

Queensland



DRUGS MISUSE AMENDMENT BILL 2000

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Drugs Misuse Amendment

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2000

A BILL

FOR

An Act to amend the *Drugs Misuse Act 1986*, and for other purposes

The Parliament of Queensland enacts—

1

PART 1—PRELIMINARY

2

Short title

3

Clause 1. This Act may be cited as the *Drugs Misuse Amendment Act 2000*.

4

PART 2—AMENDMENT OF DRUGS MISUSE ACT 1986

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6

Act amended in pt 2

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Clause 2. This part amends the *Drugs Misuse Act 1986*.

8

Amendment of s 4 (Definitions)

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Clause 3.(1) Section 4—

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insert—

11

‘**“authorised health officer”** see section 14.

12

“official identity card”, of an authorised health officer or an environmental health officer, means an identity card issued by the chief executive for health containing a recent photograph of the officer and identifying the officer as an officer under the *Health Act 1937*.

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“prescribed substance” means—

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(a) a dangerous drug specified in the *Drugs Misuse Regulation 1987*, schedule 2A; or

18

19

(b) a controlled substance.’.

20

Drugs Misuse Amendment

	(2) Section 4, definition “ dangerous drug ”, paragraph (a), ‘or 2’—	1
	<i>omit, insert—</i>	2
	‘, 2 or 2A’.	3
	Amendment of s 4A (Salts, derivatives and stereo-isomers)	4
Clause	4. Section 4A(a), ‘or 2’—	5
	<i>omit, insert—</i>	6
	‘, 2 or 2A’.	7
	Amendment of s 5 (Trafficking in dangerous drugs)	8
Clause	5. Section 5, penalty—	9
	<i>insert—</i>	10
	‘(c) if the dangerous drug is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—5 years imprisonment.’.	11
		12
	Amendment of s 6 (Supplying dangerous drugs)	13
Clause	6. Section 6(1), penalty—	14
	<i>insert—</i>	15
	‘(e) if the dangerous drug is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—5 years imprisonment.’.	16
		17
	Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)	18
		19
Clause	7.(1) Section 7(1), ‘(other than a dangerous drug)’—	20
	<i>omit, insert—</i>	21
	‘, other than a dangerous drug, (“ offence property ”)’.	22
	(2) Section 7(1), penalty—	23
	<i>omit, insert—</i>	24

Drugs Misuse Amendment

‘Maximum penalty—	1
(a) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 1 or 2—20 years imprisonment; or	2 3 4 5
(b) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—5 years imprisonment.’.	6 7 8 9
(3) Section 7(2), ‘the property so obtained’—	10
<i>omit, insert—</i>	11
‘the offence property’.	12
(4) Section 7(2), penalty—	13
<i>omit, insert—</i>	14
‘Maximum penalty—	15
(a) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 1 or 2—20 years imprisonment; or	16 17 18 19
(b) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—5 years imprisonment.’.	20 21 22 23
Amendment of s 8 (Producing dangerous drugs)	24
Clause 8. Section 8, penalty—	25
<i>insert—</i>	26
‘(f) if the dangerous drug is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—5 years imprisonment.’.	27 28

Drugs Misuse Amendment

	Amendment of s 8A (Publishing or possessing instructions for producing dangerous drugs)	1
		2
Clause	9. Section 8A(1), penalty—	3
	<i>insert—</i>	4
	‘(c) if the dangerous drug to which the instructions relate is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—2 years imprisonment.’	5
		6
		7
	Amendment of s 9 (Possessing dangerous drugs)	8
Clause	10. Section 9, penalty—	9
	<i>insert—</i>	10
	‘(e) if the dangerous drug is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—2 years imprisonment.’	11
		12
	Amendment of s 10 (Possessing things)	13
Clause	11.(1) Section 10(1), penalty—	14
	<i>omit, insert—</i>	15
	‘Maximum penalty—	16
	(a) if possession of the thing is for use, or has been used, in connection with the commission of a crime relating to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 1 or 2—15 years imprisonment; or	17
		18
		19
		20
	(b) if possession of the thing is for use, or has been used, in connection with the commission of a crime relating to a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A—2 years imprisonment.’	21
		22
		23
		24
	(2) Section 10—	25
	<i>insert—</i>	26
	‘ (6) For subsection (1), the dangerous drug to which the commission of a crime relates is the dangerous drug directly or indirectly involved and in relation to which proof is required to establish the commission of the crime.	27
		28
		29

