

Queensland



Subordinate Legislation 1998 No. 348

Drugs Misuse Act 1986

**DRUGS MISUSE AMENDMENT REGULATION
(No. 1) 1998**

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Short title

1. This regulation may be cited as the *Drugs Misuse Amendment Regulation (No. 1) 1998*.

Regulation amended

2. This regulation amends the *Drugs Misuse Regulation 1987*.

Amendment of s 4 (Definitions)

3.(1) Section 4, definitions “**occupier’s notice**”, “**record of proceedings**”, and “**search warrant**”—

relocate to schedule 9, as inserted by this regulation.

(2) Section 4, other than definitions relocated under subsection (1)—

omit, insert—

‘Dictionary

‘4. The dictionary in schedule 9 defines particular words used in this regulation.’.

Insertion of new pt 5

4. After section 15—

insert—

**‘PART 5—TRIAL PLANTING OF CANNABIS SATIVA
FOR COMMERCIAL FIBRE PRODUCTION*****‘Division 1—Preliminary*****‘Purpose of pt 5**

‘16. This part states the extent of the exemptions necessary for achieving

the purpose of part 5B¹ of the Act and makes other necessary provisions for achieving the purpose.

‘Limit of effect of exemption

‘17. The exemption of a person under this part from section 6, 8 or 9 of the Act has effect, in relation to the supply, production or possession of cannabis sativa only to the extent the supply, production or possession is for the purpose, directly or indirectly, of research carried out under part 5B of the Act.

‘Conditions

‘18. The conditions for each exemption are in schedule 7.

‘Division 2—Exemptions

‘Exemptions for seed suppliers

‘19. A seed supplier is exempt from—

- (a) section 6 of the Act, for supplying cannabis seeds to a person who may lawfully possess them; and
- (b) section 9 of the Act, for possessing cannabis seeds to supply them to a person who may lawfully possess them.

‘Exemptions for carriers

‘20.(1) A carrier who is engaged or employed by a seed supplier to transport cannabis seeds is exempt from sections 6 and 9 of the Act, for transporting the seeds to a person who may lawfully possess them.

‘(2) A carrier who is engaged or employed by someone who may lawfully possess cannabis plant material to transport the plant material is exempt from sections 6 and 9 of the Act, for transporting the plant material

¹ Part 5B (Trial planting of cannabis sativa for commercial fibre production) of the Act

to a person who may lawfully possess it.

‘(3) An exemption under subsection (1) or (2) is for the time necessary to transport the seeds or plant material to the person to whom they are consigned.

‘Exemptions for growers

‘21.(1) A grower is exempt from section 6 of the Act—

- (a) for supplying cannabis seeds to—
 - (i) a carrier, for transporting the seeds to another grower or an authorised officer; or
 - (ii) a person who may lawfully possess the seeds; and
- (b) for supplying cannabis plant material to—
 - (i) a carrier, for transporting the plant material to a person who may lawfully possess it; or
 - (ii) a person who may lawfully possess the plant material.

‘(2) A grower is exempt from section 8 of the Act for producing cannabis plants on land for which the grower is named in schedule 8.

‘(3) A grower is exempt from section 9 of the Act for possessing cannabis seeds and cannabis plants on land for which the grower is named in schedule 8.

‘Exemptions for authorised officer

‘22. An authorised officer is exempt from—

- (a) section 6 of the Act, for supplying cannabis seeds to—
 - (i) a grower; or
 - (ii) a DPI researcher responsible for the management and control of the Australian Tropical Crops Genetic Resource

Centre, for safe keeping;² and

- (b) section 9 of the Act, for possessing cannabis seeds and cannabis plant material for ensuring compliance with this part, including the conditions in schedule 7.

