pyrrolidinyl)-1-pentanone).

Schedule 2 Part 2 clause 1: replaced, on 13 January 1988, by section 9(2) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 2 Part 2 clause 1 **Amphetamine**: repealed, on 9 September 2005, by clause 4(2) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2005 (SR 2005/175).

Schedule 2 Part 2 clause 1 **Ephedrine**: inserted, on 8 September 2011, by section 8 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 2 Part 2 clause 1 **N-ethyl MDA**: inserted, on 2 September 1996, by section 7(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 2 clause 1 **N-hydroxy MDA**: inserted, on 2 September 1996, by section 7(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 2 clause 1 **Lisdexamfetamine**: inserted, on 15 December 2022, by clause 5(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 2 clause 1 **MDMA**: repealed, on 9 September 2005, by clause 4(2) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2005 (SR 2005/175).

Schedule 2 Part 2 clause 1 **Mephedrone**: inserted, on 15 December 2022, by clause 5(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 2 clause 1 **Methamphetamine**: repealed, on 30 May 2003, by clause 5(2) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 2 Part 2 clause 1 **4-methylaminorex**: inserted, on 2 September 1996, by section 7(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 2 clause 1 **Methylone**: inserted, on 15 December 2022, by clause 5(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 2 clause 1 **4-methylthioamphetamine**: inserted, on 30 May 2003, by clause 5(3) of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 2 Part 2 clause 1 **Norpseudoephedrine**: replaced, on 2 September 1996, by section 7(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 2 clause 1 **Pseudoephedrine**: repealed, on 12 April 2024, by section 4(1) of the Misuse of Drugs (Pseudoephedrine) Amendment Act 2024 (2024 No 13).

2 The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation, except pseudoephedrine.

Schedule 2 Part 2 clause 2: amended, on 12 April 2024, by section 4(2) of the Misuse of Drugs (Pseudoephedrine) Amendment Act 2024 (2024 No 13).

3 The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4.

Part 3

1 The following substances, namely:

Acetyl-α-methylfentanyl (*N*-[1-(α-methylphenethyl]-4-piperidyl] acetanilide)

Acetylmethadol (3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Alfentanil (*N*-[1-[2-(4-ethyl-4,5-dihydro-5-oxo-1*H*-(tetrazol-1-yl)ethyl]-4-(methoxymethyl)-4-piperidinyl]-*N*-phenylpropanamide)

Allylprodine (3-allyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Alphacetylmethadol (α-3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Alphameprodine (α-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Alphamethadol (α-6-dimethylamino-4,4-diphenyl-3-heptanol)

Alphaprodine (α-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)

Anileridine (1-*para*-aminophenethyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Benzethidine (1-(2-benzyloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Benzylmorphine (3-benzylmorphine)

Betacetylmethadol (β-3-acetoxy-6-dimethylamino-4,4-diphenylheptane)

Betameprodine (β-3-ethyl-1-methyl-4-phenyl-4-propionoxypiperidine)

Betamethadol (β-6-dimethylamino-4,4-diphenyl-3-heptanol)

Betaprodine (β-1,3-dimethyl-4-phenyl-4-propionoxypiperidine)

Bezitramide (1-(3-cyano-3,3-diphenylpropyl)-4-(2-oxo-3-propionyl-1-benzimidazolinyl)piperidine)

Clonitazene (2-*para*-chlorbenzyl-1-diethylaminoethyl-5-nitrobenzimidazole)

Codoxime (dihydrocodeinone-6-carboxymethyloxime)

Concentrate of poppy straw—that is, the material arising when parts of any plant of the species *Papaver somniferum* have entered a process for the concentration of the alkaloids

Dextromoramide ((+)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)

Diampromide (*N*-[2-(methylphenethylamino) propyl] propionanilide)

Diethylthiambutene (3-diethylamino-1,1-di-(2′-thienyl)-1-butene)

Difenoxin (1-(3-cyano-3, 3 diphenylpropyl)-4-phenylisonipecotic acid)

Dihydromorphine

Dimenoxadol (2-dimethylaminoethyl 1-ethoxy-1, 1-diphenylacetate)

Dimepheptanol (6-dimethylamino-4,4-diphenyl-3-heptanol)

Dimethylthiambutene (3-dimethylamino-1,1-di-(2′-thienyl)-1-butene)

Dioxaphetyl butyrate (ethyl 4-morpholino-2, 2-diphenylbutyrate)

Diphenoxylate (1-(3-cyano-3,3-diphenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Dipipanone (4,4-diphenyl-6-piperidine-3-heptanone)

Drotebanol (3,4-dimethoxy-17-methylmorphinan-6β, 14-diol)

Ecgonine, its esters and derivatives which are convertible to ecgonine and cocaine, except when contained in a Class C controlled drug

Ethylmethylthiambutene (3-ethylmethylamino-1,1-di-(2′-thienyl)-1-butene)

Etonitazene (1-diethylaminoethyl-2-*para*-ethoxybenzyl-5-nitrobenzimidazole)

Etoxeridine (1-[2-(2-hydroxyethoxy)ethyl]-4-phenylpiperidine-4-carboxylic acid ethyl ester)

***p*-fluorofentanyl** (4′-fluoro-*N*-1-(phenethyl-4-piperidyl) propionanilide)

Furethidine (1-(2-tetrahydrofurfuryloxyethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Hydrocodone (dihydrocodeinone)

Hydromorphinol (14-hydroxydihydromorphine)

Hydromorphone (dihydromorphinone)

β-hydroxyfentanyl (*N*-[1-(β-hydroxyphenethyl)-4-piperidyl] propionanilide)

β-hydroxy-3-methylfentanyl (*N*-[1-(β-hydroxyphenethyl)-3-methyl-4-piperidyl]propionanilide)

Hydroxypethidine (4-*meta*-hydroxyphenyl-1-methylpiperidine-4-carboxylic acid ethyl ester)

Isomethadone (6-dimethylamino-5-methyl-4,4-diphenyl-3-hexanone)

Levomethorphan ((−)-3-methoxy-*N*-methylmorphinan) but not including dextromethorphan ((+)-3-methoxy-N-methylmorphinan) and dextrorphan ((+)-3-hydroxy-N-methylmorphinan)

Levomoramide ((−)-4-[2-methyl-4-oxo-3,3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)

Levophenacylmorphan ((−)-3-hydroxy-*N*-phenacylmorphinan)

Levorphanol ((−)-3-hydroxy-*N*-methylmorphinan)

Mecloqualone (3-(2-chlorophenyl)-2-methyl-4-(3H)-quinazolinone)

Metazocine (2′-hydroxy-2,5,9-trimethyl-6,7-benzomorphan)

Methadone (6-dimethylamino-4,4-diphenyl-3-heptanone)

Methadone-intermediate (4-cyano-2-dimethylamino-4,4-diphenylbutane)

1-methyl-4-phenyl-4-piperidinol

Methyldesorphine (6-methyl-Δ^6-deoxymorphine)

Methyldihydromorphine (6-methyldihydromorphine)

α-methylfentanyl (*N*-[1-(α-methylphenethyl)-4-piperidyl]propionanilide)

3-methylfentanyl (*N*-[3-methyl-1-phenethyl-4-piperidyl] propionanilide)

α-methylthiofentanyl (*N*-[1-[1-methyl-2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)

3-methylthiofentanyl (*N*-[3-methyl-1-[2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)

Metopon (5-methyldihydromorphinone)

Moramide-intermediate (2-methyl-3-morpholino-1,1-diphenylpropane carboxylic acid)

Morpheridine (1-(2-morpholinoethyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Morphine methobromide and other pentavalent nitrogen morphine derivatives

Morphine-n-oxide

MPPP (1-methyl-4-phenyl-4-piperidinol propionate (ester))

Myrophine (myristylbenzylmorphine)

Nabilone (*trans*-3-(1-1-dimethylheptyl)-6,6a,7,8,10,10a-hexahydro-1-hydroxy-6, 6-dimethyl-9H-dibenzo[b,d] pyran-9-one)

Nicomorphine (3,6-dinicotinylmorphine)

Noracymethadol (α-3-acetoxy-6-methylamino-4,4-diphenylheptane)

Norlevorphanol ((−)-3-hydroxymorphinan)

Normethadone (6-dimethylamino-4,4-diphenyl-3-hexanone)

Normorphine (demethylmorphine)

Norpipanone (4,4-diphenyl-6-piperidino-3-hexanone)

Oxycodone (14-hydroxydihydrocodeinone)

Oxymorphone (14-hydroxydihydromorphinone)

PEPAP (1-phenethyl-4-phenyl-4-piperidinol acetate (ester))

Pethidine (1-methyl-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Pethidine-intermediate-A (4-cyano-1-methyl-4-phenylpiperidine)

Pethidine-intermediate-B (4-phenylpiperidine-4-carboxylic acid ethyl ester)

Pethidine-intermediate-C (1-methyl-4-phenylpiperidine-4-carboxylic acid)

Phenadoxone (6-morpholino-4,4diphenyl-3-heptanone)

Phenampromide (*N*-(1-methyl-2-piperidinoethyl) propionanilide)

Phenazocine (2′-hydroxy-5,9-dimethyl-2-phenethyl-6,7-benzomorphan)

Phendimetrazine (3,4-dimethyl-2-phenylmorpholine)

1-phenethyl-4-phenyl-4-piperidinol

Phenmetrazine (3-methyl-2-phenylmorpholine)

Phenomorphan (3-hydroxy-*N*-phenethylmorphinan)

Phenoperidine (1-(3-hydroxy-3-phenylpropyl)-4-phenylpiperidine-4-carboxylic acid ethyl ester)

Piminodine (4-phenyl-1-(3-phenylaminopropyl)piperidine-4-carboxylic acid ethyl ester)

Piritramide (1-(3-cyano-3,3-diphenylpropyl)-4-(1-piperidino) piperidine-4-carboxylic acid amide)

Proheptazine (1,3-dimethyl-4-phenyl-4-propionoxyazacycloheptane)

Properidine (1-methyl-4-phenylpiperidine-4-carboxylic acid isopropyl ester)

Racemethorphan ((±)-3-methoxy-*N*-methylmorphinan)

Racemoramide ((±) -4- [2-methyl-4-oxo-3, 3-diphenyl-4-(1-pyrrolidinyl) butyl] morpholine)

Racemorphan ((±)-3-hydroxy-*N*-methylmorphinan)

Remifentanil (1-(2-methoxycarbornyl-ethyl)-4-(phenylpropionyl-amino)-piperidine-4-carboxylic acid methyl ester)

Sufentanil (N-[4-(methoxymethyl)-1-[2-(2-thienyl)ethyl]-4-piperidyl] propionanilide)

Tapentadol (3-[(1R,2R)-3-(dimethylamino)-1-ethyl-2-methylpropyl]phenol hydrochloride)

Thebacon (acetyldihydrocodeinone)

Thebaine

Thiofentanyl (*N*-[1-[2-(2-thienyl)ethyl]-4-piperidyl]propionanilide)

Tilidine ((±)-ethyl *trans*-2-(dimethylamino)-1-phenyl-3-cyclohexene-1-carboxylate)

Trimeperidine (1,2,5-trimethyl-4-phenyl-4-propionoxypiperidine).

Schedule 2 Part 3 clause 1 **Acetyl-α-methylfentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Alfentanil**: inserted, on 6 November 1986, by section 4 of the Misuse of Drugs Amendment Act 1986 (1986 No 102).

Schedule 2 Part 3 clause 1 **Fentanyl** (1-phenethyl-4-(*N*-propionylanilino)piperidine): repealed, on 1 July 2023, by clause 5(3) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 2 Part 3 clause 1 ***p*-fluorofentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **β-hydroxyfentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **β-hydroxy-3-methylfentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Mecloqualone**: inserted, on 21 May 1981, by clause 3(2) of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 2 Part 3 clause 1 **1-methyl-4-phenyl-4-piperidinol**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **α-methylfentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **3-methylfentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **α-methylthiofentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **3-methylthiofentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **MPPP**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Nabilone**: inserted, on 13 January 1988, by section 9(3) of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Schedule 2 Part 3 clause 1 **PEPAP**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **1-phenethyl-4-phenyl-4-piperidinol**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Remifentanil**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Sufentanil**: inserted, on 21 May 1981, by clause 3(2) of the Misuse of Drugs Order 1981 (SR 1981/114).

Schedule 2 Part 3 clause 1 **Tapentadol**: inserted, on 1 May 2012, by clause 3 of the Misuse of Drugs (Classification of Tapentadol) Order 2011 (SR 2011/247).

Schedule 2 Part 3 clause 1 **Thiofentanyl**: inserted, on 2 September 1996, by section 7(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 2 Part 3 clause 1 **Tilidine**: inserted, on 21 May 1981, by clause 3(2) of the Misuse of Drugs Order 1981 (SR 1981/114).

