UNITED NATIONS

E/NL.2007/37-42
23 August 2007
English only*

LAWS AND REGULATIONS

PROMULGATED TO GIVE EFFECT TO THE PROVISIONS OF THE INTERNATIONAL TREATIES ON NARCOTIC DRUGS AND PSYCHOTROPIC SUBSTANCES

In accordance with the relevant articles of the international treaties on narcotic drugs and psychotropic substances, the Secretary-General has the honour to communicate the following legislative text / texts

NEW ZEALAND

Communicated by the Government of New Zealand

NOTE BY THE SECRETARIAT

(a) Some editing of texts may be done by the Secretariat in the interest of clarity. In this connection, words in square brackets [ ] have been added or changed by the Secretariat.

(b) Only passages directly relevant to the control of narcotic drugs or psychotropic substances have been reproduced in this document. Non-relevant parts of laws and regulations have been deleted by the Secretariat; such deletions are indicated by [...].

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*Note by the Secretariat: These documents are a direct reproduction of the text / texts communicated to the Secretariat.

V.07-86245 (E)

E/NL.2007/37

Misuse of Drugs Amendment Act 2000

Public Act	2000 No 47
Date of assent	14 November 2000
Commencement	see section 2

Contents

The Parliament of New Zealand enacts as follows:

1. Title

(1) This Act is the Misuse of Drugs Amendment Act 2000.

(2) In this Act, the Misuse of Drugs Act 1975[1] is called "the principal Act".

2. Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3. New section 3A inserted

The principal Act is amended by inserting, after section 3, the following section:

"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."

4. New sections 4 to 4B substituted

The principal Act is amended by repealing sections 4 and 4A, and substituting the following sections:

"4. **Amendment of schedules that identify controlled drugs and precursor substances**

"(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend the First Schedule, the Second Schedule, the Third Schedule, 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

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[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56.

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 1 schedule, or Part or clause of a schedule, and inserting that name or description in another schedule, or Part or clause of a schedule.

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

"(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to any Order in Council made under subsection (1).

"(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 the First Schedule, the Second Schedule, or the Third Schedule, if the amendment is necessary for the purpose of rendering that name or description consistent with international scientific usage:

"(b) update the First Schedule, the Second Schedule, or the Third Schedule, 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.

"4A **Procedure for bringing Order in Council made under section 4(1) 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) into force.

"(2) The commencement order may be made only after the Order in Council made under section 4(1) 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) may be made at any time after

"(a) the date that is 28 days after the date on which notice that the Order in Council has been made is given in the *Gazette;* or

"(b) if the *Gazette* notice is given during the period commencing on 24 December in 1 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) 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.

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

"(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, 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."

5. New section 5AA inserted

The principal Act is amended by inserting, immediately before section 5A, the following section:

"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 level at which any presumption for supply, as provided for in section 6(6), should be set for any or is proposed to be classified as, a controlled drug; 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 27 of the State Sector Act 1988) 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 member of the police; 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."

6. New section 5B inserted

The principal Act is amended by inserting, after section 5A, the following section:

"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."

7. Dealing with controlled drugs

(1) Section 6(6) of the principal Act is amended by inserting, after (ca), the following paragraph:

"(cb) 5 grams or more of MDMA, MDEA, or MDA, or 100 or more flakes, tablets, capsules, or other drug forms containing any one or more of MDMA, MDEA, or MDA: ".

(2) Section 6 of the principal Act is amended by adding the following subsection:

"(7) Subsection (6) does not apply to any substance mentioned in any of paragraphs (a) to (e) of that subsection unless the substance mentioned is named or described in the First Schedule, Second Schedule, or Third Schedule, or is a controlled drug analogue."

8. Exemptions from sections 6 and 7

Section 8(2) of the principal Act is amended by adding the following paragraph:

"(I) 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 one month, and the drug was

"(i) lawfully supplied to the person by a medical practitioner, designated prescriber (as defined in section 2(1) of the Medicines Act 1981), or dentist in New Zealand; or

"(ii) prescribed by a medical practitioner, designated prescriber (as defined in section 2(1) of the Medicines Act 1981), 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."

9. Treatment of persons dependent on controlled drugs

(1) Section 24 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

"(2) A medical practitioner may prescribe, administer, or supply any controlled drug for or to any such person if the medical practitioner

"(a) is for the time being a medical practitioner approved by the Minister under subsection (5)(a) and is acting in accordance with any general or specific directions imposed by the Minister under that approval; or

"(b) is working in a place specified under subsection (5)(b) and is authorized, by a medical practitioner approved under subsection (5)(a) who is working in the same place, to prescribe controlled drugs; or

"(c) is acting in the medical practitioner's capacity as a medical officer employed in a place specified under subsection (5)(b), and is authorized in writing by the chief executive of the organization that runs that place (acting under the general or specific direction of a Medical Officer of Health) to prescribe controlled drugs; or

"(d) is acting in relation to a particular patient during the period prescribed in, and in accordance with the terms and conditions of, a permission in writing given by an approved medical practitioner (as described in paragraph (a)) or an authorized medical officer (as described in paragraph (c))."

(2) Section 24(3) of the principal Act is amended by omitting the word "specified", and substituting the word "approved".

(3) Section 24 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

"(5) The Minister may from time to time, by notice in the *Gazette,* do any 1 or more of the following:

"(a) approve any medical practitioner as a medical practitioner who may, subject to any general or specific 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 any licensed hospital (within the meaning of the Hospitals Act 1957), or any health centre, clinic, or similar place, as a place at which controlled drugs may be prescribed, administered, or supplied for the purpose of this section:

"(c) revoke any approval or specification under this section."

10. Third Schedule amended

Part 11 of the Third Schedule of the principal Act is amended by omitting from the item relating to Dihydrocodeine the expression "Part IV", and substituting the expression "Part Vi".

11. Consequential repeals

The following provisions are repealed:

(a) section 2 of the Misuse of Drugs Amendment Act 1982 (1982 No 151)[2]

(b) section 3 of the Misuse of Drugs Amendment Act 1998 (1998 No 14)[3]

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2 Note by the Secretariat: E/NL.1982/29.

3 Note by the Secretariat: E/NL.1999/2.

Legislative history

5 October 1999	Introduction, first reading, second reading and referral to Health Committee (Bill 325-1)
26 June 2000	Reported from Health Committee (Bill 325-2)
26 July 2000	Consideration of report
7 November 2000	Committee of the whole House, third reading
14 November 2000	Royal assent

This Act is administered in the Ministry of Health.

E/NL.2007/38

Misuse of Drugs (Prohibition of Cannabis Utensils and Methamphetamine Utensils) Notice 2003

Pursuant to section 22(l A) of the Misuse of Drugs Act 1975[1] the Minister of Health gives the following notice.

Contents

1. Title

This notice is the Misuse of Drugs (Prohibition of Cannabis Utensils and Methamphetamine Utensils) Notice 2003.

2. Commencement

This notice comes into force on 15 January 2004.

3. Interpretation

In this notice, unless the context otherwise requires,

Act means the Misuse of Drugs Act 1975

cannabis means any of the following:

(a) a cannabis preparation as described in clause 1 of Part I of the Second Schedule of the Act:

(b) a cannabis fruit, cannabis plant, or cannabis seed as described in Part I of the Third Schedule of the Act

cannabis utensil means any of the following utensils that may be used for administering cannabis, and that has 1 or more prohibited features:

(a) a bong:

(b) a hash pipe:

(c) a head pipe:

(d) a hubble-bubble:

(e) a hookah:

(f) a roach clip with a pincer or tweezer action:

(g) a water pipe

methamphetamine means any of the following:

(a) the substance methamphetamine as described in clause 1 of the First Schedule of the Act:

(b) the isomers of the substance mentioned in paragraph (a) whenever the existence of isomers of that kind is possible within the specific chemical designation:

(c) the esters and ethers of the substance mentioned in paragraph (a) and the esters and ethers of the isomers mentioned in paragraph (b) whenever the existence of esters or ethers of that kind is possible:

(d) the salts of the substance mentioned in paragraph (a) and the salts of the isomers, esters, and ethers mentioned in paragraph (b) or (c):

(e) substances containing any proportion of a substance mentioned in paragraphs (a) to (d)

methamphetamine utensil

(a) means a pipe that may be used for administering methamphetamine (common names for which include crystal meth, glass, ice, P, or pure), and that has the following features:

(i) a bowl all of which or the base of which is made of glass. metal, ceramic, or another flameproof and heat-conducting material; and

(ii) a stem leading directly off the bowl and ending with a mouthpiece; and

(iii) no insertion (of gauze, wire mesh screen, or of another material that is not designed or intended to be burnt or dissolved) between the howl and stem; and

(iv) a hole either at the top of the bowl or on the stem; but

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[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56 and E/NL.2007/37.