‘Exemptions for DPI researchers

‘23. A DPI researcher is exempt from—

- (a) section 6 of the Act, for supplying—
 - (i) cannabis seeds to a grower; and
 - (ii) cannabis plants to another DPI researcher; and
 - (iii) cannabis plant material to a non-DPI researcher; and
- (b) section 8 of the Act, for producing cannabis plants and cannabis seeds; and
- (c) section 9 of the Act, for possessing cannabis seeds, cannabis plants, or cannabis plant material.

‘Exemptions for non-DPI researchers

‘24. A non-DPI researcher is exempt from—

- (a) section 6 of the Act, for supplying cannabis seeds, cannabis plants, or cannabis plant material in the form of a processed fibre product, to a DPI researcher or another non-DPI researcher; and
- (b) section 8 of the Act, for producing cannabis plants and cannabis seeds; and
- (c) section 9 of the Act, for possessing cannabis seeds, cannabis plants, or cannabis plant material.

‘Exemptions for employees etc.

‘25.(1) A person (“**employee**”) who is engaged or employed by a

² The Centre is located at the Department of Primary Industries’ Biloela Research Station.

person (“**employer**”) who may lawfully possess cannabis seeds or cannabis plant material is exempt from sections 8 and 9 of the Act, but only for the employee to perform functions necessary for the purpose of the employer’s lawful possession of the seeds or plant material.

‘(2) A person who is a member of the immediate family of a grower is exempt from sections 8 and 9 of the Act, but only for helping the grower perform functions normally associated with growing and harvesting cannabis plants.

‘(3) A person, other than a person exempted under subsection (1) or (2), who performs functions for another person who may lawfully possess cannabis plants, cannabis plant material or cannabis seeds is exempt from sections 8 and 9 of the Act for performing functions necessary for the purpose of the other person’s lawful possession of the plants, plant material or seeds.

Example for subsection (3)—

An authorised officer may ask a person in control of a drying oven used to extract moisture from plant material to dry plant material to enable the tetrahydrocannabinol content of the plant material to be determined.

‘Division 3—Other provisions

‘Appointment of authorised officers

‘26. The commissioner may appoint a person other than a police officer as an authorised officer under this part if—

- (a) the commissioner considers the person has the necessary expertise or experience to be an authorised officer; or
- (b) the person has satisfactorily finished training approved by the commissioner.

‘Authorised officer’s identity card

‘27.(1) The commissioner must give each authorised officer an identity card.

‘(2) The identity card must—

- (a) contain a recent photo of the person; and
- (b) be signed by the person; and
- (c) identify the person as an authorised officer under this part; and
- (d) state an expiry date.

‘(3) A person who stops being an authorised officer must return the person’s identity card to the commissioner as soon as possible (but within 21 days) after the person stops being an authorised officer, unless the person has a reasonable excuse.

Maximum penalty—20 penalty units.

‘(4) This section does not prevent the giving of a single identity card to a person for this part and for other purposes, whether or not for this Act.

‘Production or display of authorised officer’s identity card

‘28.(1) An authorised officer may exercise a power in relation to someone only if—

- (a) the authorised officer first produces the authorised officer’s identity card for the other person’s inspection; or
- (b) the authorised officer has the authorised officer’s identity card displayed so it is clearly visible to the other person.

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised officer must produce the identity card for inspection by the person at the first reasonable opportunity.’.

Insertion of new schs 7–9

5. After schedule 6—

insert—

‘SCHEDULE 7**‘EXEMPTION CONDITIONS**

section 18

‘Seed suppliers**‘1. A seed supplier must—**

- (a) keep cannabis seeds locked in a secure place when not otherwise required for the purpose of part 5; and
- (b) keep records of the source, quantity and delivery details of all cannabis seeds bought or otherwise obtained and the supply of all seeds to someone else, including to a carrier engaged or employed by the seed supplier to transport the seeds; and
- (c) pack all cannabis seeds to be delivered to someone else by a carrier in a way that ensures, as far as reasonably practicable, the seeds can not be lost if the package is damaged; and
- (d) ensure the only identifying information on the outside of a package containing cannabis seeds to be delivered to someone else by a carrier is information identifying the seed supplier and the person to whom the package is consigned; and
- (e) allow an authorised officer access at any reasonable time to premises the person owns, occupies or uses for the purpose for which the exemption is given and, if asked—
 - (i) give the authorised officer reasonable help in exercising the officer’s powers; or
 - (ii) produce to the authorised officer for inspection the records mentioned in paragraph (b).