2 The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.

3 The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4.

Schedule 3
Class C controlled drugs

s 2(1)

Part 1

1 **Cannabis fruit**

Cannabis plant (whether fresh, dried, or otherwise)—that is, any part of any plant of the genus *Cannabis* except a part from which all the resin has been extracted

Cannabis seed

Catha edulis plant

Coca leaf—that is, the leaf of any plant of any species of the genus *Erythroxylon*, except a leaf from which all ecgonine, cocaine, and any other ecgonine alkaloids have been removed.

Schedule 3 Part 1 clause 1 **Cannabis plant**: amended, on 13 January 1983, by section 8 of the Misuse of Drugs Amendment Act 1982 (1982 No 151).

Schedule 3 Part 1 clause 1 **Catha edulis plant**: inserted, on 21 May 1981, by clause 4 of the Misuse of Drugs Order 1981 (SR 1981/114).

2 The following substances:

BZP (1-benzylpiperazine or A2 benzylpiperazine or N-benzylpiperazine (1-benzyl-1,4-diazacyclohexane))

TFMPP (1-(3-trifluoromethylphenyl)piperazine or N-(3-trifluoromethylphenyl)piperazine)

pFPP (1-(4-fluorophenyl)piperazine)

MeOPP (1-(4-methoxyphenyl)piperazine)

mCPP (1-(meta-chlorophenyl)piperazine) or 1-(3-chlorophenyl)piperazine)

MBZP (1-methyl-4-benzylpiperazine)

Flubromazolam.

Schedule 3 Part 1 clause 2: inserted, on 1 April 2008, by section 4 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 3 Part 1 clause 2 **Flubromazolam**: inserted, on 15 December 2022, by clause 6(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

3 The isomers of the substances mentioned in clause 2 whenever the existence of such isomers is possible within the specific chemical designation.

Schedule 3 Part 1 clause 3: inserted, on 1 April 2008, by section 4 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

4 The esters and ethers of the substances mentioned in clause 2 and the esters and the ethers of the isomers mentioned in clause 3 whenever the existence of such esters or ethers is possible.

Schedule 3 Part 1 clause 4: inserted, on 1 April 2008, by section 4 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

5 The salts of the substances mentioned in clause 2 and the salts of the isomers, esters, and ethers mentioned in clause 3 or 4.

Schedule 3 Part 1 clause 5: inserted, on 1 April 2008, by section 4 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

6 Substances containing any proportion of a substance mentioned in clause 2, 3, 4, or 5.

Schedule 3 Part 1 clause 6: inserted, on 1 April 2008, by section 4 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Part 2

Codeine (3-methylmorphine); its isomers, esters, and ethers, if any; its salts, and the salts of its isomers, esters, or ethers, if any; and any substance, preparation or mixture containing any proportion of the said substance or of any such isomer, ester, ether, or salt, other than a preparation or mixture named or described in Part 6

Dihydrocodeine; its isomers, esters, and ethers, if any; its salts, and the salts of its isomers, esters, or ethers, if any; and any substance, preparation, or mixture containing any proportion of the said substance or of any such isomer, ester, ether, or salt, other than a preparation or mixture named or described in Part 6

Propoxyphene (α-4 (N, N-dimethylamino)-1, 2-diphenyl-3-methyl-2-propionoxybutane); its isomers, esters, and ethers, if any; its salts and the salts of its isomers, esters, or ethers, if any; except in preparations of propoxyphene described in clause 5A of Part 5

Tramadol.

Schedule 3 Part 2 **Dihydrocodeine**: inserted, on 2 September 1996, by section 8(1) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 3 Part 2 **Dihydrocodeine** amended, on 15 November 2000, by section 10 of the Misuse of Drugs Amendment Act 2000 (2000 No 47).

Schedule 3 Part 2 **Propoxyphene**: replaced, on 20 December 1984, by clause 2(1) of the Misuse of Drugs Order (No 2) 1984 (SR 1984/315).

Schedule 3 Part 2 **Tramadol**: inserted, on 1 October 2023, by clause 6(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Part 3

1 The following substances, namely:

Acetyldihydrocodeine

Ethylmorphine (3-ethylmorphine)

Nicocodine (6-nicotinylcodeine)

Nicodicodine (6-nicotinyldihydrocodeine or nicotinic acid ester of dihydrocodeine)

Norcodeine (*N*-demethylcodeine)

Pholcodine (morpholinylethylmorphine)

Propiram (*N*-(1-methyl-2-piperidinoethyl)-*N*-2-pyridylpropionamide)

Pseudoephedrine.

Schedule 3 Part 3 clause 1 **Dihydrocodeine**: repealed, on 2 September 1996, by section 8(2) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 3 Part 3 clause 1 **Pseudoephedrine**: inserted, on 12 April 2024, by section 5(1) of the Misuse of Drugs (Pseudoephedrine) Amendment Act 2024 (2024 No 13).

2 The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation, except ephedrine.

Schedule 3 Part 3 clause 2: amended, on 12 April 2024, by section 5(2) of the Misuse of Drugs (Pseudoephedrine) Amendment Act 2024 (2024 No 13).

3 The esters and ethers of the substances mentioned in this Part and the esters and the ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4, other than a preparation or mixture named or described in Part 6.

6

[Repealed]

Schedule 3 Part 3 clause 6: repealed, on 8 September 2011, by section 9(1) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Part 4

1 The following substances, namely:

Allobarbital (5,5-diallylbarbituric acid)

Amobarbital (5-ethyl-5-(3-methylbutyl) barbituric acid)

Buprenorphine (17-cyclopropylmethyl-7,8-dihydro-7-(1-hydroxy-1,2, 2-trimethylpropyl) -6-0-methyl-6, 14-ethano-17-normorphine)

Butalbital (5-allyl-5-isobutylbarbituric acid)

Butobarbitone (5-butyl-5-ethylbarbituric acid)

Cyclobarbital (5-(1-cyclohexen-1-yl)-5-ethylbarbituric acid)

Glutethimide (2-ethyl-2-phenylglutarimide)

Ketamine (2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone)

Nealbarbitone (5-allyl-5-neopentylbarbituric acid)

Pentobarbital (5-ethyl-5-(1-methylbutyl) barbituric acid)

Secbutabarbital (5-*sec*-butyl-5-ethylbarbituric acid)

Secobarbital (5-allyl-5-(1-methylbutyl) barbituric acid)

Vinylbital (5-(1-methylbutyl)-5-vinylbarbituric acid).

Schedule 3 Part 4 clause 1 **Allobarbital**: inserted, on 2 September 1996, by section 8(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 3 Part 4 clause 1 **Buprenorphine**: replaced, on 26 April 1984, by clause 2 of the Misuse of Drugs Order 1984 (SR 1984/101).

Schedule 3 Part 4 clause 1 **Butalbital**: inserted, on 2 September 1996, by section 8(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 3 Part 4 clause 1 **Ketamine**: inserted, on 1 December 2010, by clause 3 of the Misuse of Drugs (Classification of Ketamine) Order 2009 (SR 2009/255).

Schedule 3 Part 4 clause 1 **Secbutabarbital**: inserted, on 2 September 1996, by section 8(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 3 Part 4 clause 1 **Vinylbital**: inserted, on 2 September 1996, by section 8(3) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

2 The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.

3 The esters and ethers of the substances mentioned in this Part and the esters and the ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, or clause 4, except a mixture of a derivative of barbituric acid named or described in clause 1 compounded with 1 or more other pharmacologically active ingredients not named or described in clause 1.

Schedule 3 Part 4 clause 5: amended, on 25 May 1978, by clause 2(1) of the Misuse of Drugs Order 1978 (SR 1978/143).

Part 5

1 The following substances, namely:

Alprazolam

Amfepramone (2-(diethylamino) propiophenone)

Aminorex

Barbital (5,5-diethylbarbituric acid)

Bromazepam

Brotizolam

Camazepam

Chlordiazepoxide

Clobazam

Clonazepam

Clorazepate

Clotiazepam

Cloxazolam

Delorazepam

Diazepam

Estazolam

Ethchlorvynol (ethyl-2-chlorovinylethynyl-carbinol)

Ethinamate (1-ethynylcyclohexanol carbamate)

Ethyl loflazepate

Fludiazepam

Flunitrazepam

Flurazepam

Halazepam

Haloxazolam

Ketazolam

Loprazolam

Lorazepam

Lormetazepam

Mazindol (5-(4-chlorophenyl)-2, 5-dihydro-3H-imidazo [2, 1-a]-isoindol-5-ol)

Medazepam

Meprobamate (2-methyl-2-propyl-1,3-propanediol dicarbamate)

Methylphenobarbital (5-ethyl-1-methyl-5-phenylbarbituric acid)

Methylprylon (3,3-diethyl-5-methylpiperidine-2,4-dione)

Midazolam

Nimetazepam

Nitrazepam

Nordazepam

Oxazepam

Oxazolam

Pemoline

Phenobarbital (5-ethyl-5-phenylbarbituric acid)

Phentermine (2-amino-2-methyl-1-phenylpropane)

Pinazepam

Pipradrol (1,1-diphenyl-1-(2-piperidyl)methanol)

Prazepam

SPA ((−)-1-dimethylamino-1,2-diphenylethane)

Temazepam

Tetrazepam

Triazolam

Zolpidem

Zopiclone.

Schedule 3 Part 5 clause 1 **Alprazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Aminorex**: inserted, on 30 May 2003, by clause 6 of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 3 Part 5 clause 1 **Bromazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Brotizolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Camazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Chlordiazepoxide**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Clobazam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Clonazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Clorazepate**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Clotiazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Cloxazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Delorazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Diazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Ephedrine**: repealed, on 8 September 2011, by section 9(2) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 3 Part 5 clause 1 **Estazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Ethyl loflazepate**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Fludiazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Flunitrazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Flurazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Halazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Haloxazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Ketazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Loprazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Lorazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Lormetazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Mazindol**: replaced, on 20 December 1984, by clause 2(2) of the Misuse of Drugs Order (No 2) 1984 (SR 1984/315).

Schedule 3 Part 5 clause 1 **Medazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Midazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Nimetazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Nitrazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Nordazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Oxazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Oxazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Pemoline**: inserted, on 30 May 2003, by clause 6 of the Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47).

Schedule 3 Part 5 clause 1 **Phentermine**: inserted, on 16 December 1982, by clause 2(2) of the Misuse of Drugs Order 1982 (SR 1982/259).

Schedule 3 Part 5 clause 1 **Pinazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Prazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Pseudoephedrine**: repealed, on 8 September 2011, by section 9(2) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 3 Part 5 clause 1 **Temazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Tetrazepam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Triazolam**: inserted, on 1 January 1999, by clause 2 of the Misuse of Drugs Order 1998 (SR 1998/351).

Schedule 3 Part 5 clause 1 **Zolpidem**: inserted, on 1 July 2023, by clause 6(3) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 3 Part 5 clause 1 **Zopiclone**: inserted, on 1 July 2023, by clause 6(3) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

2 The isomers of the substances mentioned in this Part whenever the existence of such isomers is possible within the specific chemical designation.

3 The esters and ethers of the substances mentioned in this Part and the esters and ethers of the isomers mentioned in clause 2 whenever the existence of such esters or ethers is possible.

4 The salts of the substances mentioned in this Part and the salts of the isomers, esters, and ethers mentioned in clause 2 or clause 3.

5 Mixtures of a derivative of barbituric acid named or described in Part 4 compounded with 1 or more other pharmacologically active ingredients not named or described in Part 4.

Schedule 3 Part 5 clause 5: replaced, on 25 May 1978, by clause 2(2) of the Misuse of Drugs Order 1978 (SR 1978/143).

5A Preparations of propoxyphene, its isomers, esters, and ethers, if any, its salts, and the salts of its isomers, esters, or ethers, if any, for oral use containing not more than the equivalent of 135 milligrams of propoxyphene base per dosage unit or with a concentration of not more than 2.5% in undivided preparations, being preparations whereof none of the other ingredients is a substance named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule.

Schedule 3 Part 5 clause 5A: replaced, on 20 December 1984, by clause 2(3) of the Misuse of Drugs Order (No 2) 1984 (SR 1984/315).

6 Substances containing any proportion of a substance mentioned in clause 1, clause 2, clause 3, clause 4, clause 5 or clause 5A, other than a preparation or mixture named or described in Part 6.

Schedule 3 Part 5 clause 6: inserted, on 25 May 1978, by clause 2(2) of the Misuse of Drugs Order 1978 (SR 1978/143).

Schedule 3 Part 5 clause 6: amended, on 16 December 1982, by clause 2(4) of the Misuse of Drugs Order 1982 (SR 1982/259).