Drugs Misuse Amendment

Example—

Suppose a person is guilty of a crime against this section because he or she has in his or her possession equipment for use in connection with the commission of a crime defined in section 8 of unlawfully producing a dangerous drug. That dangerous drug is the dangerous drug referred to in the penalty for subsection (1).’.

Amendment of s 11 (Permitting use of place)

Clause **12.(1)** Section 11, penalty—

omit, insert—

‘Maximum penalty—

(a) if the place is permitted to be used for the commission of a crime in relation to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2—15 years imprisonment; or

(b) if the place is permitted to be used for the commission of a crime in relation to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—2 years imprisonment.’.

(2) Section 11—

insert—

‘**(2)** For subsection (1), the dangerous drug to which the commission of a crime relates is the dangerous drug directly or indirectly involved and in relation to which proof is required to establish the commission of the crime.

Example—

Suppose a person is guilty of a crime against this section because, being the occupier of a place, he or she permitted another person to use the place for the commission of a crime defined in section 8A of publishing instructions about the way to produce a dangerous drug. That dangerous drug is the dangerous drug referred to in the penalty for subsection (1).’.

Drugs Misuse Amendment

	Amendment of s 13 (Certain offences may be dealt with summarily)	1
Clause	13. Section 13(1), (2)(c) and (4), ‘a maximum of’—	2
	<i>omit, insert—</i>	3
	‘not more than’.	4
	Insertion of new pt 3	5
Clause	14. After section 13—	6
	<i>insert—</i>	7
	‘PART 3—ENFORCEMENT POWERS OF AUTHORISED HEALTH OFFICERS	8
		9
	‘Authorised health officers may exercise powers under Health Act for enforcing s 9 for particular dangerous drugs	10
		11
	‘ 14.(1) The chief executive for health may, by signed writing, authorise an officer, or officer of a class of officer, within the meaning of the <i>Health Act 1937</i> (“ authorised health officer ”) to enforce section 9 for a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A.	12
		13
		14
		15
		16
	‘ (2) For enforcing section 9, an authorised health officer may exercise the powers conferred on the officer under the <i>Health Act 1937</i> , section 132. ¹	17
		18
	‘Production or display of officer’s official identity card	19
		20
	‘ 15.(1) An authorised health officer may exercise a power for enforcing section 9 for a dangerous drug that is a thing specified in the <i>Drugs Misuse Regulation 1987</i> , schedule 2A in relation to someone else (the “ other person ”) only if the officer—	21
		22
		23
	(a) first produces the officer’s official identity card for the other person’s inspection; or	24
		25

¹ *Health Act 1937*, Section 132 (Powers of officers)

Drugs Misuse Amendment

(b) has the official identity card displayed so that it is clearly visible to the other person. 1
2

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised health officer must produce the official identity card for the other person’s inspection at the first reasonable opportunity.’. 3
4
5
6

Amendment of s 43A (Definitions) 7

Clause 15.(1) Section 43A, definitions “**authorised officer**”, and “**official identity card**”— 8
9

omit. 10

(2) Section 43A, definitions “**chief executive for health**”, “**controlled substance**” and “**environmental health officer**”— 11
12

relocate to section 4. 13

Replacement of s 43H (Production or display of authorised officer’s official identity card) 14
15

Clause 16. Section 43H— 16

omit, insert— 17

‘Production or display of officer’s official identity card 18

‘**43H.(1)** An environmental health officer may exercise a power under this part in relation to someone else (the “**other person**”) only if the officer— 19
20

(a) first produces the officer’s official identity card for the other person’s inspection; or 22
23

(b) has the official identity card displayed so that it is clearly visible to the other person. 24
25

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the environmental health officer must produce the official identity card for the other person’s inspection at the first reasonable opportunity.’. 26
27
28
29