‘Growers**‘2.(1) A grower must—**

- (a) keep records of the source, quantity and delivery details of all cannabis seeds obtained from a seed supplier, and, if the seed supplier engaged or employed a carrier to deliver the seeds to the grower, the name of the person who delivered them; and
- (b) if the grower receives a package containing cannabis seeds and the package appears to have been tampered with—inform an authorised officer that the package appears to have been tampered with as soon as reasonably practicable after receiving it; and
- (c) ensure each season’s crop of cannabis plants is—
 - (i) if practicable, planted and harvested in the presence of an authorised officer; and
 - (ii) fenced to the satisfaction of an authorised officer; and
 - (iii) defoliated, or harvested in a way that defoliates the crop, before the crop develops flowering heads; and
- (d) ensure crop residue is ploughed in or otherwise destroyed as soon as practicable, but in any event within 14 days, after harvesting the plants; and
- (e) if the crop fails—ensure any plants left standing are ploughed in or otherwise destroyed; and
- (f) if the crop develops flowering heads before it can be harvested—as soon as practicable after the flowering heads develop, ensure the leaves and flowering heads of the plants are destroyed otherwise than by ploughing them in.

‘(2) A grower must allow an authorised officer entry to the site used for growing cannabis plants at reasonable times to monitor the following, and if asked, give the authorised officer reasonable help in exercising the officers powers—

- (a) the erection of any signs the authorised officer reasonably requires the grower to erect at the site;
- (b) the planting of the cannabis seeds;
- (c) the conduct of trials, experiments or procedures for the purposes of research;
- (d) crop sampling for tetrahydrocannabinol testing;

- (e) the harvesting of the crop;
- (f) the removal or destruction of crop residues or leaves and flowering heads.

‘(3) A grower must allow an authorised officer at reasonable times—

- (a) to examine evidence of the source, physical purity, quality, quantity and location of cannabis seeds held by the grower; and
- (b) to examine records kept and operating procedures used for the purpose of research; and
- (c) to participate in the collation and publication of trial results; and
- (d) to destroy, or supervise the destruction of, cannabis plants if the tetrahydrocannabinol content of plants taken in a random sample of the plants is more than 0.35%; and
- (e) to take samples of cannabis seeds and cannabis plant material.

‘(4) For subsection (3), the grower must produce to the authorised officer, or otherwise allow the authorised officer access to, anything the authorised officer reasonably requires for examination.

‘(5) If an authorised officer requires, a grower must, after the last planting of cannabis seeds for a particular growing season—

- (a) destroy any cannabis seeds not planted during the growing season, in the way and within the time required by the authorised officer; or
- (b) give the cannabis seeds to the authorised officer for safe keeping at the Australian Tropical Crops Genetic Resource Centre.

‘Authorised officers

‘3. An authorised officer must—

- (a) keep cannabis seeds in his or her possession locked in a secure place when not otherwise required for the purpose of part 5; and
- (b) keep records of the source, quantity and delivery details of all cannabis seeds obtained from a person who may lawfully possess them, and, if the person engaged or employed another person to deliver the seeds to the authorised officer, the name of

- the person who delivered them; and
- (c) keep records relating to anything else done by the authorised officer including, for example, samples of cannabis plant material taken and inspections of cannabis plants; and
 - (d) deliver cannabis seeds given to him or her by a grower to the Australian Tropical Crops Genetic Resource Centre; and
 - (e) keep cannabis plant material taken by the authorised officer for testing in a secure place until it can be delivered to someone else who may lawfully possess the plant material.