Part 6

The following preparations and mixtures, namely:

(a) preparations containing any proportion of the following substances or of any salt of any such substance, namely, acetyldihydrocodeine, codeine, dihydrocodeine, ethylmorphine, and pholcodine when:

(i) compounded with 1 or more other pharmacologically active ingredients in such a way that the substance cannot be recovered by readily applicable means or in a yield which would constitute a risk to health; and

(ii) containing not more than 100 milligrams of the substance in each dosage unit and with a concentration of not more than 2.5% in undivided preparations:

(aa) preparations containing a derivative of barbituric acid named or described in Part 4 or Part 5, in solutions containing not more than 0.5% of that derivative of barbituric acid:

(b) preparations of cocaine containing not more than 0.1% of cocaine base, being preparations compounded with 1 or more other pharmacologically active ingredients (none of which are substances named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule) in such a way that the preparation has no, or a negligible, risk of abuse, and in such a way that the cocaine cannot be recovered by readily applicable means or in a yield which would constitute a risk to health:

(c) preparations of difenoxin containing, per dosage unit, not more than 0.5 mg of difenoxin and a quantity of atropine sulphate equivalent to at least 5% of the dose of difenoxin:

(d) preparations of opium or morphine containing not more than 0.2% of morphine, being preparations compounded with 1 or more other pharmacologically active ingredients (none of which are substances named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule) in such a way that the opium or the morphine, as the case may be, cannot be recovered by readily applicable means or in a yield which would constitute a risk to health:

(e) single dosage units of diphenoxylate containing in each unit not more than 2.5 milligrams of diphenoxylate calculated as base and not less than 25 micrograms of atropine sulphate:

(f) liquid preparations of diphenoxylate containing, in each millilitre, not more than 0.5 milligrams of diphenoxylate calculated as base and not less than 5 micrograms of atropine sulphate:

(ff) preparations of propiram containing not more than 100 mg of propiram per dosage unit and compounded with at least the same amount of methylcellulose:

(g) ipecacuanha and opium powder containing 10% of opium in powder and 10% of ipecacuanha root in powder intimately mixed with finely powdered lactose:

(h) mixtures containing not more than 1 of the preparations specified in paragraphs (a) to (g), being mixtures whereof none of the other ingredients is a substance named or described in Schedules 1 or 2 or in Parts 1 to 5 of this schedule.

Schedule 3 Part 6 paragraph (aa): inserted, on 25 May 1978, by clause 2(3) of the Misuse of Drugs Order 1978 (SR 1978/143).

Schedule 3 Part 6 paragraph (ff): inserted, on 25 May 1978, by clause 2(4) of the Misuse of Drugs Order 1978 (SR 1978/143).

Part 7

Schedule 3 Part 7: inserted, on 13 January 1988, by section 10 of the Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193).

Amphetamine analogues, in which the 1-amino-2-phenylethane nucleus carries any of the following radicals, either alone or in combination:

(a) 1 or 2 alkyl radicals, each with up to 6 carbon atoms, attached to the nitrogen atom:

(b) 1 or 2 methyl radicals, or an ethyl radical, attached to the carbon atom adjacent to the nitrogen atom:

(c) a hydroxy radical, attached to the carbon atom adjacent to the benzene ring:

(d) any combination of up to 5 alkyl radicals and/or alkoxy radicals and/or alkylamino radicals and/or alkylthio radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals and/or nitro radicals and/or amino radicals, attached to the benzene ring.

Pethidine analogues, in which a 4-phenylpiperidine nucleus carries any of the following radicals, either alone or in combination:

(a) an alkyl radical, with up to 6 carbon atoms, attached to the nitrogen atom:

(b) a phenalkyl radical, with up to 12 carbon atoms, attached to the nitrogen atom:

(c) a phenalkyl radical, as in paragraph (b), with 1 or more alkyl radicals, each with up to 6 carbon atoms, attached to the benzene ring in the phenalkyl radical:

(d) an alkylcarbonyloxy or alkoxycarbonyl or hydroxy radical, with up to 6 carbon atoms, attached to the 4 position in the piperidine ring:

(e) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to the benzene ring.

Phencyclidine analogues, being chemical compounds with the 1-alkylamino-1-arylcyclohexane structure, with any combination of the following alkylamino and aryl radicals:

(a) the alkylamino radical is 1-piperidinyl, 1-pyrrolidinyl, 4-morpholinyl, or any other radical with up to 6 carbon atoms in the alkyl portion:

(b) the aryl radical is phenyl, thienyl, pyridinyl, or pyrrolidinyl:

(c) the aryl radical, as described in paragraph (b), carries any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals.

Fentanyl analogues, in which the N-[1-(2-phenethyl)-4-piperidyl]aniline nucleus has additional radicals, either alone or in combination, attached as follows:

(a) an acetyl, propionyl, butenoyl or butanoyl radical, attached to the aniline nitrogen atom:

(b) 1 or more alkyl radicals, with up to 10 carbon atoms in total, attached to the ethyl moeity:

(c) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to each of the benzene rings.

Methaqualone analogues, in which the 3-arylquinazolin-4-one nucleus has additional radicals, either alone or in combination, attached as follows:

(a) an alkyl radical, with up to 6 carbon atoms, attached at the 2 position:

(b) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to each of the aryl rings.

DMT (dimethyltryptamine) analogues, in which the 3-(2-aminoethyl)indole nucleus has additional radicals, either alone or in combination, attached as follows:

(a) 1 or 2 alkyl radicals, each with up to 6 carbon atoms, including cyclic radicals, attached to the amino nitrogen atom:

(b) 1 or 2 methyl groups, or an ethyl group, attached to the carbon atom adjacent to the amino nitrogen atom:

(c) any combination of up to 5 alkyl radicals and/or alkoxy radicals (each with up to 6 carbon atoms, including cyclic radicals) and/or halogen radicals, attached to the benzene ring.

Schedule 3 Part 7 **Amphetamine analogues** paragraph (d): amended, on 9 August 2011, by section 9(3) of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 3 Part 7 **Fentanyl analogues** paragraph (c): amended, on 2 September 1996, by section 8(4) of the Misuse of Drugs Amendment Act 1996 (1996 No 133).

Schedule 4
Precursor substances

s 2(1)

Schedule 4: inserted, on 12 May 1998, by section 12 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Part 1

1 The following substances:

Acetic anhydride

N-acetylanthranilic acid

Ergometrine

Ergotamine

Isosafrole

Lysergic acid

3, 4,-methylenedioxyphenyl-2-propanone

Norfentanyl and its salts

1-phenethyl-4-piperidone (NPP) and its salts

1-phenethylpiperidin-4-ylidenephenylamine and its salts

N-phenyl-1-(2-phenylethyl)piperidin-4-amine

N-phenyl-4-piperidinamine and its salts

1-phenyl-2 propanone

4-piperidone and its salts

Piperonal

Potassium permanganate

Propionyl chloride

Safrole.

Schedule 4 Part 1 clause 1 **Acetic anhydride**: inserted, on 22 June 2005, by section 21(a) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Schedule 4 Part 1 clause 1 **Ephedrine**: repealed, on 8 September 2011, by section 10 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 4 Part 1 clause 1 **Norfentanyl**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **1-phenethyl-4-piperidone**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **1-phenethylpiperidin-4-ylidenephenylamine**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **N-phenyl-1-(2-phenylethyl)piperidin-4-amine**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **N-phenyl-4-piperidinamine**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **4-piperidone**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **Potassium permanganate**: inserted, on 22 June 2005, by section 21(a) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Schedule 4 Part 1 clause 1 **Propionyl chloride**: inserted, on 15 December 2022, by clause 7(1) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 1 clause 1 **Pseudoephedrine**: repealed, on 8 September 2011, by section 10 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

2 The salts of the substances listed in clause 1 whenever the existence of such salts is possible.

Part 2

1 The following substances:

Acetone

Anthranilic acid

Ethyl ether

Hydriodic acid

Hydrochloric acid

Hypophosphorous acid

Iodine

Methyl ethyl ketone

Phenylacetic acid

Phosphorous acid

Piperidine

Red phosphorus

Sulphuric acid

Toluene.

Schedule 4 Part 2 clause 1 **Acetic anhydride**: repealed, on 22 June 2005, by section 21(b) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Schedule 4 Part 2 clause 1 **Hydriodic acid**: inserted, on 15 December 2022, by clause 7(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 2 clause 1 **Hypophosphorous acid**: inserted, on 15 December 2022, by clause 7(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 2 clause 1 **Iodine**: inserted, on 15 December 2022, by clause 7(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 2 clause 1 **Phosphorous acid**: inserted, on 15 December 2022, by clause 7(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 4 Part 2 clause 1 **Potassium permanganate**: repealed, on 22 June 2005, by section 21(b) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Schedule 4 Part 2 clause 1 **Red phosphorus**: inserted, on 15 December 2022, by clause 7(2) of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

2 The salts of the substances listed in clause 1 (other than the salts of hydrochloric acid and of sulphuric acid) whenever the existence of such salts is possible.

Part 3

Schedule 4 Part 3: inserted, on 22 June 2005, by section 20 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

1 The following substances:

Ephedrine

Pseudoephedrine.

2 The salts of the substances listed in clause 1 whenever the existence of such salts is possible.

Schedule 5
Amount, level, or quantity at and over which controlled drugs are presumed to be for supply

ss 2(1A), 6(1)(f)

Schedule 5: inserted, on 22 June 2005, by section 22 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

1 The controlled drugs listed in the first column are presumed to be for supply at and over the amount, level, or quantity listed in the second column.

25B-NBOMe (2-(4-bromo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
25C-NBOMe (2-(4-chloro-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
25I-NBOMe (2-(4-iodo-2,5-dimethoxyphenyl)-N-(2-methoxybenzyl)ethanamine)	25 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Amphetamine	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Morphine	5 grams, whether or not contained in a substance, preparation, or mixture
Cocaine	half a gram, whether or not contained in a substance, preparation, or mixture
Heroin	half a gram, whether or not contained in a substance, preparation, or mixture
Ketamine (2-(2-chlorophenyl)-2-(methylamino)-cyclohexanone)	10 grams, whether or not contained in a substance, preparation, or mixture
Lysergide	two and a half milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
DOB (2-amino-1-(4-bromo-2,5-dimethoxyphenyl)propane) (also known as bromo-DMA)	100 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
N-ETHYL MDA (2-ethylamino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDA (2-amino-1-(3,4-methylenedioxyphenyl)propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Tetrahydrocannabinol (as described in Schedule 2)	250 milligrams, whether or not contained in a substance, preparation, or mixture

Any cannabis preparation (as described in Schedule 2)	5 grams or 100 cigarettes containing the drug
Cannabis plant (as described in Schedule 3)	28 grams or 100 cigarettes containing the drug
BZP (1-benzylpiperazine or A2 benzylpiperazine or N-benzylpiperazine (1-benzyl-1,4-diazacyclohexane))	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
TFMPP (1-(3-trifluoromethylphenyl)piperazine or N-(3-trifluoromethylphenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
pFPP (1-(4-fluorophenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MeOPP (1-(4-methoxyphenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
mCPP (1-(meta-chlorophenyl)piperazine) or 1-(3-chlorophenyl)piperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MBZP (1-methyl-4-benzylpiperazine)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Methamphetamine	5 grams, whether or not contained in a substance, preparation, or mixture
Ephedrine	10 grams, whether or not contained in a substance, preparation, or mixture
Pseudoephedrine	10 grams, whether or not contained in a substance, preparation, or mixture
Ethylone and N-ethyl pentylone	5 grams or 100 doses, whether or not contained in a substance, preparation, or mixture, or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
Fentanyl analogues specified in Schedule 1	0.5 grams, whether or not contained in a substance, preparation, or mixture, or 25 flakes, tablets, capsules, or other drug forms, each containing some quantity of the drug
Para-methoxymethylamphetamine (PMMA)	5 grams, whether or not contained in a substance, preparation, or mixture
Synthetic cannabinoids specified in Part 1 of Schedule 2	250 milligrams, whether or not contained in a substance, preparation, or mixture, except when contained in plant material, and 28 grams for plant material containing any of the specified synthetic cannabinoids

Synthetic opioids specified in Schedule 1	0.5 grams whether or not contained in a substance, preparation, or mixture

Schedule 5 clause 1 Ethylone and N-ethyl pentylone: inserted, on 15 December 2022, by clause 8 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 5 clause 1 Fentanyl analogues specified in Schedule 1: inserted, on 15 December 2022, by clause 8 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 5 clause 1 Para-methoxymethylamphetamine (PMMA): inserted, on 15 December 2022, by clause 8 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 5 clause 1 Synthetic cannabinoids specified in Part 1 of Schedule 2: inserted, on 15 December 2022, by clause 8 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 5 clause 1 Synthetic opioids specified in Schedule 1: inserted, on 15 December 2022, by clause 8 of the Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35).

Schedule 5 clause 1 25B-NBOMe: inserted, on 22 December 2016, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 5 clause 1 25C-NBOMe: inserted, on 22 December 2016, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 5 clause 1 25I-NBOMe: inserted, on 22 December 2016, by clause 4 of the Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89).