(b) does not include a pipe manufactured for use as a pipe to smoke tobacco prohibited feature means, in the case of a utensil mentioned in the definition of cannabis utensil (other than a roach clip with a pincer or tweezer action), any of the following features:
(i) more than 2 holes:
(ii) more than 1 inhalation hose (breathing port): (iii) provision for cooling smoke by drawing the smoke through water:
(iv) a metal or ceramic bowl:
(v) an insertion placed in a bowl, which is an insertion that is a gauze, a wire mesh screen, or an insertion made of material that is not designed or intended to be burnt or dissolved in the bowl:

(b) in the case of a roach clip with a pincer or tweezer action, a depiction of cannabis fruit, cannabis seed, or any part of the cannabis plant, or a depiction that could reasonably be taken to be a depiction of cannabis fruit, cannabis seed, or any part of the cannabis plant

prohibited goods power, function, or duty means a power, function, or duty conferred or imposed by the Customs and Excise Act 1996 and that may be exercised or performed in respect of prohibited goods, for example,

(a) the power under section 235 of that Act to waive forfeiture of goods, and to direct their return; and

(b) the power under section 236(2) of that Act to order restoration of goods forfeited to the person from whom the goods were seized

supply, in relation to utensils that are prohibited goods because of section 54(1)(a) and the First Schedule of the Customs and Excise Act 1996, does not include the actual or purported exercise or performance, in respect of those utensils, of a prohibited goods power, function, or duty.

4. Importation and supply of cannabis utensils prohibited

No person may-

(a) Import a cannabis utensil; or

(b) supply a cannabis utensil

5. Importation and supply of methamphetamine utensils prohibited

No person may

(a) import a methamphetamine utensil; or

(b) supply a methamphetamine utensil.

6. Revocation

The Misuse of Drugs (Prohibition of Cannabis Utensils) Notice 1999 (SR 1999/215) is revoked.

Dated at Wellington this 16th day of December 2003.

Jim Anderton, for Minister of Health.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in *Gazette:* I8 December 2003.
This notice is administered in the Ministry of Health.

E/NL.2007/39

Misuse of Drugs Amendment Act 2005

Contents

Schedule 1
New Part 3 added to Schedule 4 of principal Act
Schedule 2
New Schedule 5 added to principal Act
Schedule3
Consequential amendments to other enactments
Schedule 4
Restricted substances

The Parliament of New Zealand enacts as follows:

1. Title

(1) This Act is the Misuse of Drugs Amendment Act 2005.

(2) In this Act, the Misuse of Drugs Act 1975[1] is called "the principal Act".

(3) In this Act, the Misuse of Drugs Amendment Act 1978[2] is called "the amendment Act".

2. Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

Part 1
Substantive amendments to Misuse of Drugs Act 1975 and consequential amendments

3. Interpretation

(1) The definition of precursor substance in section 2(1) of the principal Act is amended by inserting, after the expression "or Part 2", the expression "or Part 3".

(2) Section 2 of the principal Act is amended by inserting, after subsection (1), the following subsection:
"(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."

4. Amendment of schedules that identify controlled drugs and precursor substances

(1) The heading to section 4 of the principal Act is amended by adding the words ‘‘**, and set amount, level, or quantity at and over which controlled drugs are presumed to be for supply**’’.

(2) Section 4 of the principal Act is amended by inserting, after subsection (1), the following subsections:
"(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 I 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.
"(IB) 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 I of Schedule 5 and the amount, level, or quantity at and over which it is presumed to be for supply.
"(IC) An Order in Council may not be made under subsection (I B)(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.

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[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56 and E/NL.2007/37.

[2] Note by the Secretariat: E/NL.1998/57.

‘‘(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.’’

(3) Section 4(2) of the principal Act is amended by inserting, after the expression ‘‘subsection (1)’’, the expression ‘‘or subsection (1B)’’.

(4) Section 4(3) of the principal Act is amended by adding the expression ‘‘or subsection (1B)’’.

(5) Section 4(4)(a) and (b) of the principal Act is amended by omitting the words ‘‘or the Third Schedule’’, and substituting the words ‘‘the Third Schedule, or Schedule 5’’.

5. Procedure for bringing Order in Council made under section 4(1) into force

(1) The heading to section 4A of the principal Act is amended by inserting, after the expression ‘‘**section 4(1)**’’, the expression ‘‘**or (1B)**’’.

(2) Section 4A(1), (2), (3), and (4) of the principal Act is amended by inserting, after the expression ‘‘section 4(1)’’, the expression ‘‘or (1B)’’.

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

(1) The heading to section 4B of the principal Act is amended by adding, after the expression ‘‘**section 4(1)**’’, the expression ‘‘**or (1B)**’’.

(2) Section 4B(2) of the principal Act is amended by inserting, after the words ‘‘must have regard to’’, the words ‘‘under subsection (1)(b)’’.

(3) Section 4B of the principal Act is amended by adding the following subsections:

‘‘(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.’’

7 Expert Advisory Committee on Drugs

(1) Section 5AA(2)(b) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraphs:

‘‘(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’’.

(2) Section 5AA(3) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

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

8. Dealing with controlled drugs

Section 6 of the principal Act is amended by repealing subsections (6) and (7), and substituting the following subsection:

''(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)).''

9. Aiding offences against corresponding law of another country

Section 10(1) of the principal Act is amended by omitting the words ''or section 9 of this Act'' in both places where they appear, and substituting in each case the words '', 9, 12A, or 12AB''.

10. New sections 12AB and 12AC inserted

The principal Act is amended by inserting, after section 12A, the following sections:

''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 on indictment to imprisonment for a term not exceeding 7 years.

''(3) If a person is summarily convicted of an offence under subsection (1),—

''(a) a court may sentence the person to imprisonment for a term not exceeding 1 year or a fine not exceeding $1,000, or both; and

''(b) the sentencing limits contained in section 7 of the Summary Proceedings Act 1957 do not apply.

''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(2)(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(2)(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 authorized or lawful under the law of the country to which it is being exported.

''(3) The requirements in section 67(8) of the Summary Proceedings Act 1957 relating to proof of any exception, excuse, or qualification do not apply to an offence under subsection (1).

''(4) By way of explanation, the effect of subsection (3) is that, in order for a prosecution to be successful, the prosecution must negate beyond a reasonable doubt any reasonable excuse in dispute (being any matter raised as a reasonable excuse by the defendant).

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

11. Laundering proceeds of drug offences

Section 12B(1) of the principal Act is amended by inserting, in paragraph (a) of the definition of **specified drug offence**, after the expression ‘‘section 12A’’, the expression ‘‘or section 12AB’’.

12. Commission of offences outside New Zealand

Section 12C(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:
‘‘(ca) section 12AB; or’’.

13. Miscellaneous offences

(1) Section 13(1) of the principal Act is amended by repealing paragraph (aa), and substituting the following paragraph:

‘‘(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 authorized 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 authorized 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’’.

(2) Section 13 of the principal Act is amended by inserting, after subsection (2), the following subsection:

‘‘(2A) No pharmacist, pharmacy employee, approved medical practitioner, or authorized 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) Section 13 of the principal Act is amended by adding the following subsection:

‘‘(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

‘‘**authorized 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.’’

14. Search and seizure

(1) Section 18(2) of the principal Act is amended—

(a) by inserting, after the words ‘‘the Third Schedule to this Act’’, the words ‘‘or any precursor substance specified or described in Part 3 of Schedule 4’’; and (b) by inserting, after the words ‘‘in respect of that drug’’, the words ‘‘or precursor substance’’.

(2) Section 18(3) of the principal Act is amended—

(a) by inserting, after the words ‘‘the Third Schedule to this Act’’, the words ‘‘or any precursor substance specified or described in Part 3 of Schedule 4’’; and

(b) by inserting, after the words ‘‘in respect of that drug’’, the words ‘‘or precursor substance’’; and

(c) by inserting, after the words ‘‘any controlled drug’’, in the second place where they appear, the words ‘‘or precursor substance’’.

15. Powers of Minister to prohibit prescribing, etc

Section 23(2)(d) of the principal Act is amended by omitting the words ‘‘Council of the Pharmaceutical Society of New Zealand’’, and substituting the words ‘‘Pharmacy Council’’.