‘Researchers

‘4.(1) A researcher must—

- (a) keep records of the source, quantity and delivery details of cannabis seeds obtained from a seed supplier, and, if the seeds are delivered by a carrier, the name of the person who delivered them;
- (b) if the researcher receives a package containing cannabis seeds and the package appears to have been tampered with—inform an authorised officer that the package appears to have been tampered with as soon as reasonably practicable after receiving it; and
- (c) keep cannabis seeds in his or her possession locked in a secure place when not otherwise required for the purpose of part 5; and
- (d) keep cannabis plant material in his or her possession in a secure place when not otherwise required for the purpose of part 5; and
- (e) keep records of all cannabis seeds or cannabis plant material bought or otherwise obtained and the supply or use of all seeds; and
- (f) allow an authorised officer access at any reasonable time to premises the person owns, occupies or uses for the purpose for which the exemption is given and, if asked—
 - (i) give the authorised officer reasonable help in exercising the officer’s powers; or
 - (ii) produce to the authorised officer for inspection the records

mentioned in paragraph (a).

‘(2) A researcher must ensure—

- (a) each season’s crop of cannabis plants is—
 - (i) if practicable, planted and harvested in the presence of an authorised officer; and
 - (ii) fenced to the satisfaction of the authorised officer; and
 - (iii) if the crop is grown as a field trial—defoliated, or harvested in a way defoliates the crop, before the crop can develop flowering heads; and
- (b) crop residue is ploughed in or otherwise destroyed within 14 days after harvesting the crop; and
- (c) if the crop fails—any cannabis plants left standing are ploughed in or otherwise destroyed; and
- (d) if the crop is grown as a field trial and develops flowering heads before it can be harvested—as soon as practicable after the flowering heads develop, the researcher destroys the leaves and flowering heads of the cannabis plants otherwise than by ploughing them in.

‘(3) A researcher must allow an authorised officer entry to the site used for the trial planting at reasonable times to monitor—

- (a) the erection of any signs the authorised officer reasonably requires the researcher to erect at the site; or
- (b) the planting of the cannabis seeds; or
- (c) the conduct of trials, experiments or procedures for the purpose of research; or
- (d) crop sampling for tetrahydrocannabinol testing; or
- (e) the harvesting of the crop; or
- (f) the removal or destruction of crop residues.

‘(4) A researcher must allow an authorised officer at reasonable times—

- (a) to examine evidence of the source, physical purity, quality, quantity and location of cannabis seeds held by the grower; and

- (b) to examine records kept and operating procedures used for the purpose of research; and
- (c) to participate in the collation and publication of trial results; and
- (d) to destroy, or supervise the destruction of, the cannabis plants if the tetrahydrocannabinol content of plants taken in a random sample of the crop is—
 - (i) for plant breeding—more than 1%; or
 - (ii) for field trials—more than 0.35%; and
- (e) to take samples of cannabis seeds and cannabis plant material.

‘**(5)** For subsection (4), the researcher must produce to the authorised officer, or otherwise allow the authorised officer access to, anything the authorised officer reasonably requires for examination.

‘**(6)** If an authorised officer requires, a researcher must, after the last planting for a particular growing season—

- (a) destroy any cannabis seeds not planted during the growing season in the way and within the time required by the authorised officer; or
- (b) give the seeds to the authorised officer for safe keeping at the Australian Tropical Crops Genetic Resource Centre.

‘**(7)** In this section—

“**researcher**” means—

- (a) a DPI researcher; or
- (b) a non-DPI researcher.