Schedule 5 clause 1 Ephedrine: inserted, on 8 September 2011, by section 11 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 5 clause 1 Pseudoephedrine: inserted, on 8 September 2011, by section 11 of the Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54).

Schedule 5 clause 1 Ketamine: inserted, on 1 December 2010, by clause 3 of the Misuse of Drugs (Presumption of Supply—Ketamine) Order 2009 (SR 2009/256).

Schedule 5 clause 1 BZP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 TFMPP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 pFPP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 MeOPP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 mCPP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 MBZP: inserted, on 1 April 2008, by section 5 of the Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5).

Schedule 5 clause 1 Amphetamine: inserted, on 9 September 2005, by clause 4 of the Misuse of Drugs (Presumption of Supply—Amphetamine) Order 2005 (SR 2005/174).

2 Any controlled drug not specified in clause 1 is presumed to be for supply at and over the level of 56 grams.

Schedule 6
Licensing of drug and substance checking service providers

s 35DA

Schedule 6: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Contents

Issuing of licences

Heading: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

1 Application for licence

(1) An individual or entity may apply to the Director-General of Health for a licence to be a drug and substance checking service provider.

(2) An application must—

(a) be in a form or manner approved by the Director-General of Health or prescribed by regulations made under this Act; and

(b) include or be accompanied by particulars, information, documents, or other material required by the Director-General or prescribed by regulations made under this Act.

Schedule 6 clause 1: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

2 Director-General of Health may refuse to process application for licence

(1) The Director-General of Health may refuse to process an application for a licence if the application does not comply with clause 1.

(2) If the Director-General of Health refuses to process an application, the Director-General must give the applicant written notice of the refusal and the reasons for it.

Schedule 6 clause 2: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

3 Director-General of Health may request further information, etc

(1) The Director-General of Health may request an applicant for a licence to supply further particulars, information, documents, or other material before deciding whether to issue the licence.

(2) An application for a licence lapses if the further particulars, information, documents, or other material requested is not supplied within—

(a) 30 days after the date of the request; or

(b) any further time that the Director-General of Health may allow by written notice to the applicant.

Schedule 6 clause 3: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

4 Decision on licence application

(1) The Director-General of Health may issue a licence if satisfied that—

(a) the applicant is suitable; and

(b) the applicant's proposed service model (including the proposed methods for testing drugs and substances) will enable the applicant to carry out their functions as a service provider to an appropriate standard; and

(c) the applicant will ensure that those functions are carried out to an appropriate standard; and

(d) the applicant will ensure that all of their workers who perform those functions are appropriately trained; and

(e) the applicant will ensure that all controlled drugs or psychoactive substances in the applicant's possession are stored securely; and

(f) the information and harm reduction advice that the applicant proposes to provide to help individuals make informed decisions about drug and substance use is accurate and appropriate (having regard to the principles set out in clause 6); and

(g) the applicant has given proper consideration to their obligations under the Privacy Act 2020 (including how they will comply with the information privacy principles set out in section 22 of that Act).

(2) The Director-General of Health must not issue a licence without the Minister's approval if any relevant person, or an entity of which any relevant person was a responsible person at the time of the conviction or revocation,—

(a) has been convicted of an offence against this Act or its regulations; or

(b) has had a licence under this Act revoked for failing to comply with a licence condition or a requirement of this Act or its regulations.

(3) The Minister must not give their approval unless the Minister is satisfied that the applicant is suitable.

(4) The Director-General of Health must decline an application if the Director-General is not satisfied of any of the matters listed in subclause (1).

(5) If the Director-General of Health decides to decline an application, the Director-General must give the applicant written notice of the decision and the reasons for it.

(6) In this clause,—

relevant person means,—

(a) if the applicant is an individual, that individual:

(b) if the applicant is an entity, that entity and every responsible person

suitable, in relation to an applicant, has the meaning given by clause 5.

Schedule 6 clause 4: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

5 Deciding whether applicant is suitable

(1) For the purposes of clauses 4 and 9, an applicant is **suitable** if the Director-General of Health or the Minister (as the case may be) is satisfied that—

(a) the applicant will comply with this Act, its regulations, and the applicant's licence conditions; and

(b) there is no other reason why the applicant would not be suitable.

(2) The Director-General of Health or the Minister must have regard to the following when deciding whether subclause (1)(a) is met:

(a) whether the applicant (and, if the applicant is an entity, any responsible person) has been convicted of—

(i) an offence against this Act, the Psychoactive Substances Act 2013, or the Medicines Act 1981 (or any regulations made under any of those Acts); or

(ii) a crime involving dishonesty (as defined in section 2(1) of the Crimes Act 1961); and

(b) whether there has been a serious or repeated failure by the applicant (and, if the applicant is an entity, any responsible person) to comply with any requirement of this Act or its regulations; and

(c) if the applicant or any responsible person has been convicted of an offence of a kind referred to in paragraph (a) or has been responsible for non-compliance of the kind referred to in paragraph (b),—

(i) the nature, seriousness, and circumstances of the offending or non-compliance; and

(ii) the relevance of the offending or non-compliance to the functions of service providers; and

(iii) the time that has elapsed since the offending or non-compliance; and

(d) whether there are other grounds for considering that the applicant may fail to comply with any requirement of this Act, its regulations, or the applicant's licence conditions.

(3) The Director-General of Health or the Minister must have regard to the following when deciding whether subclause (1)(a) and (b) is met:

(a) any evidence provided by the applicant about their suitability; and

(b) any other matter that the Director-General or the Minister considers relevant.

Schedule 6 clause 5: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

6 Deciding whether information and harm reduction advice is accurate and appropriate

For the purposes of clauses 4 and 9, the Director-General of Health must have regard to the following principles when deciding whether information or harm reduction advice that has been given, or is proposed to be given, is accurate and appropriate:

(a) the information or advice should be based on the best information available at the time to the service provider:

(b) the information or advice should not consist solely of advice not to consume a drug or substance:

(c) the information or advice should not be of a kind that a reasonable person in the position of the individual receiving it would regard as stigmatising or expressing a moral judgement about them or their actions:

(d) the information or advice should be tailored as far as is reasonably practicable to the individual who is receiving it and their circumstances.

Schedule 6 clause 6: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

7 Director-General of Health may impose, amend, and revoke conditions

(1) The Director-General of Health may, by written notice to a service provider,—

(a) impose conditions on the service provider's licence when issuing it:

(b) amend or revoke conditions, or impose new conditions, on the service provider's licence after it has been issued.

(2) The Director-General of Health may impose, amend, or revoke a condition only if the Director-General considers it is necessary or desirable after having regard to the functions of service providers and the criteria for issuing a licence under clause 4.

(3) The Director-General of Health may amend or revoke a condition, or impose a new condition, under subclause (1)(b) only if—

(a) the Director-General has also—

(i) given the service provider at least 21 days' written notice of the proposed amendment, revocation, or new condition and the reasons for it; and

(ii) had regard to the submissions (if any) made by the service provider about the proposed amendment, revocation, or new condition; or

(b) the service provider has requested or agreed to the amendment, revocation, or new condition.

(4) The Director-General of Health must give a service provider written reasons for imposing a condition under subclause (1)(a) if the service provider asks the Director-General to do so.

(5) A condition imposed under this clause—

(a) is in addition to the conditions imposed by sections 35DDA to 35DDK; and

(b) may specify—

(i) how the service provider must comply with any of those conditions; or

(ii) other requirements that relate to any of those conditions.

Schedule 6 clause 7: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Duration of licences

Heading: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

8 Duration of licence

(1) A service provider's licence remains in force until the close of the third anniversary of the date on which it was issued, unless—

(a) the Director-General of Health specifies a shorter period for the licence; or

(b) the licence is cancelled under clause 9; or

(c) the service provider surrenders the licence under clause 10.

(2) The Director-General of Health must give the service provider written reasons for specifying a shorter licence period under subclause (1)(a).

Schedule 6 clause 8: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Suspension, cancellation, or surrender of licences

Heading: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

9 Director-General of Health may suspend or cancel licence

(1) The Director-General of Health may suspend or cancel a service provider's licence if, at any time after the licence has been issued, the Director-General is satisfied of 1 or more of the following:

(a) that the information provided in or with the service provider's licence application was materially false or misleading:

(b) that the service provider has breached 1 or more conditions of their licence:

(c) that the service provider is no longer suitable (as defined in clause 5, which applies as if the service provider were an applicant).

(2) The Director-General of Health must have regard to the principles set out in clause 6 when deciding whether a service provider has breached the condition set out in section 35DDF (service provider must provide accurate and appropriate harm reduction advice with test results).

(3) The Director-General of Health may suspend a service provider's licence, for a period of time that is reasonable in the circumstances, to enable the Director-General to consider whether to cancel the licence.

(4) The Director-General of Health may cancel a service provider's licence only after—

(a) giving the service provider a reasonable opportunity to be heard; and

(b) considering any evidence provided by the service provider; and

(c) considering submissions made by the service provider.

(5) If the Director-General of Health decides to suspend or cancel a service provider's licence, the Director-General must give the service provider written notice of the decision and the reasons for it.

Schedule 6 clause 9: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

10 Surrender of licence by service provider

(1) A service provider must surrender their licence by giving written notice to the Director-General of Health if the service provider no longer performs any of the functions of a service provider.

(2) The service provider must give the notice within 30 days after ceasing to perform the functions of a service provider.

(3) A service provider may surrender their licence by giving written notice to the Director-General of Health at any other time.

Schedule 6 clause 10: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Review of decisions

Heading: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

11 Application for review of decision

(1) An individual or entity may apply for a review of the Director-General of Health's decision to—

(a) decline to issue a licence to the individual or entity under clause 4; or

(b) impose, amend, or revoke a condition on the licence of the individual or entity under clause 7; or

(c) suspend or cancel the licence of the individual or entity under clause 9.

(2) The individual or entity must apply to the Director-General of Health before the close of the 14th day after the day on which they receive written notice of the decision.

Schedule 6 clause 11: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

12 Decision on application for review

(1) After receiving the application for review under clause 11, the Director-General of Health must appoint a person to conduct the review (the **reviewer**).

(2) The reviewer may be an employee of the Ministry of Health but must not have had any previous involvement in the case.

(3) If, after conducting the review, the reviewer—

(a) considers the decision well founded, the reviewer must recommend that the decision be confirmed:

(b) does not consider the decision well founded, the reviewer must recommend that the decision be reconsidered.

(4) After considering the reviewer's recommendation, the Director-General of Health must—

(a) confirm the decision or make a new decision; and

(b) give the applicant written notice of the confirmed or new decision and the reasons for it.

(5) The notice has effect as soon as it is given to the applicant.

(6) The Director-General of Health must make a decision under this clause before the close of the 60th day after the day on which the Director-General receives the application for review.

(7) However, the Director-General of Health may extend that period for as long as is reasonably necessary if the applicant fails to provide, within a reasonable time, information reasonably required by the reviewer to carry out the review or by the Director-General to make the decision.

Schedule 6 clause 12: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

13 What service provider may do while decision to suspend or cancel licence is under review

(1) This clause applies to the period that—

(a) starts when a service provider whose licence has been suspended or cancelled under clause 9 applies for a review of the decision to suspend or cancel the licence in accordance with clause 11; and

(b) ends when the Director-General of Health gives written notice of the Director-General's confirmed or new decision under clause 12(4)(b).

(2) Despite the suspension or cancellation of the service provider's licence, the service provider may perform—

(a) the functions of a service provider that are specified in section 35DB(1)(e) to (g) (which relate to disposing of, or arranging for the testing of, drugs or substances); and

(b) any other function of a service provider with the Director-General of Health's approval.

(3) The Director-General of Health may, by written notice to the service provider, impose additional conditions on the service provider's licence that the Director-

General considers necessary or desirable after having regard to the reasons for the original decision to suspend or cancel the licence.

(4) The Director-General of Health must give a service provider written reasons for imposing an additional condition if the service provider asks the Director-General to do so.

(5) An additional condition ceases to have effect when the Director-General of Health gives written notice of the confirmed or new decision.

Schedule 6 clause 13: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Other matters

Heading: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

14 Licence is not transferable

A licence issued to a service provider is not transferable to another individual or entity.

Schedule 6 clause 14: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

15 Director-General of Health must ensure that list of service providers is published

The Director-General of Health must ensure that an up-to-date list of service providers is published on an Internet site that is maintained by or on behalf of the Ministry of Health.

Schedule 6 clause 15: inserted, on 7 December 2021, by section 13 of the Drug and Substance Checking Legislation Act 2021 (2021 No 50).

Misuse of Drugs Amendment Act 1978

Public Act	1978 No 65
Date of assent	16 October 1978
Commencement	16 October 1978

1 Short Title

This Act may be cited as the Misuse of Drugs Amendment Act 1978, and shall be read together with and deemed part of the Misuse of Drugs Act 1975 (hereinafter referred to as "the principal Act").