16. Mistake as to nature of controlled drug or precursor substance

Section 29 of the principal Act is amended by inserting, after the expression ‘‘section 12A’’, the words ‘‘or section 12AB or section 12AC’’.

17. Further provision on crimes to be treated as included in extradition treaties

Section 35A(1) of the principal Act is amended by inserting, after the expression ‘‘12A,’’, the expression ‘‘12AB,’’.

18. Restrictions on surrender of offenders

Section 35C(1) of the principal Act is amended by inserting, after the expression ‘‘12A,’’, the expression ‘‘12AB,’’.

19. New section 36 substituted

The principal Act is amended by repealing section 36, and substituting the following section:

‘‘36 **Application of Customs and Excise Act 1996** ‘‘(1) Sections 137, 139, 140, 143 to 145, 148 to 149B, 149C(1) and (2), 149D, 151, 152, 161, 165 to 172, 225, and 226 of the Customs and Excise Act 1996 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 VI of the Third Schedule; and

‘‘(b) any precursor substance specified or described in Schedule 4.’’

20. New Part 3 added to Schedule 4 of principal Act

Schedule 4 of the principal Act is amended by adding the Part 3 set out in Schedule 1 of this Act.

21. Schedule 4 of principal Act amended

Schedule 4 of the principal Act is amended—

(a) by inserting in clause 1 of Part 1, in their appropriate alphabetical order, the items ‘‘ACETIC ANHYDRIDE’’ and ‘‘POTASSIUM PERMANGANATE’’; and

(b) by omitting from clause 1 of Part 2 the items ‘‘ACETIC ANHYDRIDE’’ and ‘‘POTASSIUM PERMANGANATE’’.

22. New Schedule 5 added

The principal Act is amended by adding the Schedule 5 set out in Schedule 2 of this Act.

23. Consequential amendments

The enactments listed in Schedule 3 are consequentially amended in the manner indicated in that schedule.

Part 2
Amendments to Misuse of Drugs Amendment Act 1978

24. Allowing delivery of unlawfully imported drugs for purpose of detection, etc

(1) The heading to section 12 of the amendment Act is amended by inserting, after the words ‘‘**imported drugs**’’, the words ‘‘**or precursor substances**’’.

(2) Section 12(1) of the amendment Act is amended—

(a) by inserting, after the words ‘‘any controlled drug’’, the words ‘‘or precursor substance’’; and

(b) by inserting, after the expression ‘‘section 6(1)(a)’’, the expression ‘‘or section 12AB’’; and

(c) by inserting, after the words ‘‘leave or replace that drug’’, the words ‘‘or precursor substance’’.

(3) Section 12(2) of the amendment Act is amended by inserting, after the words ‘‘controlled drug’’, the words ‘‘or precursor substance’’.

25. New sections 12A to 12D inserted

The amendment Act is amended by inserting, after section 12, the following sections:

‘‘12A **Searches relating to persons involved in delivery under section 12**

‘‘(1) If the circumstances in subsection (2) exist, a member of the police or a Customs officer may, during the course of a delivery in relation to which a Customs officer has exercised his or her powers under section 12,—

‘‘(a) search any person involved in that delivery; and

‘‘(b) detain that person for the purpose of carrying out that search.

‘‘(2) The circumstances are that the member of the police or the Customs officer believes on reasonable grounds that the person is in possession of any of the following:

‘‘(a) a controlled drug:

‘‘(b) a precursor substance:

‘‘(c) a package in relation to which the Customs officer has replaced all or a portion of any controlled drug or precursor substance:

‘‘(d) evidence of the commission of an offence under section 6(1)(a) or section 12AB of the principal Act.

‘‘(3) Reasonable force may be used, if necessary, for either or both of the following purposes:

‘‘(a) to search a person under subsection (1):

‘‘(b) to detain a person under subsection (1).

‘‘(4) A member of the police or a Customs officer may, without a search warrant issued under section 198 of the Summary Proceedings Act 1957, enter any building, craft, carriage, vehicle, premises, or place in order to carry out a search under subsection (1).

‘‘(5) A member of the police or a Customs officer who undertakes a search under subsection (1) must, within 3 working days of the search, give a written report of the search, the circumstances in which the search was conducted, and the matters that gave rise to the reasonable grounds to believe required under subsection (2), to—

‘‘(a) in the case of a member of the police, the Commissioner of Police; and

‘‘(b) in the case of a Customs officer, the chief executive of the New Zealand Customs Service.

‘‘12B **Seizure of items found during search under section 12A**

‘‘(1) A member of the police or a Customs officer may seize any thing found on or about a person when carrying out a search under section 12A(1) that the member of the police or the Customs officer has reasonable cause to suspect is a thing described in any of paragraphs (a) to (d) of section 12A(2).

‘‘(2) Reasonable force may be used, if necessary, to seize the thing.

‘‘12C **Obligations on member of police or Customs officer conducting search under section 12A to identify self and power relied on**

‘‘(1) Every member of the police or Customs officer who exercises a power of search under section 12A(1) must—

‘‘(a) identify himself or herself to any person he or she intends to search; and

‘‘(b) advise that person that the search is being undertaken under the authority of section 12A(1).

‘‘(2) Every member of the police or Customs officer who enters any building, craft, carriage, vehicle, premises, or place in order to carry out a search under section 12A(1) must—

‘‘(a) identify himself or herself to any person who questions his or her right to enter; and

‘‘(b) advise that person that the entry is being undertaken under the authority of section 12A(1).

‘‘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 member of the police, 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.’’

26. New sections 13EA to 13EE inserted

The amendment Act is amended by inserting, after section 13E, the following sections:

‘‘13EA **Searches associated with detention warrant** ‘‘(1) If the circumstances in subsection (2) exist, a member of the police 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 member of the police 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 member of the police 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 member of the police 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 member of the police or the Customs officer conducting the search may continue with and complete the search before arranging for the internal examination to take place.

‘‘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 authorize 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.

‘‘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 authorize 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.

‘‘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 member of the police or Customs officer may conduct a strip search unless another member 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.
''13EE **Reporting search associated with detention warrant**
A member of the police 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 member of the police, the Commissioner of Police; and
''(b) in the case of a Customs officer, the chief executive of the New Zealand Customs Service.''

27. Renewal of warrants

(1) Section 13I(2) of the amendment Act is amended by inserting, after paragraph (c), the following paragraph: ''(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:''.

(2) Section 13I(5) of the amendment Act is amended by inserting, after the words ''or paragraph (c)'', the words ''or paragraph (ca)''.

28. Commissioner of Police and chief executive of New Zealand Customs Service to report to Parliament

Section 13M of the amendment Act is amended by adding the following paragraph:
''(f) the number of rub-down searches and strip searches undertaken by members of the police or Customs officers under section 13EA.''

29. Second Schedule amended

The Second Schedule of the amendment Act is amended by inserting, before the heading 'SUPERVISING LAWYER AND DOCTOR'' the heading ''**Searches**'' and the words ''If a detention warrant is issued there are certain circumstances in which a member of the police or a Customs officer may undertake a rub-down search or strip search, or both.''

30 Transitional provision relating to person detained under amendment Act on commencement of this Act

If a person is detained under section 13A of the amendment Act when this Act comes into force, the detained person may not be searched under section 13EA of the amendment Act during the course of that detention.