‘SCHEDULE 8**‘PERSONS EXEMPTED UNDER ACT, PART 5B**

section 21

1. Alan MacKenzie Sheret Jnr of 4 Estate Street, West End, Townsville, for Lot 2 on RP 800817 Vol 1452 Fol 21, Parish of Beor, County of Elphinstone, Bentley Drive, Alligator Creek, Townsville.
2. DJ and SL Webster of Watts Road, Mirani, for Lot 24 on Plan C11868, Lot 25 on RP 705441, Lot 1 on RP 720674 and Lot 2 on RP 716653 Parish of Mia Mia, County of Carlisle.
3. Norman Bernard and Elizabeth Noeline Kiehne, Bonna Villa Produce, Bonna Road, Bundaberg, for Lot 3 on RP 194385, Parish of Takalvan, County of Cook.
4. Walter Peter Verdel of Foleys Road, Childers, for Lot 1478/CK 3028, Parish of Bingera, County of Cook.
5. Kevin Earlston and Judith Ann Zunker and Ouo Pty Limited as trustee for the KE & JA Zunker Family Trust trading as KE & JA Zunker Farming Co, of Weir Road, South Kolan, Bundaberg, for Lots 44 and 45 on C 37477, Parish of Tantitha and Lot 19 on RP 904982 Parish of South Kolan, County of Cook.
6. Alvin C and RJ Scholz Pty Ltd, Moorlands Road, Bundaberg, for Lots 1, 2 and 4 on Plan 109894, Shire of Burnette, Lot 3 on Plan 161802 and Lot 5 on Plan 109894, Parish of North Kolan, County of Cook.
7. Deanna Maria Gerarda and Gerardus Bernardus Zwynenberg of Stone Gully Road, Lowood, for Lot 2 on RP32368, Parish of Tarampa, County of Churchill.
8. Broad Water Downs Pty Ltd of 24 Camelot Court, 30 Albert Street Brisbane, for Lot 312 on ML 1095, Parish of Tummaville, County of Merivale, Macquarie Downs, Leyburn.
9. John Leslie Hall of Wolsenden Road, Calivos, Bundaberg, for Lot 10 on RP 899275, Parish of Kalkie, County of Cook.

- 10.** Willcarr Pty Ltd of Kingsthorpe Park, Warrego Highway, Kingsthorpe, for Lot 215 on plan AG101, Parish of Isaac, County of Aubigny.
- 11.** Agri Fibre Industries Pty Ltd and Crop Tech Research Pty Ltd, Langbeckers Road, Bundaberg for Lot 10 on RP 899275, Parish of Kalkie, County of Cook.

‘SCHEDULE 9**‘DICTIONARY**

section 4

‘**“authorised officer”**, for part 5, see section 26.

“cannabis plant”, for part 5, means a low level drug content cannabis sativa plant.

“cannabis plant material”, for part 5, means plant material from a low level drug content cannabis sativa plant, other than leaves and flowering heads.

“cannabis seeds”, for part 5, means seeds of cannabis sativa that will produce low level drug content cannabis sativa plants.

“carrier” includes an employee of the carrier.

“commissioner” means the commissioner of the police service.

“DPI researcher” means a public service officer—

- (a) who is employed in the department within which the *Agricultural Standards Act 1994* is administered; and
- (b) whose duties include plant breeding.

“grower” means a person mentioned in schedule 8.

“non-DPI researcher” means a person, other than a DPI researcher, who has, or has access to, facilities that are used or intended to be used by the person for research into the development and use of fibre crops for commercial purposes and is identified in writing by the commissioner as a non-DPI researcher.

“seed supplier” means—

- (a) a person who, for trade or commerce, sells or otherwise provides seeds to someone else and is identified in writing by the commissioner as a seed supplier; or
- (b) a public service officer engaged in research or plant breeding who

is authorised by the Minister by gazette notice to supply seeds to someone else.

“supply” —

- (a) for part 4, see section 43A³ of the Act; or
- (b) for part 5, does not include administer.’.

ENDNOTES

- 1. Made by the Governor in Council on 17 December 1998.
- 2. Notified in the gazette on 18 December 1998.
- 3. Laid before the Legislative Assembly on . . .
- 4. The administering agency is the Department of Police.

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³ Section 43A (Definitions) of the Act