Drugs Misuse Amendment

	Amendment of s 43I (Authorised officer may enter person’s premises and inspect register and documents)	1 2
Clause	17.(1) Section 43I, heading, ‘ Authorised ’—	3
	<i>omit, insert—</i>	4
	‘ Environmental health ’.	5
	(2) Section 43I, ‘authorised’—	6
	<i>omit, insert—</i>	7
	‘environmental health’.	8
	Amendment of s 43J (Power to seize evidence)	9
Clause	18. Section 43J, ‘authorised’—	10
	<i>omit, insert—</i>	11
	‘environmental health’.	12
	Amendment of s 43K (Receipt for seized things)	13
Clause	19. Section 43K(1), ‘authorised’—	14
	<i>omit, insert—</i>	15
	‘environmental health’.	16
	Amendment of s 43L (Procedure after thing seized)	17
Clause	20. Section 43L, ‘authorised’—	18
	<i>omit, insert—</i>	19
	‘environmental health’.	20
	Amendment of s 43O (Power to require name and address)	21
Clause	21. Section 43O, ‘authorised’—	22
	<i>omit, insert—</i>	23
	‘environmental health’.	24

Drugs Misuse Amendment

	Amendment of s 43Q (Obstruction of authorised officers)	1
Clause	22.(1) Section 43Q, heading, ‘ authorised ’—	2
	<i>omit, insert—</i>	3
	‘ environmental health ’.	4
	(2) Section 43Q, ‘authorised’—	5
	<i>omit, insert—</i>	6
	‘environmental health’.	7
	 Amendment of s 43T (Compensation)	8
Clause	23. Section 43T(1), ‘authorised’—	9
	<i>omit, insert—</i>	10
	‘environmental health’.	11
	 Omission of ss 43U and 43V	12
Clause	24. Sections 43U and 43V—	13
	<i>omit.</i>	14
	 Insertion of new ss 57A and 57B	15
Clause	25. After section 57—	16
	<i>insert—</i>	17
	‘Evidence of prescribed substance by label	18
	‘57A.(1) This section applies if, in a proceeding for an offence against	19
	this Act, it is relevant to prove that a substance owned or supplied by, or in	20
	the possession of, a person was a prescribed substance.	21
	‘(2) The substance is proved to have been a prescribed substance if—	22
	(a) there is evidence that the container containing the substance had a	23
	label indicating the substance was a prescribed substance; and	24

Drugs Misuse Amendment

-
- | | | |
|-----|--|------------------|
| (b) | a police officer, authorised health officer or environmental health officer gives evidence that the police officer, authorised health officer or environmental health officer believes the container contained a prescribed substance; and | 1
2
3
4 |
| (c) | written notice mentioned in section 57B(4) has not been received from the person summonsed or charged by— | 5
6 |
| | (i) if the proceedings have been brought by a police officer—the commissioner of the police service; or | 7
8 |
| | (ii) if the proceedings have been brought by an authorised health officer or an environmental health—the chief executive for health; and | 9
10
11 |
| (d) | the court considers the belief mentioned in paragraph (b) to be reasonably held; and | 12
13 |
| (e) | there is no evidence to the contrary. | 14 |

‘Evidence of prescribed substance—notice of challenge required 15

‘57B.(1) This section applies if a summons has been served on a person for, or a person has been charged with, an offence to which section 57A applies. 16
17
18

‘(2) A notice in the approved form must be served on the person when the person is served with the summons or charged with the offence. 19
20

‘(3) The notice may be served on the person in the same way as a summons may be served under the *Justices Act 1886*, section 56.² 21
22

‘(4) The notice must inform the person that, if the person intends challenging that a substance claimed in the charge to be a prescribed substance was a prescribed substance, the person must give written notice of challenge to— 23
24
25
26

- | | | |
|-----|---|----------|
| (a) | if the proceedings have been brought by a police officer—the commissioner of the police service; or | 27
28 |
|-----|---|----------|

² *Justices Act 1886*, section 56 (Service of summonses)

Drugs Misuse Amendment

(b) if the proceedings have been brought by an authorised health officer or an environmental health officer—the chief executive for health.