Part 3
Restricted substances

31. Interpretation

In this Part, unless the context otherwise requires,—
advertising—
(a) means any words, whether written, printed, or spoken, and any pictorial representation or design, used or appearing to be used to promote the sale of a substance (including, without limitation, any sign, publication, or leaflet); and

(b) includes any matter referred to in paragraph (a) that is represented in an electronic or digital medium;

code of manufacturing practice means a code of practice for the manufacturing of restricted substances issued or approved under section 63;

distributor means a person engaged in the business of selling restricted substances, otherwise than at retail only;

enforcement officer means an officer appointed under section 55;

manufacturer includes any company with which a manufacturer is associated within the meaning of section OD 7 of the Income Tax Act 2004;

restricted substance means a substance specified or described in Schedule 4 that is not in a preparation, concentration, form, or use exempted from being a restricted substance by regulations made under this Part;

retailer means a person engaged in any business that includes the sale of restricted substances, at retail;

sale, in relation to a restricted substance, includes every method of disposition for valuable consideration, including, without limitation,—

(a) bartering; and

(b) offering or attempting to sell or having in possession for sale, or exposing, sending, or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale; and

(c) retailing; and

(d) wholesaling;

substance—

(a) means any mixture, preparation, or article that is manufactured for the primary purpose of being administered, ingested, inhaled, or injected in order to induce a psychoactive response; but

(b) does not include any—

(i) agricultural compound or veterinary medicine (as defined in section 2(1) of the Agricultural Compounds and Veterinary Medicines Act 1997):

(ii) controlled drug, controlled drug analogue, or precursor substance (as defined in section 2(1) of the principal Act):

(iii) dietary supplement (as defined in regulation 2(1) of the Dietary Supplements Regulations 1985 (SR 1985/208)):

(iv) food (as defined in section 2 of the Food Act 1981):

(v) hazardous substance (as defined in section 2(1) of the Hazardous Substances and New Organisms Act 1996):

(vi) herbal remedy (as defined in section 2(1) of the Medicines Act 1981), medicine (as defined in section 3 of that Act), or related product (as defined in section 94 of that Act):

(vii) liquor (as defined in section 2 of the Sale of Liquor Act 1989):

(viii) tobacco product or herbal smoking product (as defined in section 2(1) of the Smoke-free Environments Act 1990)

supply means distribute or give, but does not include sell.

Functions of Expert Advisory Committee on Drugs under this Part

32. Functions of Expert Advisory Committee on Drugs under this Part

The functions of the Expert Advisory Committee on Drugs (as established under section 5AA of the principal Act) in relation to this Part are—

(a) to carry out evaluations of substances to assess whether they should be restricted substances; and

(b) to make recommendations to the Minister, in accordance with section 35(2), about—

(i) whether a substance should or should not be restricted; and

(ii) if in its view a substance should be a restricted substance, the kind of prescribed restrictions or requirements (if any) that it may be appropriate to attach to the substance; and

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

Compare: 1975 No 116 s 5AA(2)

Scheduling restricted substances

33 Amendment to Schedule 4

(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend Schedule 4 by—

(a) adding the name or description of any substance to Schedule 4, in order that it become a restricted substance; or

(b) removing the name or description of any substance from Schedule 4, in order that it no longer be a restricted substance.

(2) An Order in Council made under subsection (1) may not come into force except in accordance with a commencement order made under section 34.

(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to an Order in Council made under subsection (1).

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

(a) amend the name or description of any restricted substance named or described in Schedule 4, if the amendment is necessary for the purpose of making that name or description consistent with international scientific usage:

(b) update Schedule 4, if the update is necessary for the purpose of clarifying content or correcting drafting errors.

Compare: 1975 No 116 s 4

34. Procedure for bringing Order in Council 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 33(1) into force.

(2) The commencement order may be made only after the Order in Council made under section 33(1) 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 33(1) may be made at any time after—

(a) the date that is 28 days after the date on which notice that the Order in Council has been made is given in the *Gazette*; or

(b) if the *Gazette* notice is given 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 33(1) 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.

Compare: 1975 No 116 s 4A

35. Matters to which Minister must have regard before recommending Order in Council under section 33(1)

(1) Before recommending to the Governor-General that an Order in Council be made under section 33(1), the Minister must, in respect of each substance referred to in the proposed Order in Council,—

(a) consult with, and consider any recommendations made by, the Expert Advisory Committee on Drugs, about the substance; and

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

(2) The matters that the Minister must have regard to, and on which the Expert Advisory Committee on Drugs must make recommendations, are—

(a) the matters set out in section 4B(2) of the principal Act; and

(b) the following matters:

(i) the purposes for which the substance is currently manufactured, advertised, imported, or sold (including, without limitation, whether it is being manufactured, advertised, imported, or sold as a psychoactive substance):

(ii) the practicalities of imposing restrictions or requirements on the substance and the ability to enforce those restrictions and requirements:

(iii) the extent to which the substance is subject to regulation or control under any other enactment:

(iv) the risk of increasing the abuse of the substance due to increased awareness or knowledge of the substance's abuse potential if it is made a restricted substance:

(v) the risk of encouraging persons to use more dangerous substitutes in place of the substance:

(vi) whether alternatives to restrictions or requirements imposed on the substance are available and are likely to be effective in reducing the risks or harm resulting from abuse of the substance.

(3) For the purposes of subsection (2), section 4B(2) of the principal Act applies as if every reference to ''drug'' were a reference to a ''substance'' (as defined in this Part).

Compare: 1975 No 116 s 4B

Sale and supply restrictions

36. Restriction on selling restricted substances to persons under 18 years

(1) No person may sell a restricted substance to a person who is under the age of 18 years.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $2,000.

Compare: 1990 No 108 s 30(1)

37. Defence to charge of selling restricted substance to person under 18 years

(1) It is a defence to a charge in respect of a contravention of section 36(1) if the person charged proves—

(a) that the contravention occurred without his or her knowledge; and

(b) that he or she took reasonable precautions and exercised due diligence in order to prevent the contravention of that section.

(2) A person has the defence in subsection (1) if he or she proves that he or she—

(a) sighted an evidence of age document (within the meaning of section 2A of the Sale of Liquor Act 1989) for the person to whom the restricted substance was sold, indicating that the person was of or over the age of 18 years; and

(b) reasonably believed that the evidence of age document—

(i) was valid; and

(ii) related to the person to whom the restricted substance was sold.

(3) Subsection (2) does not affect the generality of subsection (1).

(4) It is not a defence to a charge in respect of a contravention of section 36(1)—

(a) that the person to whom the restricted substance was sold was buying it for or on behalf of, or as agent for, a person of or over the age of 18 years; or

(b) that the person charged believed on reasonable grounds that the person to whom the restricted substance concerned was sold was buying it for or on behalf of, or as agent for, a person of or over the age of 18 years.

Compare: 1990 No 108 s 30(2)–(3)

38. Restriction on persons under 18 years selling restricted substances

(1) No person may sell a restricted substance unless that person is of or over the age of 18 years.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $2,000.

39. Restriction on supplying restricted substances to persons under 18 years

(1) No person may supply a restricted substance to a person—

(a) who is under the age of 18 years; or

(b) with the intention that it be supplied (directly or indirectly) to a person who is under the age of 18 years.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $2,000.

(3) Nothing in subsections (1) or (2) applies to a person who is acting in pursuance of a duty, function, or power under this Part or any other enactment.

(4) Subsection (1) applies irrespective of any liability that may attach to a person who has sold the restricted substance concerned to any other person.

Compare: 1990 No 108 s 30AA(1), (5)

40. Defence to charge of supplying restricted substance to person under 18 years

(1) It is a defence to a charge in respect of a contravention of section 39(1) if the person charged proves that he or she had no reasonable grounds to suspect that the person to whom he or she supplied the restricted substance was under the age of 18 years.

(2) A person has the defence in subsection (1) if he or she proves that he or she—

(a) sighted an evidence of age document (within the meaning of section 2A of the Sale of Liquor Act 1989) for the person to whom the restricted substance was supplied, indicating that the person was of or over the age of 18 years; and

(b) reasonably believed that the evidence of age document—

(i) was valid; and

(ii) related to the person to whom the restricted substance was supplied.

(3) Subsection (2) does not affect the generality of subsection (1).

(4) It is not a defence to a charge in respect of a contravention of section 39(1)—

(a) that the person being supplied was acquiring the restricted substance concerned for or on behalf of, or as agent for, a person of or over the age of 18 years; or

(b) that the person charged believed on reasonable grounds that the person being supplied was acquiring the restricted substance concerned for or on behalf of, or as agent for, a person of or over the age of 18 years.

Compare: 1990 No 108 s 30AA(2)–(4)

41. Restriction on place of sale or supply of restricted substances

(1) No person may sell or supply a restricted substance to which a prescribed restriction relating to place of sale or supply applies from a place or premises that do not comply with that restriction.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $2,000.

42. Restriction on free of charge distribution and rewards of restricted substances

(1) No manufacturer, distributor, importer, or retailer of any restricted substance may—

(a) distribute a restricted substance free of charge; or

(b) supply a restricted substance to a person free of charge for subsequent distribution; or

(c) in the case of a retailer, supply a restricted substance to a person free of charge for the purpose of that retailer's business.

