



ANALYSIS

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1992, No. 49

An Act to amend the Misuse of Drugs Act 1975

[15 June 1992

BE IT ENACTED by the Parliament of New Zealand as follows:

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 the 1st day of July 1992.

2. Interpretation—Section 2 (1) of the principal Act is hereby amended by inserting, in its appropriate alphabetical order, the following definition:

“ ‘Approved laboratory’ means a laboratory for the time being approved under section 5A of this Act.”.

3. Approved laboratories—The principal Act is hereby amended by inserting, after section 5, the following section:

“5A. (1) The Minister may from time to time, by notice in the *Gazette*, 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) Any notice given by the Minister in the *Gazette* for the purposes of subsection (1) of this section shall be deemed to be a regulation for purposes of the Regulations (Disallowance) Act 1989 and the Acts Interpretation Act 1924.”

4. Exemptions from sections 6 and 7—Section 8 (2) (g) of the principal Act (as amended by section 98 of the Area Health Boards Act 1983) is hereby amended by inserting, after the word “board,”, the words “or any person who works in an approved laboratory,”.

5. Evidence of analysis—(1) Section 31 of the principal Act is hereby amended by repealing subsection (1), and substituting the following subsection:

“(1) For the purposes of this section, the term ‘analyst’ means—

“(a) Any person who is designated by the Minister by notice in the *Gazette* 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) Section 31 of the principal Act is hereby amended by omitting from subsection (2) (as substituted by section 6 (1) of the Misuse of Drugs Amendment Act (No. 2) 1987) the words “employee of the Department of Scientific and Industrial Research authorised by the Dominion Analyst to do so”, and substituting the words “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)”.

(3) Section 31 of the principal Act is hereby amended by repealing subsection (2A) (as so substituted), and substituting the following subsection:

“(2A) Where the substance, preparation, mixture, or article was delivered in a sealed package or by registered post 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) of this section,—

“(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.”

(4) Section 31 of the principal Act is hereby amended by adding the following subsection:

“(6) Any notice given by the Minister in the *Gazette* for the purposes of subsection (1) of this section shall be deemed to be a regulation for the purposes of the Regulations (Disallowance) Act 1989 and the Acts Interpretation Act 1924.”

6. Transitional provisions—(1) Notwithstanding the amendment, by section 5 of this Act, 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 of this Act 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 of this Act 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 one 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 of this Act):

(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) of this subsection 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 of this Act); 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 of this Act).

(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 of this Act) 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 of this Act),—

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.

7. Repeal—Section 3 of the Misuse of Drugs Amendment Act 1986 is hereby consequentially repealed.

This Act is administered in the Department of Health.