Part 2
Special provisions relating to detection, enforcement, and sentencing

10 Interpretation

(1) In this Part, unless the context otherwise requires,—

dealing in cannabis on a substantial scale means—

(a) dealing (in any of the ways referred to in section 6(1) of the principal Act) with a substantial amount of a controlled drug in respect of which a prescribed cannabis offence may be committed:

(b) cultivation of a prohibited plant (being a prohibited plant in respect of which a prescribed cannabis offence may be committed) on a substantial scale

drug dealing offence means,—

(a) in sections 30, 34, 38 to 41, 43, and 47, any offence against section 12C(1)(a) of the principal Act:

(b) any offence against section 6 of the principal Act—

in relation to a Class A controlled drug or a Class B controlled drug

emergency permit means a permit granted under section 19 to intercept a private communication by means of an interception device

facility means an electronic address, phone number, or similar facility that enables private communications to—

(a) take place between individuals; or

(b) be sent to or from an identified individual

intercept, in relation to a private communication, includes hear, listen to, record, monitor, acquire, or receive the communication either—

(a) while it is taking place; or

(b) while it is in transit

interception device—

(a) means any electronic, mechanical, or electromagnetic instrument, apparatus, equipment, or other device that is used or is capable of being used to intercept a private communication; but

(b) does not include a hearing aid or similar device used to correct subnormal hearing of the user to no better than normal hearing

interception warrant means a warrant granted under section 15 or section 15B to intercept a private communication by means of an interception device

organised criminal enterprise means a continuing association of 3 or more persons having as its object or as one of its objects the acquisition of substantial income or assets by means of a continuing course of criminal conduct

prescribed cannabis offence means an offence against—

(a) section 6 of the principal Act in relation to a Class C controlled drug specified or described in Part 1 of Schedule 3 of the principal Act (other than catha edulis plant or coca leaf); or

(b) section 9 of the principal Act in relation to a prohibited plant of the genus *Cannabis*

private communication—

(a) means a communication (whether in oral or written form or otherwise) made under circumstances that may reasonably be taken to indicate that any party to the communication desires it to be confined to the parties to the communication; but

(b) does not include such a communication occurring in circumstances in which any party ought reasonably to expect that the communication may be intercepted by some other person not having the express or implied consent of any party to do so

tracking device means a device capable of transmitting a signal to a receiver for the purpose of indicating the location of the device.

(2) A reference in this Part to a **party to a private communication** is a reference to—

(a) any originator of the communication and any person intended by the originator to receive it; and

(b) a person who, with the express or implied consent of any originator of the communication or any person intended by the originator to receive it, intercepts the communication.

(3) For the purposes of section 12,—

craft, **goods**, **package**, and **vehicle** have the same meanings as in section 5(1) of the Customs and Excise Act 2018.

Section 10(1) **dealing in cannabis on a substantial scale**: inserted, on 1 February 1998, by section 3(2) of the Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96).

Section 10(1) **drug dealing offence**: replaced, on 12 May 1998, by section 13 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Section 10(1) **drug dealing offence** paragraph (a): amended, on 26 March 2015, by section 4 of the Misuse of Drugs Amendment Act 1978 Amendment Act 2015 (2015 No 25).

Section 10(1) **emergency permit**: amended, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **facility**: inserted, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **intercept**: replaced, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **interception device**: inserted, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **interception warrant**: amended, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **interception warrant**: amended, on 1 February 1998, by section 3(1) of the Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96).

Section 10(1) **listening device**: repealed, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(1) **organised criminal enterprise**: inserted, on 1 February 1998, by section 3(2) of the Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96).

Section 10(1) **prescribed cannabis offence**: inserted, on 1 February 1998, by section 3(2) of the Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96).

Section 10(1) **private communication**: replaced, on 1 October 2003, by section 35 of the Crimes Amendment Act 2003 (2003 No 39).

Section 10(3): replaced, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 10(3): amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 10(3): amended, on 31 October 2003, by section 3(2) of the Misuse of Drugs Amendment Act (No 2) 2003 (2003 No 107).

Section 10(3) **postal article**: repealed, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Section 10(3) **proper officer of Customs**: repealed, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

11 Application of Part

This Part shall apply notwithstanding anything in the Postal Services Act 1998 or the Customs and Excise Act 2018.

Section 11: amended, on 1 October 2018, by section 443(3) of the Customs and Excise Act 2018 (2018 No 4).

Section 11: amended, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Special powers of Police and Customs officers

12 Allowing delivery of unlawfully imported drugs or precursor substances for purpose of detection, etc

(1) Where any Customs officer acting in the course of his or her official duties believes on reasonable grounds that there is in or on any craft, package, mail, vehicle, or goods any controlled drug or precursor substance that has been imported into New Zealand in contravention of section 6(1)(a) or section 12AB of the principal Act, he or she may, for the purpose of his or her investigation of the matter, leave or replace that drug or precursor substance, or any portion of it, in or on the craft, package, mail, vehicle, or goods and may, in the same manner as if there had been delivery from Customs control,—

(a) allow the craft or vehicle to leave; or

(b) allow the package, goods, or mail to be collected by or delivered to or on behalf of the consignee; or

(ba) allow the package, goods, or mail to be delivered by a person who has agreed to co-operate with Customs; or

(bb) deliver the package, goods, or mail; or

(c) return the package, goods, or mail to the appropriate carrier for delivery to the addressee—

as the case may require.

(2) No Customs officer who exercises any power conferred by subsection (1), and no officer or employee of any carrier who, in the course of his or her duties, does anything in respect of any package, goods, or mail returned to a carrier in accordance with that subsection (whether or not he or she knows that the package, goods, or mail contains a controlled drug or precursor substance), is under any criminal or civil liability in respect of the exercise of that power or, as the case requires, the doing of that thing.

Section 12: replaced, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 12 heading: amended, on 22 June 2005, by section 24(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12(1): amended, on 22 June 2005, by section 24(2)(a) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12(1): amended, on 22 June 2005, by section 24(2)(b) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12(1): amended, on 22 June 2005, by section 24(2)(c) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12(1): amended, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Section 12(1)(b): amended, on 1 October 2012, by section 334(2) of the Search and Surveillance Act 2012 (2012 No 24).

Section 12(1)(ba): inserted, on 1 October 2012, by section 334(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 12(1)(bb): inserted, on 1 October 2012, by section 334(3) of the Search and Surveillance Act 2012 (2012 No 24).

Section 12(1)(c): replaced, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Section 12(1)(c): amended, on 1 October 2012, by section 334(4) of the Search and Surveillance Act 2012 (2012 No 24).

Section 12(2): replaced, on 1 April 1998, by section 62(1) of the Postal Services Act 1998 (1998 No 2).

Section 12(2): amended, on 1 October 2012, by section 334(5) of the Search and Surveillance Act 2012 (2012 No 24).

Section 12(2): amended, on 22 June 2005, by section 24(3) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

12D International controlled delivery and liability for offences

(1) In this section, an **international controlled delivery** means allowing a controlled drug or precursor substance (or substance substituted in the place of a controlled drug or precursor substance) to pass through or into the territory of 1 or more countries—

(a) with the agreement of the relevant law enforcement agencies of the countries which it is to pass through or into; and

(b) with a view to identifying persons involved in the commission of an offence—

(i) under section 6(1)(a) or section 12AB of the principal Act; or

(ii) that would, if done or committed in New Zealand, be an offence under either of those sections.

(2) Nothing in subsection (3) affects the liability of any person charged with an offence under section 6(1)(a) or section 12AB or section 12AC of the principal Act.

(3) Any constable, Customs officer, or officer of a relevant law enforcement agency with which there is an agreement under subsection (1)(a) who is involved in an international controlled delivery—

(a) does not commit an offence under section 6(1)(a), 12AB, or 12AC of the principal Act by reason of taking part in that international controlled delivery; and

(b) unless he or she is acting in bad faith, is not subject to any criminal or civil liability as a result of taking part in that international controlled delivery.

Section 12D: inserted, on 22 June 2005, by section 25 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 12D(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Internal concealment

Heading: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13A Power to detain on belief of internal concealment

(1) If any constable or officer of Customs has reasonable cause to believe that any person has any Class A controlled drug or Class B controlled drug secreted within that person's body for any unlawful purpose, the constable or officer of Customs may cause that person to be detained under this section.

(2) For the purposes of subsection (1), a person has any Class A controlled drug or Class B controlled drug secreted within that person's body if—

(a) the drug is within any of that person's body cavities; or

(b) that person has swallowed the drug in such a manner that it may pass through the body, or be regurgitated, intact, but the drug is still within the body at the material time.

(3) In subsection (1), **unlawful purpose** means the commission of an offence against the principal Act, and the concealment of the commission of any such offence.

Section 13A: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13A(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13B Duties of officer in ordering detention

On causing any person to be detained under section 13A, a constable or an officer of Customs shall as soon as possible, unless the detention sooner ceases in accordance with paragraph (a) or paragraph (b) or paragraph (c) of section 13H,—

(a) inform the detained person of the reason for the detention, in words sufficient to give the detained person notice of the true reason for the detention; and

(b) hand to the detained person a statement of rights in the form set out in Schedule 2; and

(c) arrange for the attendance of a medical practitioner (who shall be nominated or approved for the purpose by the Commissioner of Police or the Chief Executive of the New Zealand Customs Service, either generally or in any particular case or class of case), and, in the presence of that medical practitioner, ask the detained person if he or she wishes to undergo an examination of 1 or more of the kinds specified in section 13C(1); and

(d) apply to a District Court Judge, in accordance with section 13E, for a warrant authorising the continued detention of the detained person under section 13A.

Section 13B: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13B: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13B(c): amended, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

13C Internal examination of detained person

(1) The kinds of examination that a person who is detained under section 13A may undergo are as follows:

(a) a physical examination (whether or not facilitated by an instrument or device) to be conducted by a medical practitioner nominated or approved for the purpose by the Commissioner of Police or the Chief Executive of the New Zealand Customs Service, either generally or in any particular case or class of case:

(b) an X-ray examination with or without a contrast agent:

(c) an ultrasound scan.

(2) Except in a case where the detained person immediately makes it clear that he or she does not wish to undergo any examination, the medical practitioner called under section 13B(c) shall explain to the detained person what is involved in each kind of examination.

(3) If the detained person wishes to undergo an examination of a kind described in subsection (1), the detained person shall sign a written statement to the effect that he or she consents to the examination, and the medical practitioner shall endorse on the written consent a certificate to the effect that the medical practitioner has advised the detained person of what is involved in the examination and is satisfied that the detained person, when giving consent, understood what is involved in that examination.

(4) Notwithstanding that any such detained person states that he or she does not wish to undergo any examination of a kind described in subsection (1), the detained person may subsequently, at any time while the detention is continuing, advise any constable or officer of Customs that he or she now wishes to undergo such an examination, in which case the provisions of subsections (2) and (3) shall apply with any necessary modifications.

(5) As soon as practicable after any such detained person has consented to undergo any such examination, a constable or an officer of Customs shall make all necessary arrangements for that examination to take place.

(6) Notwithstanding any of the foregoing provisions of this section, no such detained person shall be entitled to insist on undergoing an examination of

a particular kind if the necessary equipment is not reasonably available for the purpose.

(7) Nothing in the foregoing provisions of this section shall preclude the detained person from requesting or consenting to the administration to him or her of a laxative or any other similar substance; and, where the detained person makes any such request or gives any such consent, a constable or an officer of Customs shall record the particulars of the case, and those particulars shall be supplied to the Judge whenever an application for the grant or renewal of a detention warrant is made.

Section 13C: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13C(1)(a): amended, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 13C(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13C(5): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13C(7): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13D Certificate by person conducting examination

(1) The medical practitioner or other person who conducts an examination of any person detained under section 13A shall, on concluding the examination, certify the results of the examination in whichever of the following forms is appropriate:

(a) that, in his or her professional judgment, the detained person has nothing secreted within that person's body, or within that part of the body to which the examination related, that could be or contain a Class A controlled drug or a Class B controlled drug:

(b) that, in his or her professional judgment, the detained person has something secreted within that person's body that could be or contain a Class A controlled drug or a Class B controlled drug:

(c) that the results of the examination are inconclusive.

(2) A copy of every certificate given under subsection (1) shall be given to—

(a) the detained person; and

(b) the barrister or solicitor appointed under section 13F; and

(c) the medical practitioner appointed under that section.

