

# THE NORTHERN TERRITORY OF AUSTRALIA

No. 72 of 1978

## AN ORDINANCE

To amend the Prohibited Drugs Ordinance

[Assented to 26 July 1978]

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the Prohibited Drugs Ordinance 1978.

Short  
title

2. The Prohibited Drugs Ordinance is in this Ordinance referred to as the Principal Ordinance.

Principal  
Ordinance

3. Section 6 of the Principal Ordinance is repealed and the following section substituted:

Search  
warrant

"6.(1) A person who uses or has in his possession, or attempts to obtain possession of, cannabis is guilty of an offence.

Use,  
possession,  
&c., of  
cannabis

"(2) A person who -

- (a) produces, prepares or manufactures cannabis;
- (b) sells, supplies or administers cannabis to another person;  
or
- (c) has in his possession cannabis for the purpose of sale or supply to another person,

is guilty of an indictable offence.

"(3) Where a person is charged with an offence of supplying cannabis to another person contrary to section 6(2)(b) and the magistrate is satisfied that the offence charged is of a minor or trivial nature, the magistrate may, in lieu of committing that person for trial on indictment in respect of that alleged offence, determine the charge in a summary way in accordance with the Justices Ordinance as though the maximum penalty for the offence charged does not, under this Ordinance, exceed 10 years."

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Presumption with regard to possession of certain quantities of prohibited drugs or cannabis

4. Section 7 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-section:

"(2) A person who has in his possession cannabis -

(a) in the form of a plant or part of a plant in a quantity in excess of 50 grams; or

(b) in the form of an extract, resin or tincture in a quantity in excess of 10 grams,

shall be deemed to have that cannabis in his possession for the purpose of sale or supply to another person, unless the contrary is proved."

Responsibility of owner or occupant of premises with relation to prohibited drugs or cannabis

5. Section 10 of the Principal Ordinance is amended by omitting sub-section (2) and substituting the following sub-sections:

"(2) The owner or occupier of premises who knowingly allows cannabis to be kept by another person on those premises is guilty of an offence.

"(3) The owner or occupier of premises who knowingly allows cannabis to be produced, prepared or manufactured by another person on those premises is guilty of an indictable offence."

Search warrant

6. Section 11(4) of the Principal Ordinance is amended by omitting ", unless otherwise requested by the applicant,".

Power of police to stop, search and detain

7. Section 12(a) of the Principal Ordinance is amended by omitting "and" (first occurring) and substituting "or".

Seizure of drugs, &c.

8. Section 16(1) of the Principal Ordinance is amended by omitting paragraph (b) and substituting the following paragraphs:

"(b) any money, valuable security or other thing -

(i) found in the possession of a person or at his disposal; or

(ii) found as the result of a search,

being money, a security or thing that that member has reason to suspect was received or acquired by a person directly or indirectly as or from the proceeds or part of the proceeds of the sale of a prohibited drug or cannabis;

"(ba) any acknowledgement, note or other thing -

(i) found in the possession of a person or at his disposal; or

(ii) found as the result of a search,

being an acknowledgement, note or thing that that member

has reason to suspect -

(iii) entitles a person to receive; or

(iv) is evidence that a person is entitled to receive,

any money or money's worth that is the proceeds or part of the proceeds of the sale of a prohibited drug or cannabis;

"(bb) anything found -

(i) in the possession of a person; or

(ii) as the result of a search,

being a thing that that member has reason to believe affords evidence of the commission of an offence; or".

9. Section 17 of the Principal Ordinance is repealed and the following section substituted:

Forfeiture

"17.(1) Upon conviction of a person for an offence any prohibited drug or cannabis in respect of which the conviction is made is forfeited to the Crown.

"(2) Where a person is convicted of an offence, the court may order that any money, money's worth, security, acknowledgement, note or other thing that relates to that offence be forfeited to the Crown.

"(3) Where moneys that are forfeited under sub-section (2) are in the possession or control of, or held at the direction of, a person other than the convicted person, that other person shall, upon production to him of a copy of the order made under that sub-section, pay the moneys forthwith to the Crown.

Penalty: 500 dollars or imprisonment for 6 months, or both.

"(4) Upon payment being made in accordance with sub-section (3), the liability to the convicted person or to any other person of the person making the payment is, to the extent of that payment, discharged.

"(5) Anything forfeited to the Crown under this section shall be dealt with in such manner as the Administrator directs.

"(6) Where a Judge or a Justice makes an order under sub-section (2) the Judge or Justice shall make and sign a minute or memorandum of the order.

"(7) A minute or memorandum referred to in sub-section (6) may be registered in a court of competent jurisdiction.

"(8) Upon registration under sub-section (7), the minute or memorandum becomes a record of the court with the same force and effect as a judgment of that court, and the like proceedings

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(including proceedings in bankruptcy) may be taken upon the minute or memorandum as if the order had been a judgment of the court in favour of the Crown as plaintiff and the owner of the forfeited money, money's worth, security, acknowledgement, note or other thing as defendant.

"(9) For the purposes of this section, any money, money's worth, security, acknowledgement, note or other thing shall be taken to relate to an offence -

- (a) if it is an article seized pursuant to section 16(1)(c);
- (b) if it was used in the commission of the offence;
- (c) if it was received or acquired directly or indirectly as or from the proceeds or part of the proceeds of the sale of a prohibited drug or cannabis; or
- (d) if it entitles a person, or is evidence that a person is entitled, to receive any money or money's worth as the proceeds or part of the proceeds of the sale of a prohibited drug or cannabis,

whether or not the money, money's worth, security, acknowledgement, note or other thing is or was at any time owned by or in the possession or control of the convicted person.

"(10) Where a person is charged with an offence, any other person claiming ownership of or an interest in any money, money's worth, security, acknowledgement, note or other thing that may be the subject of an order under this section may, by leave of the court at the trial of the person charged, appear and show cause why that money, money's worth, security, acknowledgement, note or other thing should not be forfeited.

"(11) Upon hearing a person under sub-section (10), the court may order that the money, money's worth, security, acknowledgement, note or other thing be released or returned to that or any other person.

"(12) Where an order is made under sub-section (2) after a person has appeared before the court by leave of the court under sub-section (10), that person may appeal to the Supreme Court from the order as if he was a defendant."

**Penalties**

10. Section 19 of the Principal Ordinance is amended -

- (a) by omitting from paragraph (b) "6(b), (c) or (d), 10(1)(a) or 10(2)(a)" and substituting "6(2), 10(1)(a) or 10(3)"; and
- (b) by omitting from paragraph (c) "section 6(a) or 10(2)(b)" and substituting "section 6(1) or 10(2)".

**Application  
of Justices  
Ordinance**

11. (1) Section 21 of the Principal Ordinance is amended -

- (a) by omitting from sub-section (1) "6(a), 10(1)(b) or 10(2)(b)" and substituting "or 10(1)(b)"; and

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(b) by omitting from sub-section (2) "6(b), (c) or (d), 10(1)(a) or 10(2)(a)" and substituting ", 6(2), 10(1)(a) or 10(3)".

(2) Section 21 of the Principal Ordinance is amended by adding at the end the following sub-section:

"(3) Where a magistrate decides, under section 6(3), to determine a matter in a summary way, sub-section (2) shall be read as though that sub-section had no application to section 6(2)(b)."

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