(2) No manufacturer, distributor, importer, or retailer of any restricted substance may—

(a) offer any gift or cash rebate, or the right to participate in any contest, lottery, or game, to the purchaser of a restricted substance in consideration for the purchase of that restricted substance, or to any person in consideration for the provision of evidence of a purchase of that kind; or

(b) offer, to any retailer, a gift or cash rebate, or the right to participate in any contest, lottery, or game, as an inducement or reward in relation to—

(i) the purchase or sale of restricted substances by that retailer; or

(ii) the advertising of restricted substances inside that retailer's place of business; or

(iii) the display of restricted substances in a particular part of that retailer's place of business.

(3) Nothing in subsection (2) applies in respect of any payment or reward to any person who purchases or attempts to purchase a restricted substance—

(a) with the authority of the Director-General of Health, the Commissioner of Police, or some other person authorized for the purpose by the Director-General or the Commissioner; and

(b) for the purpose of monitoring compliance with the provisions of this Part.

(4) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; and

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Compare: 1990 No 108 s 28

Advertising restrictions and requirements

43. Restrictions and requirements relating to advertising restricted substances

(1) No person may advertise a restricted substance—
(a) on television; or
(b) on radio; or
(c) in any newspaper or other periodical publication printed and published in New Zealand; or
(d) on or in any other medium prescribed in regulations made under this Part.

(2) No person may advertise a restricted substance to which a prescribed restriction relating to advertising applies in a way that does not comply with that restriction.

(3) Every person who advertises a restricted substance to which a prescribed requirement relating to advertising applies must advertise the restricted substance in a way that complies with that requirement.

(4) Every person who contravenes subsection (1), (2), or (3) commits an offence and is liable on summary conviction,—
(a) in the case of an individual, to a fine not exceeding $5,000; and
(b) in the case of a body corporate, to a fine not exceeding $10,000.

Labeling restrictions and requirements

44. Restrictions and requirements relating to labeling restricted substances

(1) No person may sell or supply a restricted substance to which a prescribed restriction relating to labeling applies with a label that does not comply with that restriction.

(2) Every person who sells or supplies a restricted substance to which a prescribed requirement relating to labeling applies must sell or supply the restricted substance with a label that complies with that requirement.

(3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction,—
(a) in the case of an individual, to a fine not exceeding $5,000; and
(b) in the case of a body corporate, to a fine not exceeding $10,000.

Compare: 1990 No 108 s 32(1)

Packaging restrictions and requirements

45. Restrictions and requirements relating to packaging restricted substances

(1) No person may sell or supply a restricted substance to which a prescribed restriction relating to packaging applies in a package that does not comply with that restriction.

(2) Every person who sells or supplies a restricted substance to which a prescribed requirement relating to packaging applies must sell or supply the restricted substance in a package that complies with that requirement.

(3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction,—
(a) in the case of an individual, to a fine not exceeding $5,000; and
(b) in the case of a body corporate, to a fine not exceeding $10,000.

Health warning requirements

46. Requirement relating to health warning

(1) Every person who sells or supplies a restricted substance to which a prescribed requirement relating to a health warning applies must sell or supply the restricted substance with the necessary health warning required to comply with that requirement.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction,—
(a) in the case of an individual, to a fine not exceeding $5,000; and
(b) in the case of a body corporate, to a fine not exceeding $10,000.

Signage requirements

47. Requirement to display signage

(1) Every person who sells a restricted substance to which a prescribed requirement relating to signage applies must display the signage required to comply with that requirement.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction to a fine not exceeding $2,000.

Quantity, dosage, form, and serving restrictions and requirements

48. Restrictions and requirements relating to quantity, dosage, form, or serving of restricted substances

(1) No person may sell or supply a restricted substance to which a prescribed restriction relating to quantity, dosage, form, or serving applies in a quantity, dose, form, or serving that does not comply with that restriction.

(2) Every person who sells or supplies a restricted substance in relation to which a prescribed requirement relating to quantity, dosage, form, or serving applies must sell or supply the restricted substance in a quantity, dose, form, or serving that complies with that requirement.

(3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; and

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Storage and display restrictions and requirements

49. Restrictions and requirements relating to storage and display of restricted substances

(1) No person who sells or supplies a restricted substance to which a prescribed restriction relating to storage or display applies may store or display the restricted substance in a way that does not comply with that restriction.

(2) Every person who sells or supplies a restricted substance to which a prescribed requirement relating to storage or display applies must store or display the restricted substance in a way that complies with that requirement.

(3) Every person who contravenes subsection (1) or (2) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; and

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Manufacturing requirement

50. Requirement to manufacture restricted substances in accordance with code of practice

(1) Every person who manufactures a restricted substance to which a code of manufacturing practice applies must manufacture the restricted substance in accordance with that code.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; and

(b) in the case of a body corporate, to a fine not exceeding $10,000.

51. Restriction on import of restricted substances

(1) No person may import into New Zealand a restricted substance to which a code of manufacturing practice applies unless the restricted substance meets or exceeds the minimum standards established by the code.

(2) Every person who contravenes subsection (1) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; and

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Recall

52. Recall of restricted substances in certain circumstances

(1) The Minister may, for the purpose of protecting the public, issue an order of the kind referred to in subsection (2) (a **recall order**) to any manufacturer, importer, or seller of any restricted substance.

(2) The recall order is an order directing the recall of any restricted substance or requiring the destruction of any restricted substance because the restricted substance is—

(a) unsound or unfit for human consumption; or

(b) damaged, deteriorated, or perished; or

(c) contaminated with any poisonous, deleterious, or injurious substance.

(3) A manufacturer, importer, or seller must,—

(a) on receipt of a recall order, advise the Minister of the details of the manner in which that person proposes to comply with the order; and

(b) when the recall order has been complied with, give written notice of that fact to the Minister.

(4) Every person who fails to comply, in any respect, with any of the provisions of this section or any order issued under this section commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; or

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Compare: 1981 No 45 s 40

Record-keeping requirement

53. Requirement to keep records relating to restricted substances

(1) Every person who, in the course of any business, imports, prepares, processes, manufactures, packs, stores, carries, delivers, or sells any restricted substance, must—

(a) keep, in some place of security at that person's place of business, any records required to be kept by that person by any regulations made under this Part; and

(b) retain those records for the period of time prescribed in the regulations.

(2) Every person who fails to comply with subsection (1) commits an offence and is liable on summary conviction,—

(a) in the case of an individual, to a fine not exceeding $5,000; or

(b) in the case of a body corporate, to a fine not exceeding $10,000.

Compare: 1981 No 45 s 41

Certain persons prohibited from selling or manufacturing restricted substances

54. Certain persons prohibited from selling or manufacturing restricted substances

(1) This section applies if a person has been convicted of any offence under this Part and, within 2 years of being sentenced for that offence, he or she is convicted of another offence or offences under this Part.

(2) If this section applies, the court imposing the sentence for the second or subsequent offence may (in addition to any sentence it might impose and any other order in the nature of a penalty it might make) make an order—

(a) prohibiting any or all of the following:

(i) the sale of any restricted substances by or on behalf of the person:

(ii) the sale of any restricted substances at the place or premises at which the second or subsequent offence occurred:

(iii) the manufacture of any restricted substances by or on behalf of the person:

(iv) the manufacture of any restricted substances at the place or premises at which the second or subsequent offence occurred; or

(b) prohibiting any or all of the following:

(i) the sale of restricted substances of a stated kind by or on behalf of the person:

(ii) the sale of restricted substances of a stated kind in the premises or at the place in which the second or subsequent offence occurred:

(iii) the manufacture of restricted substances of a stated kind by or on behalf of the person:

(iv) the manufacture of restricted substances of a stated kind in the premises or at the place in which the second or subsequent offence occurred; or

(c) imposing any conditions or restrictions (or both) it thinks fit on any or all of the following:

(i) the sale of restricted substances by or on behalf of the person:

(ii) the sale of restricted substances at the premises or place at which the second or subsequent offence occurred:

(iii) the manufacture of restricted substances by or on behalf of the person:

(iv) the manufacture of restricted substances at the premises or place at which the second or subsequent offence occurred.

(3) The order must state—

(a) the date it takes effect (which may be the date on which it is made or a later date); and

(b) the date it expires (which must be a date at least 4 weeks and no more than 3 months after the date it takes effect).

(4) Every person who contravenes an order made under subsection (2) commits an offence.

(5) Every person who commits an offence under subsection (4) is liable on summary conviction to a fine not exceeding $2,000.

Compare: 1990 No 108 s 30AB

Enforcement officers

55. Enforcement officers

(1) The Director-General of Health may appoint enforcement officers to enforce this Part.