Section 13D: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13E Detention warrant

(1) Subject to subsection (2), every application for a warrant authorising the continued detention of any person under section 13A shall be made by a constable

or an officer of Customs in writing and on oath, and shall set out, or be accompanied by, the following particulars:

(a) the facts relied upon to show that there is reasonable cause to believe that the detained person has any Class A controlled drug or Class B controlled drug secreted within that person's body for any unlawful purpose:

(b) the time at which, the date on which, and the place at which the detention commenced under section 13A:

(c) the address, and a description of the nature, of the premises in which the detained person is being detained, and, if it is proposed that the detained person be moved to any other premises for the purposes of the detention, the address, and a description of the nature, of those other premises:

(d) the time or times at which, and the date or dates on which, the detained person was asked if he or she wished to undergo any examination of a kind described in section 13C(1), and the detained person's response to any such question, including the reasons given by the detained person for any negative response:

(e) if any such examination has been conducted, the results of that examination as set out in the certificate given under section 13D(1).

(2) In any case where, because of the urgency of the matter or for any other sufficient cause, it seems proper to do so, a District Court Judge may permit an application under this section to be made on oath orally, but in that event the Judge shall make a note in writing of the particulars referred to in paragraphs (a) to (e) of subsection (1).

(3) In considering an application made under this section, the Judge may take into account any oral or documentary material that the Judge considers relevant, whether or not it would be admissible in a court of law.

(4) If, on an application made under this section, a Judge is satisfied—

(a) that there has been reasonable compliance with the requirements of section 13B; and

(b) that there is reasonable cause to believe that the detained person has secreted within that person's body any Class A controlled drug or Class B controlled drug for any unlawful purpose; and

(c) that the premises in which the detained person is being detained, or any other premises in which it is proposed to detain that person, are suitable for the purpose,—

the Judge may grant a detention warrant in the prescribed form authorising the continued detention of the person to whom it relates under section 13A.

(5) A detention warrant issued under subsection (4) shall authorise the continued detention of the person named in it in the premises specified in it until—

(a) the expiry of the period of 7 days commencing with the date on which the detention under section 13A commenced, or such shorter period as the Judge may specify in the warrant; or

(b) the detention is sooner brought to an end in any of the circumstances described in section 13H.

(6) On granting a detention warrant under this section, a Judge—

(a) shall record in writing his or her reasons for granting the warrant; and

(b) may impose all such conditions relating to the circumstances and conduct of the detention as the Judge thinks fit.

Section 13E: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13E(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13EA Searches associated with detention warrant

(1) If the circumstances in subsection (2) exist, a constable or a Customs officer may undertake any of the following in relation to a person (**person A**):

(a) a rub-down search (as defined in section 13EB):

(b) a strip search (as defined in section 13EC):

(c) both a rub-down search and a strip search.

(2) The circumstances are that—

(a) a detention warrant has been issued under section 13E in relation to person A; and

(b) the constable or the Customs officer has reasonable cause to suspect that person A has hidden on or about his or her person any Class A controlled drug or Class B controlled drug.

(3) In deciding what type of search to undertake under subsection (1), a constable or a Customs officer must have regard to all of the relevant circumstances, including, without limitation, the matters referred to in section 13ED(2).

(4) If, as a result of a search under subsection (1), a constable or a Customs officer finds any Class A controlled drug or Class B controlled drug, he or she may take possession of it.

(5) Reasonable force may be used, if necessary, to undertake a search under subsection (1).

(6) If a person who is undergoing a search under subsection (1) makes a request for an internal examination under section 13C(4), the constable or the Customs officer conducting the search may continue with and complete the search before arranging for the internal examination to take place.

Section 13EA: inserted, on 22 June 2005, by section 26 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13EA(1): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13EA(2)(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13EA(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13EA(4): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13EA(6): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13EB Definition of rub-down search

(1) For the purposes of this section, section 13EA and sections 13ED to 13M, a **rub-down search** means a search of a clothed person in which the person conducting the search may do all or any of the following:

(a) run or pat his or her hand over the body of the person being searched, whether outside or inside the clothing (other than any underclothing) of that person:

(b) insert his or her hand inside any pocket or pouch in the clothing (other than any underclothing) of the person being searched:

(c) for the purpose of permitting a visual inspection, require the person being searched to do all or any of the following:

(i) open his or her mouth:

(ii) display the palms of his or her hands:

(iii) display the soles of his or her feet:

(iv) lift or rub his or her hair.

(2) For the purpose of facilitating any of the actions referred to in any of paragraphs (a) to (c) of subsection (1), the person conducting a rub-down search may require the person being searched—

(a) to remove, raise, lower, or open any outer clothing (including (without limitation) any coat, jacket, jumper, or cardigan) being worn by the person being searched, except where that person has no other clothing, or only underclothing, under that outer clothing; and

(b) to remove any head covering, gloves, or footwear (including socks or stockings) being worn by that person.

(3) Authority to conduct a rub-down search includes the authority to conduct a visual examination (whether or not facilitated by any instrument or device designed to illuminate or magnify) of the mouth, nose, and ears, but does not authorise the insertion of any instrument, device, or thing into any such orifice.

(4) Authority to conduct a rub-down search of a person includes the authority to search—

(a) any item carried by, or in the possession of, the person; and

(b) any outer clothing removed, raised, lowered, or opened for the purposes of the search; and

(c) any head covering, gloves, or footwear (including socks or stockings) removed for the purposes of the search.

Section 13EB: inserted, on 22 June 2005, by section 26 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

13EC Definition of strip search

(1) For the purposes of this section, section 13EA, and sections 13ED to 13M, a **strip search** means a search where the person conducting the search may require the person being searched to remove, raise, lower, or open all or any of that latter person's clothing.

(2) For the purpose of facilitating a strip search, the person conducting the search may require the person being searched to do all or any of the following:

(a) open his or her mouth:

(b) display the palms of his or her hands:

(c) lift or rub his or her hair:

(d) display the soles of his or her feet:

(e) raise his or her arms to expose his or her armpits:

(f) with his or her legs spread apart, bend his or her knees.

(3) Authority to conduct a strip search includes the authority to conduct a visual examination (whether or not facilitated by any instrument or device designed to illuminate or magnify) of the mouth, nose, and ears, but does not authorise the insertion of any instrument, device, or thing into any such orifice.

(4) Authority to conduct a strip search of a person includes the authority to search—

(a) any item of clothing removed, raised, lowered, or opened for the purposes of the search; and

(b) any item carried by, or in the possession of, the person.

Section 13EC: inserted, on 22 June 2005, by section 26 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

13ED Restrictions on searches associated with detention warrant

(1) A rub-down search or strip search, or both, may be carried out only by a person of the same sex as the person to be searched, and no strip search may be carried out in view of any person who is not of the same sex as the person to be searched.

(2) A person who carries out a rub-down search or strip search, or both, must conduct the search with decency and sensitivity and in a manner that affords to the person being searched the greatest degree of privacy and dignity consistent with the purpose of the search.

(3) No constable or Customs officer may conduct a strip search unless another constable or officer is also present.

(4) A strip search of a person must not be carried out in view of any other person who is detained or being searched.

Section 13ED: inserted, on 22 June 2005, by section 26 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13ED(3): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13EE Reporting search associated with detention warrant

A constable or a Customs officer who undertakes a search under section 13EA must, within 3 working days of the search, give a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable cause to suspect required by section 13EA(2)(b) to,—

(a) in the case of a constable, the Commissioner of Police; and

(b) in the case of a Customs officer, the Chief Executive of the New Zealand Customs Service.

Section 13EE: inserted, on 22 June 2005, by section 26 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13EE: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13EE(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13F On grant of warrant, Judge to appoint barrister or solicitor and medical practitioner

(1) On granting a detention warrant under section 13E, a District Court Judge shall appoint, or arrange for the appointment of, a barrister or solicitor and a medical practitioner to report to the court on the matters referred to in subsections (2) and (3).

(2) The function of the barrister or solicitor appointed under this section shall be to satisfy himself or herself—

(a) that the detention is being conducted in accordance with the provisions of this Act, the terms of the detention warrant, and any directions given by the Judge; and

(b) that the detained person is aware of his or her rights in relation to the detention, and that the exercise of any of those rights by that person is not being interfered with unreasonably,—

and to report to the Judge if the barrister or solicitor is not so satisfied in any particular respect.

(3) The function of the medical practitioner appointed under this section shall be to satisfy himself or herself—

(a) that the detained person is being accommodated, fed, and generally cared for in a reasonable and proper manner; and

(b) that the detained person is being offered all such medical care (if any) as may seem to the medical practitioner to be necessary or desirable in the interests of that person,—

and to report to the Judge if the medical practitioner is not so satisfied in any particular respect.

(4) Notwithstanding anything in subsection (2) or subsection (3), where—

(a) the detained person consults a barrister or solicitor of that person's choosing and that barrister or solicitor agrees to act for that person, the barrister or solicitor appointed under subsection (1) shall not be responsible for any matter falling within the normal responsibilities of a barrister or solicitor acting for a client; or

(b) the detained person consults a medical practitioner of that person's choosing and that medical practitioner agrees to attend that person as a patient, the medical practitioner appointed under subsection (1) shall not be responsible for any matter falling within the normal responsibilities of a medical practitioner attending a patient.

(5) On appointing a barrister or solicitor or a medical practitioner under this section, or at any time thereafter while the detention continues, a District Court Judge may give to the barrister or solicitor or medical practitioner all such directions relating to the functions of the barrister or solicitor or medical practitioner as the Judge thinks fit.

Section 13F: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13G Rights of access to person in detention

(1) The following persons shall at all times have the right of access to any person who is being detained under section 13A:

(a) the barrister or solicitor appointed under section 13F:

(b) the medical practitioner appointed under that section.

(2) The following persons shall at all reasonable times have the right of access to any person who is being detained under section 13A:

(a) any barrister or solicitor who is acting for the detained person:

(b) any medical practitioner who is attending the detained person as a patient:

(c) any other person whom the detained person reasonably wishes to see.

(3) Nothing in subsection (2), or any other enactment or rule of law, shall entitle any person to have access to the detained person—

(a) in the absence of any constable or officer of Customs who is for the time being guarding the detained person; or

(b) otherwise than subject to such reasonable conditions as may be necessary to ensure the safety of the detained person or to avoid the frustration of the purpose of the detention.

Section 13G: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13G(3)(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13H Expiry of detention

The detention of any person under section 13A shall cease in each of the following circumstances:

(a) where the detained person is arrested:

(b) where a certificate is given under section 13D, following an examination, to the effect that, in the professional judgment of the person conducting the examination, the detained person has nothing secreted within that person's body that could be or contain a Class A controlled drug or a Class B controlled drug:

(c) where the constable or officer of Customs who is in charge of the case forms the view that there is no longer reasonable cause to believe that the detained person has any Class A controlled drug or Class B controlled drug secreted within that person's body for any unlawful purpose:

(d) where an application to a District Court Judge for a detention warrant, or for the renewal of a detention warrant, in respect of the detained person is declined:

(e) where the warrant is cancelled on appeal under section 13L.

Section 13H: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13H(c): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

13I Renewal of warrants

(1) Any District Court Judge may from time to time grant a renewal of a detention warrant upon application made at any time before the warrant (or any current renewal of the warrant) has expired.

(2) Every application for renewal of a detention warrant shall be made by a constable or an officer of Customs in writing and on oath, and shall set out, or be accompanied by, the following particulars:

(a) the facts relied upon to show that there is still reasonable cause to believe that the detained person has any Class A controlled drug or Class B controlled drug secreted within that person's body for any unlawful purpose:

(b) the date or dates on which the detained person was asked to consent to undergo any examination of a kind described in section 13C, and the detained person's response to that request, including any reasons given by the detained person for any negative response:

(c) if any such examination has been conducted, the results of that examination as set out in the certificate given under section 13D(1):

(ca) the date or dates of any rub-down search or strip search undertaken under section 13EA, the circumstances in which it was conducted, and the results of the search:

(d) any matters that the barrister or solicitor appointed under section 13F wishes to draw to the attention of the Judge who is to consider the application for renewal:

(e) any matters that the medical practitioner appointed under that section wishes to draw to the attention of that Judge:

(f) any matters that any barrister or solicitor who is acting for the detained person, or any medical practitioner who is attending the detained person as a patient, wishes to draw to the attention of that Judge.

(3) Every such application shall be supported by such other information as the Judge may require.

(4) Notice of every such application shall be given to the barrister or solicitor appointed under section 13F and to any barrister or solicitor who is acting for the detained person.

(5) Notwithstanding any of the preceding provisions of this section or any enactment or rule of law to the contrary, neither the detained person nor any person referred to in any of paragraphs (d) to (f) of subsection (2) shall be entitled to see or hear any evidence that was adduced in support of the original application for the grant of the detention warrant, or any evidence adduced in support of the application for the renewal of the warrant and relating to any matter other than one to which paragraph (b) or paragraph (c) or paragraph (ca) of that subsection applies; and for the purposes of this subsection, every such person shall be excluded from the hearing while any such evidence is being given.

(6) In considering an application made under this section, the Judge may take into account any oral or documentary material that the Judge considers relevant, whether or not it would be admissible in a court of law.

