



ANALYSIS

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1982, No. 151

An Act to amend the Misuse of Drugs Act 1975

[16 December 1982]

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same, as follows:

1. Short Title and commencement—(1) This Act may be cited as the Misuse of Drugs Amendment Act 1982, 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 the 28th day after the date on which it receives the Governor-General's assent.

2. Amendment of First, Second, and Third Schedules—The principal Act is hereby amended by repealing section 4, and substituting the following section:

“4. (1) The Governor-General may from time to time, by Order in Council, amend the name or description of any substance, preparation, mixture, or article included in the First Schedule or the Second Schedule or the Third Schedule to this Act where such an amendment is necessary to render that name or description consistent with international scientific usage.

“(2) The Governor-General may from time to time, by Order in Council made on the advice of the Minister,—

“(a) Add the name or description of any substance, preparation, mixture, or article to any Part of the Third Schedule to this Act:

“(b) Remove the name or description of any substance, preparation, mixture, or article from any Part of that Schedule and add it to any other Part of that Schedule.

“(3) In determining whether or not he should recommend the making of an order under subsection (2) of this section in respect of any particular substance, preparation, mixture, or article, the Minister shall have regard to the degree of need that exists, bearing in mind the chemical, biochemical, or other properties of the substance, preparation, mixture, or article, for controls to be imposed in accordance with this Act in respect of that substance, preparation, mixture, or article.”

3. Dealing with controlled drugs—(1) Section 6 of the principal Act is hereby amended by repealing subsection (3), and substituting the following subsection:

“(3) Notwithstanding anything in section 7 of the Summary Proceedings Act 1957, where any person is summarily convicted of an offence against this section relating to a Class C controlled drug, the District Court may sentence him to imprisonment for a term not exceeding 1 year or to a fine not exceeding \$1,000.”

(2) Section 3 (2) of the Misuse of Drugs Amendment Act 1978 is hereby repealed.

(3) Section 6 (6) of the principal Act is hereby amended by inserting, after paragraph (c), the following paragraph:

“(ca) One hundred milligrams or more of 4-bromo-2, 5-dimethoxyamphetamine, or 25 or more flakes, tablets, capsules, or other drug forms each containing some quantity of 4-bromo-2, 5-dimethoxyamphetamine:”.

(4) Section 6 (6) of the principal Act is hereby further amended by repealing paragraph (e), and substituting the following paragraph:

“(e) Five grams or more of any cannabis preparation as described in the Second Schedule to this Act, or 28 grams or more of cannabis plant as described in the Third Schedule to this Act, or 100 or more cigarettes containing any cannabis preparation or cannabis plant as so described:”.

4. Internal search of person under arrest—Section 18A (2) of the principal Act (as inserted by section 2 of the Misuse of Drugs Amendment Act (No. 2) 1979) is hereby amended by omitting the word “subsection”, and substituting the word “section”.

5. Treatment of persons dependent on controlled drugs—Section 24 (1) of the principal Act is hereby amended by inserting, after the words “is dependent”, the words “on that or any other controlled drug”.

6. Special provisions where offence relating to cannabis preparations alleged—The principal Act is hereby amended by inserting, after section 29A (as inserted by section 7 of the Misuse of Drugs Amendment Act 1978), the following section:

“29B. For the purposes of any proceedings for an offence against any of the provisions of section 6 or section 7 of this Act 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) of this section, 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.”

7. Second Schedule amended in relation to cannabis—Part I of the Second Schedule to the principal Act is hereby amended by omitting the item relating to cannabis, and substituting the following item:

“CANNABIS preparations: that is, any preparation containing any tetrahydrocannabinols, including cannabis resin (commonly known as hashish) and cannabis oil (commonly known as hash oil), produced by subjecting cannabis plant material to any kind of processing.”

8. Third Schedule amended in relation to cannabis—
Part I of the Third Schedule to the principal Act is hereby amended by omitting from the item relating to cannabis plant the words “(fresh and dried)”, and substituting the words “(whether fresh, dried, or otherwise)”.

This Act is administered in the Department of Health.