(2) A person appointed as an enforcement officer may be a person appointed by name or may be the holder for the time being of a particular position.

(3) A person appointed under subsection (1) is not by virtue of that appointment alone—

(a) an officer or employee of the Public Service; or

(b) a person to whom the State Sector Act 1988 or the Government Superannuation Fund Act 1956 applies.

(4) The Director-General of Health must not appoint a person under subsection (1) unless the Director-General is satisfied that he or she is suitably qualified and trained and is a fit and proper person for appointment as an enforcement officer.

(5) The Director-General of Health may do any or all of the following:

(a) appoint persons to enforce only some of the provisions of this Part:

(b) appoint persons to exercise only some of the powers given to enforcement officers by this Part:

(c) appoint persons subject to limitations or restrictions on their exercise of enforcement powers.

(6) Every enforcement officer must have an instrument of appointment identifying the holder as an enforcement officer appointed under this section.

(7) An enforcement officer's instrument of appointment must state—

(a) that he or she is appointed to enforce—

(i) all the provisions of this Part; or

(ii) only stated provisions of this Part; or

(iii) all the provisions of this Part other than certain stated provisions; and

(b) that he or she is appointed to exercise—

(i) all enforcement powers; or

(ii) only stated enforcement powers; or

(iii) all enforcement powers other than certain stated powers; and

(c) all limitations and restrictions (if any) imposed under subsection (5)(c) on his or her exercise of enforcement powers.

Compare: 1990 No 108 s 14

Enforcement powers

56. Entry and inspection for purposes of ensuring compliance with this Part

(1) An enforcement officer or a member of the police may enter a place, if he or she believes there is a restricted substance in that place, to—
(a) find out whether this Part is being complied with in relation to that restricted substance:
(b) find out the extent to which this Part is not being complied with in relation to that restricted substance:
(c) exercise the powers given by section 58.

(2) Subsection (1) does not apply to a dwelling house or other residential accommodation.

(3) An enforcement officer or a member of the police who enters a place under subsection (1) may do any or all of the following things:
(a) inspect the place:
(b) take photographs or videos of the place:
(c) copy any documents or records (of any kind) relating to a restricted substance:
(d) exercise the powers given by section 58:
(e) inspect any article or material (for example, advertising material and display signage) in relation to which a restriction or requirement is imposed by or under this Part.

(4) Nothing in subsection (2) prevents an enforcement officer or a member of the police from entering a dwelling house or other residential accommodation and exercising the powers referred to in subsection (3)—
(a) under authority given by or under an enactment (including another section of this Part); or
(b) with the occupier's consent.

(5) An enforcement officer or a member of the police who is exercising powers under this section in respect of or in a place, must,—
(a) if a person in charge of the place is present on initial entry, identify himself or herself to the person in charge as an enforcement officer or a member of the police; and
(b) in the case of an enforcement officer who is asked by a person in charge to do so, produce to the person evidence of identity, his or her instrument of appointment as an enforcement officer, or both; and
(c) explain to that person that the authority to enter is under this section.

Compare: 1990 No 108 s 41A

57. Powers of entry and inspection if reasonable grounds to believe offence committed under this Part

(1) An enforcement officer or a member of the police may enter a place if he or she has reasonable grounds to believe that—
(a) there is a restricted substance in that place; and
(b) an offence has been, is being, or will be committed under this Part in relation to that restricted substance in that place.

(2) Subsection (1) does not apply to a dwelling house or other residential accommodation.

(3) An enforcement officer or a member of the police who enters a place under subsection (1) may do any or all of the following things:
(a) inspect the place:
(b) take photographs or videos of the place:
(c) seize any restricted substance, document or record (of any kind), or other article relating to a restricted substance (for example, any advertising or labeling material):
(d) copy any documents or records (of any kind) relating to the restricted substance:
(e) exercise the powers given by section 58.

(4) Nothing in subsection (2) prevents a member of the police from entering a dwelling house or other residential accommodation and exercising the powers referred to in subsection (3)—
(a) with the consent of an occupier; or
(b) under authority given by or under an enactment (including another section of this Part, for example, pursuant to a warrant issued under subsection (5)).

(5) A District Court Judge may issue to a member of the police a warrant to enter any part of a dwelling house or other residential accommodation, if satisfied that there are reasonable grounds for believing that—
(a) there is a restricted substance in the dwelling house or residential accommodation; and
(b) an offence has been, is being, or will be committed under this Part in relation to that restricted substance in that dwelling house or residential accommodation.

(6) A warrant issued under subsection (5) must state a period during which the warrant may be executed, which must not exceed 14 days from the date of its issue.

(7) An enforcement officer or a member of the police exercising powers under this section in respect of or in a place must,—
(a) if a person in charge of the place is present on initial entry, identify himself or herself to the person in charge as an enforcement officer or a member of the police; and
(b) in the case of an enforcement officer who is asked by a person in charge to do so, produce to the person evidence of identity, his or her instrument of appointment as an enforcement officer, or both; and
(c) explain to that person that the authority to enter is under this section.

58. Requirement to give identifying information

(1) Subsection (2) applies to an enforcement officer or a member of the police who at any time believes on reasonable grounds that within the previous 14 days a restricted substance was sold to a person under the age of 18 years in a place.

(2) An enforcement officer or a member of the police to whom this subsection applies may,—
(a) if he or she believes on reasonable grounds that the person who sold the restricted substance is in the place, require that person to give the enforcement officer or a member of the police his or her name and address; and
(b) if the person who sold the restricted substance is not present, require any other person in the place who appears to be in charge of it or any part of it, to give the enforcement officer or a member of the police the name and address of (or, if the address is not within the person's knowledge, the name and any other identifying information within the person's knowledge relating to) the person the enforcement officer or a member of the police believes on reasonable grounds sold the restricted substance.

(3) An enforcement officer or a member of the police who suspects that a person is under the age of 17 years must not under subsection (2)(a) require the person to give the enforcement officer or member of the police his or her name and address unless—
(a) there is no other person in the place concerned who appears to be in charge of it; or
(b) there is another person in the place who appears to be in charge of it, but the enforcement officer suspects that that person is also under the age of 17 years.

(4) An enforcement officer or a member of the police who suspects that a person is under the age of 17 years must not under subsection (2)(b) require the person to give the enforcement officer or a member of the police the name and address of (or name and other identifying information relating to) any other person if the other person is in the place concerned and appears to be of or over the age of 17 years.

(5) The powers given by this section must be used only for, and only to the extent necessary for, finding out the name and address of (or, if the address is not within the knowledge of the person asked, the name and any other identifying information within the person's knowledge relating to) a person the enforcement officer or member of the police concerned believes to have sold a restricted substance to a person under the age of 18 years.

Compare: 1990 No 108 s 41B and 41C(2)

59. Information laid under this Part

(1) An information in respect of an offence against this Part may be laid at any time within 1 year after the time the matter it relates to arose.

(2) Subsection (1) overrides section 14 of the Summary Proceedings Act 1957.

Compare: 1990 No 108 s 41F(2), (3)

Offences relating to enforcement

60. Offence to obstruct enforcement officer or member of police under this Part

(1) A person who obstructs an enforcement officer or a member of the police in the execution of any power or duty under this Part commits an offence.

(2) Every person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding $1,000.

61. Offence to make false statement to enforcement officer or member of police under this Part

(1) A person commits an offence if—

(a) he or she makes a declaration or statement to an enforcement officer or a member of the police executing any power or fulfilling any duty under this Part; and

(b) he or she knows that the declaration or statement is false.

(2) Every person who commits an offence under subsection (1) is liable on summary conviction to a fine not exceeding $1,000.