(7) Without limiting subsection (3), before determining an application for the renewal of a detention warrant under this section, a District Court Judge may—

(a) call for a report from the barrister or solicitor referred to in paragraph (d) of subsection (2), or from the medical practitioner referred to in paragraph (e) of that subsection, on any matter relating to the detention or to the application for the renewal of the detention warrant; and

(b) hear any person referred to in any of paragraphs (d) to (f) of that subsection in respect of the application.

(8) A renewal of a detention warrant may be granted under this section if the Judge is satisfied that the circumstances described in section 13A still obtain.

(9) Every renewal of a detention warrant shall be valid for a period of 7 days commencing with the date on which it is granted, or such shorter period as the Judge may specify in the renewal.

(10) Where an application for the renewal of a detention warrant is duly made before the expiration of the warrant (or of any current renewal of the warrant), the warrant shall continue in force until the application is determined notwithstanding the expiration of the period for which the warrant was issued or last renewed.

(11) Nothing in this section shall prevent a Judge from granting a second or subsequent renewal of a detention warrant upon an application duly made under this section:

provided that no detention under section 13A shall continue for longer than 21 days.

(12) On granting a renewal of a detention warrant under this section, a Judge—

(a) shall record in writing his or her reasons for granting the renewal; and

(b) may impose all such conditions relating to the circumstances and conduct of the detention as the Judge thinks fit.

Section 13I: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

Section 13I(2): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13I(2)(ca): inserted, on 22 June 2005, by section 27(1) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13I(5): amended, on 22 June 2005, by section 27(2) of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

13J Powers of officers of Customs

The powers conferred by sections 13A to 13I may be exercised by any officer of Customs only in respect of offences against the principal Act involving the importation into or the exportation from New Zealand of any Class A controlled drug or Class B controlled drug.

Section 13J: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13K Inadmissibility of certain confessions or admissions by detained person

(1) Where any person who is being detained under section 13A makes any confession or admission in respect of any offence other than a relevant offence, no evidence of that confession or admission, or of its substance, meaning, or purport, shall be given in any court.

(2) For the purposes of this section, a **relevant offence** is one with which the detained person may be liable to be charged by virtue of having any controlled drug secreted within that person's body at any time during the detention.

Section 13K: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13L Appeal against grant or renewal of detention warrant, etc

(1) Where a District Court Judge grants a detention warrant under section 13E, or grants a renewal of a detention warrant under section 13I, or imposes any condition under either of those sections relating to the circumstances or conduct of the detention, the detained person may appeal to the High Court against that decision.

(2) Where a notice of appeal is filed in the High Court under this section, the Registrar of the court in which the decision under appeal was made shall forward the court file to the High Court.

(3) The fact that an appeal is lodged or is pending under this section shall not affect the detention, which, subject to section 13H, shall continue pending the determination of the appeal.

(4) The detained person shall not have the right to attend or be heard personally in respect of the appeal, but may be represented by counsel.

(5) Notwithstanding any of the provisions of this section or any enactment or rule of law to the contrary, neither the detained person nor his or her counsel shall be entitled to see or hear any evidence that was adduced in support of the original application for the grant of the detention warrant, or any evidence adduced in opposition to the appeal and relating to any matter other than one referred to in paragraph (b) or paragraph (c) of section 13I(2); and for the purposes of this subsection, any counsel representing the detained person shall be excluded from the hearing while any such evidence is being given.

(6) Every appeal under this section shall be by way of rehearing.

(7) On hearing any such appeal, the High Court may take into account any oral or documentary material that the court considers relevant, whether or not it would otherwise be admissible.

(8) Without limiting subsection (7), before determining an appeal under this section, the court may—

(a) call for a report from the barrister or solicitor or the medical practitioner appointed under section 13F on any matter relating to the detention or to the appeal; and

(b) hear any such barrister or solicitor or medical practitioner, or any other medical practitioner who is attending the detained person as a patient.

(9) On hearing any appeal under this section, the High Court may confirm, reverse, or modify the decision under appeal.

(10) Where the High Court reverses the decision to grant a detention warrant or the renewal of a detention warrant, it shall cancel the warrant.

(11) The decision of the High Court on an appeal under this section shall be final.

Section 13L: inserted, on 1 October 1985, by section 2 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

13M Commissioner of Police and Chief Executive of New Zealand Customs Service to report to Parliament

The Commissioner of Police shall include in every annual report prepared by the Commissioner for the purposes of section 101 of the Policing Act 2008, and the Chief Executive of the New Zealand Customs Service shall include in every annual report prepared by the Chief Executive for submission to Parliament, the following information in respect of the period under review:

(a) the number of applications for detention warrants made under section 13E by any constable or (as the case may require) any officer of Customs:

(b) the number of applications for renewals of detention warrants made under section 13I by any constable or (as the case may require) any officer of Customs:

(c) the number of such applications referred to in each of the preceding paragraphs of this section that were granted and the number that were refused:

(d) the average duration of the detention warrants (including renewals) granted on applications by constables or (as the case may require) officers of Customs:

(e) the number of prosecutions that have been instituted in which has been adduced evidence obtained directly during the detention of any persons pursuant to detention warrants granted on applications by constables or (as the case may require) officers of Customs, and the results of those prosecutions:

(f) the number of rub-down searches and strip searches undertaken by constables or Customs officers under section 13EA.

Section 13M: replaced, on 1 October 1996, by section 289(1) of the Customs and Excise Act 1996 (1996 No 27).

Section 13M: amended, on 1 October 2008, by section 130(1) of the Policing Act 2008 (2008 No 72).

Section 13M(a): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13M(b): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13M(d): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13M(e): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Section 13M(f): inserted, on 22 June 2005, by section 28 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Section 13M(f): amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Imposition of fines

38 Fine may reflect illicit gains

In any case where any person is convicted of a drug dealing offence and the court by which he is convicted is satisfied on the balance of probabilities that any money or assets owned by the offender at the date of his trial has or have been acquired by him directly or indirectly from the offence, the court may, having regard to the amount of such money or the value of such assets, impose a fine greater than it would otherwise have imposed on the offender for the offence.

39 Court may impose greater fine having regard to previous dealings

(1) In any case where any person is convicted of a drug dealing offence (in this section referred to as the primary offence) and the court by which he is convicted is, on the application of the Crown,—

(a) satisfied beyond reasonable doubt that, before the commission of the primary offence, the offender had engaged in any conduct (other than conduct that constituted the primary offence) that constitutes a drug dealing offence; and

(b) satisfied on the balance of probabilities that any money or assets owned by the offender at the date of his trial has or have been acquired by him directly or indirectly from such conduct,—

the court may, having regard to the amount of such money or the value of such assets, impose a fine greater than it would otherwise have imposed on the offender for the primary offence.

(2) Where the prosecutor intends to seek leave to adduce evidence of the matters referred to in subsection (1), he shall give written notice of his intention and of the particulars of the evidence to be adduced to the court and to the defendant as soon as practicable after the conviction is entered, and in any event not later than 5 days before the date set for sentencing.

(3) Notwithstanding anything in subsection (2), where the court is satisfied that the information on which such an application for the exercise of the court's powers could be based has come into the prosecutor's hands too late for him to give 5

days' notice as required by that subsection, the court may allow the prosecutor to give such shorter notice as may be necessary in the circumstances, but shall, if requested to do so by the defendant, postpone sentencing to a date not earlier than 5 days after the prosecutor gives such notice.

40 Court's power not to be exercised in certain cases

(1) The power conferred by section 39(1) shall not be exercised by any court—

(a) in respect of any conduct in relation to which the defendant has been charged with a drug dealing offence but acquitted of that charge:

(b) in respect of any money or assets in relation to which the power has been previously exercised by any court.

(2) The powers conferred by sections 38 and 39(1) shall not be exercised by the District Court so as to impose a fine greater than the maximum prescribed by section 6(3) of the principal Act.

Section 40(2): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

41 Inability of offender to explain source of money or assets may be evidence

(1) Where, in any case to which section 38 applies, the offender fails to explain to the court's satisfaction the source of any money or assets owned by him, the court may accept that as evidence that the money or assets was or were derived by the offender from the offence.

(2) Where, on any application for the exercise of the court's power under section 39, the court is satisfied in accordance with subsection (1)(a) of that section that the offender has committed any previous drug dealing offence, and the offender fails to explain to the court's satisfaction the source of any money or assets owned by him, the court may accept that as evidence that the money or assets was or were derived by the offender from that previous drug dealing offence.

42 Court may treat alienated property as offender's

Where, in any case to which section 38 or section 39 applies, it appears to the court that any disposition of money or assets has been made, whether for value or not, by or on behalf of or by direction of or in the interests of the defendant to defeat the exercise of the court's power under those sections, the court may, on the application of the prosecutor or of its own motion, treat the money or assets as belonging to the offender for the purposes of those sections.

Enforcement of fines

43 Enforcement of fines

(1) If the court sentences an offender on conviction for a drug dealing offence to pay a fine to which section 38 or 39 applies, section 19 of the Crimes Act 1961

or Part 3 of the Summary Proceedings Act 1957 applies (whichever is applicable) to the enforcement of the fine, subject to any necessary modifications.

(2) The court or the Registrar may make any orders as are appropriate under any of the provisions specified in subsection (1) in respect of any money or assets that are treated as belonging to the offender under section 42 (which are deemed to be the offender's property for the purposes of this subsection).

(3) In subsection (2), **Registrar**—

(a) means any Registrar of the High Court or the District Court; and

(b) includes any Deputy Registrar.

Section 43: replaced, on 13 February 2012, by section 4 of the Misuse of Drugs Amendment Act 1978 Amendment Act 2011 (2011 No 41).

Section 43(1): amended, on 1 July 2013, by section 413 of the Criminal Procedure Act 2011 (2011 No 81).

Section 43(3)(a): amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

45 Fine imposed in District Court may be enforced in High Court

Where the District Court sentences an offender on conviction of a drug dealing offence to pay a fine and the Registrar of that court is satisfied that payment of that fine may be more effectively enforced in the High Court, he may file a certificate to that effect under his hand in that court, containing full particulars of the conviction and the amount of the fine, and thereafter payment of the fine shall be enforced as if the fine had been imposed in the High Court.

Section 45 heading: amended, on 1 April 1980, pursuant to section 18(2) of the District Courts Amendment Act 1979 (1979 No 125).

Section 45 heading: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Section 45: amended, on 1 March 2017, by section 261 of the District Court Act 2016 (2016 No 49).

Section 45: amended, on 1 April 1980, pursuant to section 12 of the Judicature Amendment Act 1979 (1979 No 124).

Administration of Part

48 Part to be administered by Ministry of Justice

This Part shall be administered by the Ministry of Justice.

Section 48 heading: amended, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Section 48: amended, on 1 October 1995, by section 10(3) of the Department of Justice (Restructuring) Act 1995 (1995 No 39).

Schedule 2
Statement of rights

s 13B(b)

Schedule 2: inserted, on 1 October 1985, by section 4 of the Misuse of Drugs Amendment Act 1985 (1985 No 130).

You have been detained under section 13A of the Misuse of Drugs Amendment Act 1978 because it is believed that you have secreted within your body any Class A controlled drugs or Class B controlled drugs for an unlawful purpose.

Read this notice carefully. It tells you what rights you have while the detention continues.

Medical examinations:

You will be asked if you wish to undergo certain types of medical examination that may help to determine whether or not you have any Class A controlled drugs or Class B controlled drugs secreted within your body.

For this reason, a doctor will be asked to see you to explain just what is involved in each type of examination.

No such examination may take place without your consent

If you do wish to undergo an examination, you will be asked to put your consent to the examination in writing.

If you refuse your consent, you may change your mind later. Just tell one of the officers supervising your detention.

If you decide not to have an examination, that fact, and any reasons you give for it, may be put before the Judge in any further proceedings.

Detention warrant:

As soon as possible after detaining you, the officer must apply to a District Court Judge for a warrant to authorise your continued detention.

If the Judge grants the warrant, you may be detained for up to 7 days, or such shorter period as the Judge may order. However, a warrant may be renewed by a Judge for further periods of up to 7 days each, if the Judge is satisfied that there are still reasonable grounds for believing that you have any Class A controlled drugs or Class B controlled drugs secreted within your body. You may not be detained for longer than 21 days.

Searches:

If a detention warrant is issued there are certain circumstances in which a constable or a Customs officer may undertake a rub-down search or strip search, or both.

Supervising lawyer and doctor:

If the Judge issues a detention warrant, he or she must appoint a lawyer and a doctor to see that your rights are protected and that you are properly cared for while you are being detained. These people are NOT there as part of the team detaining you: they are there as agents of the court to ensure fair play. You should consult them on any legal or medical matter that is worrying you.

However, you are also entitled to arrange for your own lawyer or doctor to visit and advise you.