‘(5) The notice of challenge must be given to the commissioner or chief executive at least 14 days before the day fixed for the hearing of the offence.

‘(6) If a summons is served on the person, a statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (2) is evidence of the fact.

‘(7) The *Justices Act 1886*, section 56(5) applies to the deposition.

‘(8) If the person is charged with an offence mentioned in subsection (1), a statement in a deposition made for the *Justices Act 1886*, section 56(7) that the notice was served as required by subsection (2) is evidence of the fact.

‘(9) The *Justices Act 1886*, section 56(8) applies to the deposition.’.

PART 3—AMENDMENT OF REGULATIONS**Regulations amended**

Clause 26. The schedule amends the regulations it mentions.

SCHEDULE	1
AMENDMENT OF REGULATIONS	2
section 26	3
DRUGS MISUSE REGULATION 1987	4
	5
1. After schedule 2—	6
<i>insert—</i>	7
‘SCHEDULE 2A	8
‘DANGEROUS DRUGS	9
sections 4, 5, 6, 8, 8A, 9 and 59 of the Act	10
Androisoxazole	11
Atamestane	12
Bambuterol	13
Bolandiol	14
Bolesterone	15
Bolazine	16
Boldenone (dehydrotestosterone)	17
Bolenol	18
Bolmantalate	19

SCHEDULE (continued)

Calusterone	1
Chlorandrostenolone	2
4-Chloromethandienone	3
Chloroxydienone	4
Chloroxymesterone (dehydrochloromethyltestosterone)	5
Clembuterol	6
Clostebol (4-chlorotestosterone)	7
Danazol	8
Dihydrolone	9
Dimethandrostanolone	10
Drostanolone	11
Enestebol	12
Ephedrine	13
Epitiostanol	14
Ethyldienolone	15
Ethyloestranol	16
Fenoterol	17
Flunitrazepam	18
Fluoxymesterone	19
Formebolone (formyldienolone)	20
Formoterol	21
Furazabol	22
Hydroxystenozol	23
Mebolazine	24
Mepitiostane	25
Mesabolone	26

SCHEDULE (continued)

Mestanolone (androstalone)	1
Mesterolone	2
Methandienone	3
Methandriol	4
Methenolone	5
Methylclostebol	6
Methyltestosterone	7
Methyltrienolone	8
Metribolone	9
Mibolerone	10
Nandrolone	11
Norandrostenolone	12
Norbolethone	13
Norclostebol	14
Norethandrolone	15
Normethandrone	16
Ovandrotone	17
Oxabolone	18
Oxandrolone	19
Oxymesterone	20
Oxymethalone	21
Prasterone	22
Propetandriol	23
Quinbolone	24
Reproterol	25

SCHEDULE (continued)

Salbutamol, except in metered aerosols or dry powder or capsules of dry powder for inhalation	1 2
Silandrone	3
Somatropin	4
Stanolone	5
Stanazolol	6
Stenbolone	7
Terbutaline, except in metered aerosols for inhalation	8
Testolactone	9
Testosterone, except in implant preparations for growth promotion in animals	10 11
Thiomesterone (tiomesterone)	12
Trenbolone (trienbolone, trienolone), except in implant preparations for use in animals	13 14
Trestolone	15
Any other anabolic and androgenic steroidal agent’.	16

HEALTH (DRUGS AND POISONS) REGULATION 17
1996 18

1. Section 94—	19
<i>insert—</i>	20
‘(2) In this section—	21

SCHEDULE (continued)

“**controlled drug**” does not include a controlled drug that is also a dangerous drug under the *Drugs Misuse Act 1986*, schedule 2A.³. 1
2

2. Section 204— 3

insert— 4

‘(2) In this section—’ 5

“**restricted drug**” does not include a restricted drug that is also a dangerous drug under the *Drugs Misuse Act 1986*, schedule 2A.⁴. 6
7

8

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³ The *Drugs Misuse Act 1986*, section 9 provides that a person who has possession of a dangerous drug is guilty of a crime.

⁴ The *Drugs Misuse Act 1986*, section 9 provides that a person who has possession of a dangerous drug is guilty of a crime.