Compare: 1975 No 116 s 15

Regulations

62. Regulations

(1) The Governor-General may, by Order in Council, make regulations for all or any of the following purposes:

Exemptions

(a) exempting any specified preparation, concentration, form, or use of a restricted substance from being a restricted substance:

Place of sale or supply restrictions

(b) prescribing restrictions on the places and premises from which restricted substances may be sold or supplied, or both, including, without limitation, restrictions of the following kinds:

(i) a restriction completely prohibiting the sale or supply, or both, of restricted substances from premises of a specified kind (for example, from non-fixed premises, such as a vehicle):

(ii) a restriction prohibiting the sale of restricted substances from certain types of retail premises (for example, premises where liquor is sold):

(iii) a restriction prohibiting the sale or supply, or both, of restricted substances from places where children or minors gather (for example, schools or recreational facilities):

Advertising restrictions and requirements

(c) prescribing restrictions on the location, manner, way, medium, or form in which advertising for restricted substances may appear, including, without limitation, restrictions of the following kinds:

(i) a restriction completely prohibiting sponsorship activities relating to restricted substances:

(ii) a restriction on advertising restricted substances in certain places (for example, near schools):

(iii) a restriction on using certain forms or themes of advertising for restricted substances (for example, advertising that appeals to children):

(d) prescribing requirements relating to the location, manner, way, medium, and form in which advertising for restricted substances, if undertaken, is to appear, including, without limitation, a requirement that advertising for restricted substances include certain information (for example, the ingredients contained in the restricted substance):

Labeling restrictions and requirements

(e) prescribing restrictions on the manner, way, medium, or form in which the labeling of restricted substances is to appear for the purposes of sale or supply, or both, including, without limitation, prohibiting certain kinds of labeling (for example, labeling designed to appeal to children or that associates restricted substances with youth culture): (f) prescribing requirements relating to the manner, way, medium, or form in which the labeling of restricted substances is to appear for the purposes of sale or supply, or both (for example, requiring that the inner and outer packages for restricted substances both carry labels specifying certain prescribed matters):

Packaging restrictions and requirements

(g) prescribing restrictions on the size and type of packaging for restricted substances for the purposes of sale or supply, or both:

(h) prescribing requirements as to the size and type of packaging for restricted substances for the purposes of sale or supply, or both (for example, that packaging is to be tamper-proof or child-proof):

(i) prescribing restrictions on the type of material and the medium or form of the material that may be inserted in packages that hold restricted substances for the purposes of sale or supply, or both, including, without limitation, a restriction prohibiting the inclusion of written material of a certain kind (for example, material that associates restricted substances with youth culture):

(j) prescribing requirements as to the content of any material required to be inserted in packages that hold restricted substances for the purposes of sale, supply, or both, including, without limitation, a requirement that certain material be inserted in the package (for example, informational leaflets relating to contraindications for use of the restricted substance):

(k) prescribing requirements relating to the material, and the medium or form of the material that is to be inserted in packages that hold restricted substances for the purposes of sale, supply, or both, including, without limitation, a requirement that material be presented in a certain way (for example, printed in a certain size or manner):

Health warning requirements

(l) prescribing requirements that health warnings accompany restricted substances for the purposes of sale or supply, or both, including, without limitation, the following kinds of requirements:

(i) a requirement that a health warning accompany a restricted substance that specifies that the restricted substance should not be taken with certain other things (for example, liquor, drugs, other restricted substances, or medicines):

(ii) a requirement that a health warning accompany a restricted substance that specifies that the restricted substance should not be taken when a person is in a specified condition or situation (for example, the person is pregnant, breast-feeding, driving, or operating heavy machinery):

(iii) a requirement that a health warning accompany the restricted substance that states where to obtain help should adverse effects occur as a result of taking the restricted substance:

(m) prescribing requirements as to the manner, way, medium, or form in which health warnings are, if required, to appear (for example, that the health warning is to be on the label or advertising of a package containing restricted substances):

Signage requirements

(n) prescribing requirements relating to signage that is to be displayed when restricted substances are sold:

(o) prescribing requirements as to the manner, way, medium, and form in which signage, if required, is to be displayed when restricted substances are sold (for example, a requirement that a person selling a restricted substance display a sign of a particular size stating that the restricted substance may not be sold to a person under the age of 18 years or stating a recommended maximum dosage):

Quantity, dosage, form, and serving requirements

(p) prescribing restrictions on the quantity or form of restricted substances that may be sold or supplied together at any one time:

(q) prescribing requirements relating to the quantity or form of restricted substances that may be sold or supplied together at any one time:

(r) prescribing restrictions on the maximum dosage or serving of restricted substances that may be sold or supplied at any one time:

(s) prescribing requirements relating to the maximum dosage or serving of restricted substances that may be sold or supplied at any one time:

Storage and display restrictions

(t) prescribing restrictions on the storage or display of restricted substances for the purposes of sale or supply, or both, including, without limitation, a restriction on the maximum amount of any restricted substance that may be stored in any premises at any one time:

(u) prescribing restrictions on the manner of storage and display of restricted substances for the purposes of sale or supply, or both, including, without limitation, a restriction that a restricted substance must not be displayed in a particular place (for example, a position in a shop where it is visible from the street):

(v) prescribing requirements relating to the storage or display, or both, of restricted substances for the purposes of sale or supply, or both (for example, a requirement that sellers of a restricted substance must store it at or below a certain temperature):

Record-keeping requirements

(w) prescribing requirements for specified persons to keep records under this Part and the period of time for which those records must be retained:

General

(x) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Part and for its due administration.

(2) Any regulations made under subsection (1) may apply to all restricted substances, any class or description of restricted substances, or any particular restricted substance.

Code of manufacturing practice

63. Code of manufacturing practice

(1) The Director-General of Health may from time to time issue, approve, amend, or revoke a code of practice for the manufacturing of restricted substances.

(2) Before issuing, approving, amending, or revoking a code of practice under subsection (1), the Director-General of Health must consult with the organizations for the time being recognized by the Director-General as representing the interests of those persons involved in the manufacture or importation of restricted substances who will or may be affected by the code of practice

(3) A failure to comply with subsection (2) does not affect the validity of a code of practice issued or amended under this section, or the validity of a revocation of a code of practice under this section.

(4) Any code of practice issued or approved by the Director- General of Health under subsection (1) may apply to all restricted substances, any class or description of restricted substances, or any

particular restricted substance. (5) The Director-General of Health, when issuing, approving, amending, or revoking a code of practice, must—

(a) notify the issue, approval, amendment, or revocation of the code in the *Gazette*; and

(b) show in the notice the date of the issue, approval, amendment, or revocation of the code; and

(c) specify in the notice the place or places at which copies of the code or the amendment are available for inspection or purchase.

(6) The Director-General of Health must ensure that copies of the codes of practice and any amendments to those codes issued or approved under this section are available for inspection at the place or places specified in the notice given under subsection (5).

(7) A code of practice, or an amendment or revocation of a code of practice, does not have any force or effect under this Part until notified in the *Gazette*.

Compare: 1997 No 87 s 28

Relationship of this Part to other specified enactments

64. Relationship of this Part to specified enactments

(1) Nothing in this Part affects or derogates from an Act specified in subsection (3).

(2) In the event of any inconsistency between the provisions of an Act specified in subsection (3), or between the provisions of any regulations made under that Act and the provisions of any regulations made under this Part, the provisions of that Act and any regulations made under that Act prevail.

(3) The Acts are the—

(a) Customs and Excise Act 1996:

(b) Fair Trading Act 1986:

(c) Imports and Exports (Restrictions) Act 1988:

(d) Ozone Layer Protection Act 1996.

65. Sections of principal Act that do not apply to restricted substances

The following enactments in the principal Act do not apply to restricted substances:

(a) the definition of **supply** in section 2(1):

(b) section 12:

(c) section 13(1)(a):

(d) sections 14 to 16:

(e) section 18:

(f) sections 27 and 28:

(g) sections 32 and 33.

66. Application of section 31 of principal Act to this Part

For the purposes of this Part, section 31(2) of the principal Act applies as if there were inserted,—

(a) after the words ‘‘officer of Customs’’, the words ‘‘or enforcement officer’’; and

(b) after the words ‘‘precursor substance’’, the words ‘‘or restricted substance’’.

67. Administration of this Part

This Part is administered in the Ministry of Health.

Schedule 1

s 20

New Part 3 added to Schedule 4 of principal Act

PART 3

1 The following substances:

EPHEDRINE

PSEUDOEPHEDRINE

2 The salts of the substances listed in clause 1 whenever the existence of such salts is possible.

s 22

Schedule 2

New Schedule 5 added to principal Act

ss 2(1A), 6(1)(f)

Schedule 5

Amount, level, or quantity at and over which controlled drugs are presumed to be for supply

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.

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
Lysergide	2 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
Tetrahydrocannabinol (as described in the Second Schedule)	250 milligrams, whether or not contained in a substance, preparation, or mixture
Any cannabis preparation (as described in the Second Schedule)	5 grams or 100 cigarettes containing the drug
Cannabis plant (as described in the Third Schedule)	28 grams or 100 cigarettes containing the drug
Methamphetamine	5 grams, whether or not contained in a substance, preparation, or mixture

2. Any controlled drug not specified in clause 1 is presumed to be for supply at and over the level of 56 grams.

s 23 **Schedule 3**

Consequential amendments to other enactments

Extradition Act 1999[3] (1999 No 55)

Insert in section 101A(2)(b), after the expression ‘‘section 35’’, the expression ‘‘and section 35A’’.