Right of appeal:

You may appeal to the High Court against the issue or renewal of a detention warrant, or against any condition of detention imposed by the District Court Judge. If you wish to appeal, consult the court lawyer or your own lawyer.

Visiting rights:

While you are detained, the court lawyer and the court doctor may visit you at any time. Your own lawyer, your own doctor, and any other person you may reasonably wish to see may call on you at any reasonable time.

End of detention:

You must be released if the Judge refuses to grant a detention warrant, or refuses to renew it, or the warrant is cancelled by the High Court on appeal.

You must also be released if a medical examination shows that you do not have any Class A controlled drugs or Class B controlled drugs secreted within your body, or if the officers detaining you cease to believe that you have any such drugs secreted within your body.

If you are arrested, your detention under section 13A of the Misuse of Drugs Amendment Act 1978 will cease, and you will then be detained under arrest. From then on, you will have all the rights of an arrested person.

Court access:

You will not be entitled to appear in court while you are in detention. However, the court lawyer and your own lawyer will be entitled to address the court on appeal against a detention warrant or a condition of detention, or where an application is made for a renewal of the warrant.

Further advice:

This is only a brief summary of your rights. If there is anything you do not understand, talk to the court lawyer or your own lawyer.

Schedule 2: amended, on 1 October 2008, pursuant to section 116(a)(ii) of the Policing Act 2008 (2008 No 72).

Schedule 2: amended, on 22 June 2005, by section 29 of the Misuse of Drugs Amendment Act 2005 (2005 No 81).

Misuse of Drugs Amendment Act 1992

Public Act	1992 No 49
Date of assent	15 June 1992
Commencement	see section 1(2)

1 Short Title and commencement

(1) This Act may be cited as the Misuse of Drugs Amendment Act 1992, and shall be read together with and deemed part of the Misuse of Drugs Act 1975 (hereinafter referred to as "the principal Act").

(2) This Act shall come into force on 1 July 1992.

6 Transitional provisions

(1) Notwithstanding the amendment, by section 5, of subsections (1), (2), and (2A) of section 31 of the principal Act,—

(a) section 31(2) of the principal Act shall, after the commencement of this section, continue to apply, in respect of any certificate that is referred to in section 31(2) of the principal Act and that was given before the commencement of this section, as if section 5 had not been passed:

(b) subsection (2A) of section 31 of the principal Act (as that subsection existed immediately before the commencement of this section) shall, after the commencement of this section, continue to apply, in respect of the receipt of any substance, preparation, mixture, or article before the commencement of this section, as if section 5 had not been passed.

(2) Notwithstanding anything in section 31 of the principal Act, where,—

(a) before the commencement of this section, any substance, preparation, mixture, or article has been delivered or posted to an analyst within the meaning of subsection (1) of section 31 of the principal Act (as that subsection existed immediately before the commencement of this section); and

(b) any 1 or more of the following circumstances apply in relation to that substance, preparation, mixture, or article, namely,—

(i) in the case of any substance, preparation, mixture, or article that was posted before the commencement of this section, that substance, preparation, mixture, or article was not received by the analyst until after the commencement of this section; or

(ii) that substance, preparation, mixture, or article was not analysed by an analyst within the meaning of subsection (1) of section 31 of the principal Act (as that subsection existed immediately before the commencement of this section) before the commencement of this section; or

(iii) analysis of that substance, preparation, mixture, or article was not completed by such an analyst before the commencement of this section; or

(iv) analysis of that substance, preparation, mixture, or article was completed by such an analyst before the commencement of this section but a certificate of the kind referred to in section 31(2) of the principal Act was not issued in respect of that substance, preparation, mixture, or article before the commencement of this section,—

the following provisions shall apply:

(c) after the commencement of this section, the substance, preparation, mixture, or article may be analysed, or the analysis of that substance, preparation, mixture, or article may be completed, as the case requires, by any analyst within the meaning of subsection (1) of section 31 of the principal Act (as amended by section 5):

(d) a certificate of the kind referred to in section 31(2) of the principal Act may, after the commencement of this section, be issued in respect of that substance, preparation, mixture, or article by any such analyst:

(e) no such analysis, and no certificate so issued, shall be invalid on the ground—

(i) that, in the case of any substance, preparation, mixture, or article to which paragraph (b)(i) applies, the person to whom the substance, preparation, mixture, or article was addressed was, before the commencement of this section, an analyst within the meaning of subsection (1) of section 31 of the principal Act (as that subsection existed immediately before the commencement of this section) and either ceased to be such an analyst on or before the commencement of this section or was, after the commencement of this section, an analyst within the meaning of that subsection (as amended by section 5); or

(ii) that the analysis was done or completed, or the certificate was issued, by an analyst who was not the analyst to whom the substance, preparation, mixture, or article was delivered or posted, pursuant to section 31 of the principal Act, before the commencement of this section; or

(iii) that the person who carried out or completed the analysis or issued the certificate either was not, before the commencement of this section, an analyst within the meaning of subsection (1) of section 31 of the principal Act (as that subsection existed immediately before the commencement of this section), or was such an analyst before the commencement of this section and was, after

the commencement of this section, an analyst within the meaning of that subsection (as amended by section 5).

(3) Notwithstanding anything in section 31 of the principal Act, where, before the commencement of this section, any certificate of the kind referred to in subsection (2) of that section has been issued in respect of the analysis of any substance, preparation, mixture, or article, a certificate of that kind may, from time to time, after the commencement of this section, be issued by any analyst within the meaning of subsection (1) of that section (as amended by section 5) in any case where that analyst has available to him or her such information as is necessary to enable that analyst to fully complete that certificate.

(4) Section 31(2) of the principal Act shall apply in respect of any certificate issued under the authority of subsection (3) of this section as if the certificate had been signed, before the commencement of this section, by an analyst who had personally received the substance, preparation, mixture, or article to which the certificate relates.

(5) Notwithstanding anything in section 31 of the principal Act, where, after the commencement of this section,—

(a) any substance, preparation, mixture, or article is posted by registered post in any package, parcel, or other container that is addressed to the Dominion Analyst or a Government Analyst; and

(b) that substance, preparation, mixture, or article is received by an analyst within the meaning of section 31(1) of the principal Act (as amended by section 5),—

section 31 of the principal Act shall apply in all respects as if that substance, preparation, mixture, or article had been delivered to that analyst in a package properly addressed to that analyst.

Notes

1 General

This is a consolidation of the Misuse of Drugs Act 1975 that incorporates the amendments made to the legislation so that it shows the law as at its stated date.

2 Legal status

A consolidation is taken to correctly state, as at its stated date, the law enacted or made by the legislation consolidated and by the amendments. This presumption applies unless the contrary is shown.

Section 78 of the Legislation Act 2019 provides that this consolidation, published as an electronic version, is an official version. A printed version of legislation that is produced directly from this official electronic version is also an official version.

3 Editorial and format changes

The Parliamentary Counsel Office makes editorial and format changes to consolidations using the powers under subpart 2 of Part 3 of the Legislation Act 2019. See also PCO editorial conventions for consolidations.

4 Amendments incorporated in this consolidation

Misuse of Drugs (Pseudoephedrine) Amendment Act 2024 (2024 No 13): Part 1

Coroners Amendment Act 2023 (2023 No 8): section 36

Pae Ora (Healthy Futures) Act 2022 (2022 No 30): section 104

Misuse of Drugs (Classification and Presumption of Supply) Order 2022 (SL 2022/35) (as amended by Misuse of Drugs (Classification and Presumption of Supply) Amendment Order 2022 (SL 2022/293))

Drug and Substance Checking Legislation Act 2021 (2021 No 50): Part 1

Legislation Act (Amendments to Legislation) Regulations 2021 (LI 2021/247): regulation 79

Secondary Legislation Act 2021 (2021 No 7): section 3

Drug and Substance Checking Legislation Act 2020 (2020 No 63): Part 1

Public Service Act 2020 (2020 No 40): section 135

Misuse of Drugs Amendment Act 2019 (2019 No 42)

Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 (2018 No 54)

Maritime Powers Extension Act 2018 (2018 No 38): Part 1 subpart 2, Part 2 subpart 2

Customs and Excise Act 2018 (2018 No 4): section 443(3)

Substance Addiction (Compulsory Assessment and Treatment) Act 2017 (2017 No 4): section 122(1)

Statutes Amendment Act 2016 (2016 No 104): Part 19

Misuse of Drugs Amendment Act 2016 (2016 No 80)

Misuse of Drugs (Classification and Presumption of Supply—25B-NBOMe, 25C-NBOMe, and 25I-NBOMe) Order 2016 (LI 2016/89)

Misuse of Drugs Amendment Act 2015 (2015 No 106)

Medicines Amendment Act 2013 (2013 No 141): Part 2 subpart 1
Psychoactive Substances Act 2013 (2013 No 53): section 110(1)
Misuse of Drugs Amendment Act 2013 (2013 No 31)
Search and Surveillance Act 2012 (2012 No 24): section 332
Criminal Procedure Act 2011 (2011 No 81): section 413
Misuse of Drugs (Classification of Tapentadol) Order 2011 (SR 2011/247): clause 3
Misuse of Drugs Amendment Act (No 2) 2011 (2011 No 54)
Misuse of Drugs Amendment Act 2011 (2011 No 40)
Misuse of Drugs Amendment Act 2010 (2010 No 72)
Misuse of Drugs (Presumption of Supply—Ketamine) Order 2009 (SR 2009/256)
Misuse of Drugs (Classification of Ketamine) Order 2009 (SR 2009/255)
Policing Act 2008 (2008 No 72): sections 116(a)(i), (ii), (iv), (b), 130(1)
Misuse of Drugs Amendment Act 2008 (2008 No 13)
Misuse of Drugs (Classification of BZP) Amendment Act 2008 (2008 No 5)
Veterinarians Act 2005 (2005 No 126): section 105
Misuse of Drugs (Changes to Controlled Drugs) Order 2005 (SR 2005/175)
Misuse of Drugs (Presumption of Supply—Amphetamine) Order 2005 (SR 2005/174)
Misuse of Drugs Amendment Act 2005 (2005 No 81)
Corrections Act 2004 (2004 No 50): section 206
Misuse of Drugs Amendment Act (No 2) 2003 (2003 No 107)
Misuse of Drugs Amendment Act 2003 (2003 No 86)
Health Practitioners Competence Assurance Act 2003 (2003 No 48): section 175(1)
Crimes Amendment Act 2003 (2003 No 39): sections 34, 35
Misuse of Drugs (Changes to Controlled Drugs) Order 2003 (SR 2003/47)
Sentencing Act 2002 (2002 No 9): section 186
Misuse of Drugs (Classification of Fantasy) Order 2001 (SR 2001/383)
Health and Disability Services (Safety) Act 2001 (2001 No 93): section 58(1)
Misuse of Drugs Amendment Act 2000 (2000 No 47)
Medicines Amendment Act 1999 (1999 No 117): section 16
Extradition Act 1999 (1999 No 55): section 111
Misuse of Drugs Order 1998 (SR 1998/351)
Misuse of Drugs Amendment Act 1998 (1998 No 14)
Postal Services Act 1998 (1998 No 2): section 62(1)
Misuse of Drugs Amendment Act (No 2) 1997 (1997 No 96)
Misuse of Drugs Amendment Act 1997 (1997 No 57)
Misuse of Drugs Amendment Act 1996 (1996 No 133)
Hazardous Substances and New Organisms Act 1996 (1996 No 30): section 149
Customs and Excise Act 1996 (1996 No 27): section 289(1)
Department of Justice (Restructuring) Act 1995 (1995 No 39): section 10(3)
Health Reforms (Transfers) Act 1993 (1993 No 23): section 32
Misuse of Drugs Amendment Act 1992 (1992 No 49)
Nurses Amendment Act 1990 (1990 No 107): sections 14–18

Misuse of Drugs Amendment Act (No 2) 1987 (1987 No 193)

Official Information Amendment Act 1987 (1987 No 8): section 25(1)

Misuse of Drugs Amendment Act 1986 (1986 No 102)

Misuse of Drugs Amendment Act 1985 (1985 No 130)

Criminal Justice Act 1985 (1985 No 120): section 150(1)

Misuse of Drugs Order (No 2) 1984 (SR 1984/315)

Misuse of Drugs Order 1984 (SR 1984/101)

Misuse of Drugs Amendment Act 1982 (1982 No 151)

Misuse of Drugs Order 1982 (SR 1982/259)

Misuse of Drugs Order 1981 (SR 1981/114)

Misuse of Drugs Amendment Act 1980 (1980 No 64)

District Courts Amendment Act 1979 (1979 No 125): section 18(2)

Judicature Amendment Act 1979 (1979 No 124): section 12

Misuse of Drugs Amendment Act 1978 (1978 No 65)

Misuse of Drugs Order 1978 (SR 1978/143)

Misuse of Drugs Act Commencement Order 1977 (SR 1977/36)

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