Health (Needles and Syringes) Regulations 1998 (SR 1998/254)

Revoke regulation 10 and the heading before that regulation.

Mutual Assistance in Criminal Matters Act 1992 (1992 No 86)

Insert in the second column of the Schedule in item 4 (which relates to the Misuse of Drugs Act 1975), in its appropriate numerical order:

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

Proceeds of Crime Act 1991 (1991 No 120)

Repeal the definition of **drug-dealing offence** in section 2(1) and substitute: ‘‘**drug-dealing offence** means any offence against section 6 of the Misuse of Drugs Act 1975 in relation to a Class A controlled drug, a Class B controlled drug, or a Class C controlled drug, in relation to which the amount, level, or quantity at and over which the drug is presumed to be for supply is specified in Schedule 5 of that Act’’.

Prostitution Reform Act 2003 (2003 No 28)

Insert in section 36(2)(d)(ii), after the expression ‘‘12A,’’ the expression ‘‘section 12AB,’’.

Summary Proceedings Act 1957 (1957 No 87)

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[3] Note by the Secretariat: E/NL.2001/01.

Insert in the second and third columns of Part II of the First Schedule in the item relating to the Misuse of Drugs Act 1975, in its appropriate numerical order:

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

Schedule 4 s 31, s 33(1)

Restricted substances

BZP (1-benzylpiperazine or A2 benzylpiperazine or N-benzylpiperazine) (1-Benzyl-1, 4-diazacyclohexane)

Legislative history

8 September 2004	Introduction (Bill 186–1)
15 September 2004	First reading and referral to Health Committee
23 May 2005	Reported from Health Committee (Bill 186–2)
14 June 2005	Second reading, committee of the whole House, third reading

E/NL.2007/40

Misuse of Drugs (Changes to Controlled Drugs) Order 2005

Silvia Cartwright, Governor-General
Order in Council
At Wellington this 22nd day of June 2005
Present:
The Right Hon Helen Clark presiding in Council

Pursuant to section 4(1) of the Misuse of Drugs Act 1975[1], Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and in accordance with a recommendation of the Minister of Health, makes the following order.

Contents

Order

1. Title
This order is the Misuse of Drugs (Changes to Controlled Drugs) Order 2005.

2. Commencement
This order comes into force on a date to be appointed by an Order in Council made under section 4A (1) of the Misuse of Drugs Act 1975.

3. Interpretation
In this order, Act means the Misuse of Drugs Act 1975.

4. Schedule 2 of Act amended
(1) Schedule 2 of the Act is amended by inserting in clause 1 of Part 1, in their appropriate alphabetical order, the items "AMPHETAMINE (2-amino-l-phenylpropane)." and "MDMA (2-methylamino-1-(3,4-methylenedioxyphenyl) propane)."
(2) Schedule 2 of the Act is amended by omitting from clause 1 of Part 2 the items "AMPHETAMINE (2-amino-1-phenylpropane)." and "MDMA (2-methylanuno-1-(3,4methylenedioxyphenyl) propane)."

Martin Bell, Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in Gazette: 24 June 2005.
This order is administered in the Ministry of Health.

[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56 and E/NL.2007/37, 39.

E/**NL.2007/41**

Misuse of Drugs (Presumption of Supply Amphetamine) Order 2005

Silvia Cartwright, Governor-General
Order in Council
At Wellington this 22nd day of June 2005
Present:
The Right Hon Helen Clark presiding in Council

Pursuant to section 4(1B) of the Misuse of Drugs Act 1975[1], Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, and in accordance with a recommendation of the Minister of Health, makes the following order.

Contents

Order

1. Title
This order is the Misuse of Drugs (Presumption of Supply Amphetamine) Order 2005.

2. Commencement
This order comes into force on a date to be appointed by an Order in Council made under section 4A(l) of the Misuse of Drugs Act 1975.

3. Interpretation
In this order, Act means the Misuse of Drugs Act 1975.

4. Schedule 5 of Act amended
Schedule 5 of the Act is amended by inserting, before the item relating to Morphine, the following item:

Amphetamine	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug

Martin Bell, Acting for Clerk of the Executive Council.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in Gazette: 24 June 2005.
This order is administered in the Ministry of Health.

[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56 and E/NL.2007/37, 39.

E/**NL.2007/42**

Misuse of Drugs Amendment Regulations 2005

Silvia Cartwright, Governor-General
Order in Council
At Wellington this 12th day of September 2005
Present:
Her Excellency the Governor-General in Council

Pursuant to section 37 of the Misuse of Drugs Act 1975[1], Her Excellency the Governor-General, acting on the advice and with the consent of the Executive Council, makes the following regulations.

Contents

Regulations

1. Title

(1) These regulations are the Misuse of Drugs Amendment Regulations 2005.

(2) In these regulations, the Misuse of Drugs Regulations 1977[2] are called "the principal regulations".

2. Commencement

Those regulations come into force on 1 November 2005.

3. New regulation 12A substituted

The principal regulations are amended by revoking regulation 12A, and substituting the following regulation:

"12A **Authority for designated prescriber nurses to prescribe certain controlled drugs in certain circumstances**

"(1) A designated prescriber nurse is, for the purposes of section 8(2A)(a) of the Act, authorized by this regulation to prescribe a controlled drug specified in Schedule 1 A (and so may, under section 8(2A)(a) of the Act, prescribe, supply, or administer the controlled drug).

"(2) The authority given by subclause (1) is subject to sections 22 to 25 of the Act and to any prohibitions, limitations, restrictions, or conditions imposed by or under those sections or any regulations made under the Act (for example, the restrictions in regulation 21(4B))."

4. New Schedule 1A substituted

The principal regulations are amended by revoking Schedule IA, and substituting the Schedule lA set out in the Schedule.

5. Consequential revocation

The Misuse of Drugs Amendment Regulations 2001 (SR 2001/231) are consequentially revoked.

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[1] Note by the Secretariat: E/NL.1977/9, as amended by E/NL.1998/56 and E/NL.2007/37, 39.

[2] Note by the Secretariat: E/NL.1980/3, as amended by E/NL.1982/28.

r4 **Schedule**
New Schedule 1A substituted
r 12A(I) **Schedule 1A**
Controlled drugs that designated prescriber nurses may prescribe in certain circumstances

A reference in this schedule to a substance is a reference to the substance in every compound, form, mixture, preparation, or substance that the substance is a controlled drug under the Act.

Schedule 1A

I	Alfentanil
2	Alprazolam
3	Amphetamine
4	Bromazepam
5	Buprenorphine
6	Chlordiazepoxide
7	Clobazam
8	Clonazepam
9	Clorazepate
10	Cocaine
11	Codeine
12	Dextromoramide
13	Diazepam
14	Dihydrocodeine
15	Diphenoxylate
16	Dipipanone
17	Ephedrine
18	Fentanyl
19	Flurazepam
20	Hydromorphone
21	Loprazolam
22	Lorazepam
23	Lormetazepam
24	Meprobamate
25	Methadone
26	Methylphenidate
27	Midazolam
28	Morphine
29	Nabilone
30	Nitrazepam
31	Oxazepam
32	Oxycodone
33	Oxymorphone
34	Pethidine
35	Phenazocine
36	Pholcodine
37	Propoxyphene
38	Pseudoephedrine
39	Remifentanil
40	Sufentanil
41	Temazepam
42	Triazolam

Diane Morcom, Clerk of the Executive Council.

Explanatory note

This note is not part of the regulations, but is intended to indicate their general effect.
These regulations come into force on 1 November 2005.
They amend the Misuse of Drugs Regulations 1977 to:

- expand the list (of controlled drugs designated prescriber nurses may be authorized to prescribe) in Schedule 1 A; and
- remove references in Schedule IA to the Medicines (Designated Prescriber: Nurses Practicing in Aged Care and Child Family Health) Regulations 2001; and
- remove references to restrictions imposed bythose regulations.

The references are removed as those regulations are revoked by, and those restrictions are not continued in, the Medicines (Designated Prescriber: Nurse Practitioners) Regulations 2005.

Issued under the authority of the Acts and Regulations Publication Act 1989.
Date of notification in Gazette: 15 September 2005.
These regulations are administered in the Ministry of Health.