

Serial 112
Misuse of Drugs
Amendments
Mr Manzie

NORTHERN TERRITORY OF AUSTRALIA
MISUSE OF DRUGS AMENDMENT BILL 1991

TABLE OF PROVISIONS

Clause

1. Short title
2. Commencement
3. Principal Act
4. Interpretation
5. Supplying dangerous drugs
6. Repeal and substitution:

"7. CULTIVATION
"8. MANUFACTURE AND PRODUCTION
"9. POSSESSION".
7. Repeal and substitution:

"11. THEFT OF DANGEROUS DRUGS".
8. Protection of informers
9. Source of information not to be disclosed
10. Repeal of section 30
11. Undercover operations
12. Schedule 2

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NORTHERN TERRITORY OF AUSTRALIA

A BILL for AN ACT

to amend the *Misuse of Drugs Act*

BE it enacted by the Legislative Assembly of the Northern Territory of Australia, with the assent as provided by the *Northern Territory (Self-Government) Act 1978* of the Commonwealth, as follows:

1. SHORT TITLE

This Act may be cited as the *Misuse of Drugs Amendment Act 1991*.

2. COMMENCEMENT

This Act shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.

3. PRINCIPAL ACT

The *Misuse of Drugs Act* is in this Act referred to as the Principal Act.

4. INTERPRETATION

Section 3 of the Principal Act is amended -

(a) by omitting from subsection (3) "the least quantity" and substituting "the least trafficable quantity or commercial quantity, as the case may be,"; and

(b) by inserting after subsection (3) the following:

"(3A) For the purposes only of illustrating subsection (3), where a 100 g combination of substances is found to be comprised of 50 g of a substance that is not a dangerous drug and a 50 g admixture of Dimenoxadol, Fentanyl and Piritramide, then the 50 g dangerous drug admixture component of the combination of substances would be taken to be a commercial quantity of dangerous drugs because the commercial quantity of Fentanyl is listed in Schedule 2 as being 0.25 g (the least quantity so specified for the 3 component dangerous drugs in the admixture)

Misuse of Drugs Amendment

and the whole 50 g quantity of the admixture of the 3 dangerous drugs is to be treated as Fentanyl for the purpose of calculating whether a commercial quantity has been reached, whether or not the quantity of Fentanyl in the admixture actually exceeds 0.25 g."

5. SUPPLYING DANGEROUS DRUGS

Section 5 of the Principal Act is amended -

- (a) by omitting "A person" and substituting "(1) A person"; and
- (b) by omitting "Penalty, subject to section 22:" and substituting the following:

"(2) A person guilty of a crime under subsection (1) is, subject to section 22, punishable on conviction by a penalty not exceeding:".

6. REPEAL AND SUBSTITUTION

Sections 7, 8 and 9 of the Principal Act are repealed and the following substituted:

"7. CULTIVATION

"(1) A person who unlawfully cultivates, or takes part in the cultivation of, a prohibited plant is guilty of a crime.

"(2) A person guilty of a crime under subsection (1) is, subject to section 22, punishable on conviction by a penalty not exceeding:

- (a) Where the number of prohibited plants in respect of which the person is convicted is a commercial quantity of the plant - imprisonment for 25 years.
- (b) Where the number of prohibited plants in respect of which the person is convicted is a traffickable quantity of the plant - imprisonment for 7 years.
- (c) In any other case - \$5,000 or imprisonment for 2 years.

"8. MANUFACTURE AND PRODUCTION

"(1) A person who unlawfully manufactures or produces a dangerous drug or takes part in the manufacture or production of a dangerous drug is guilty of a crime.

Misuse of Drugs Amendment

"(2) A person guilty of a crime under subsection (1) is, subject to section 22, punishable on conviction by a penalty not exceeding:

- (a) Where the dangerous drug is a dangerous drug specified in Schedule 1 and the amount of the dangerous drug is a commercial quantity - imprisonment for life.
- (b) Where the dangerous drug is a dangerous drug specified in Schedule 1 and the amount of the dangerous drug is not a commercial quantity - imprisonment for 25 years.
- (c) Where the dangerous drug is a dangerous drug specified in Schedule 2 and the amount of the dangerous drug is a commercial quantity - imprisonment for 25 years.
- (d) Where the dangerous drug is a dangerous drug specified in Schedule 2 and the amount of the dangerous drug is not a commercial quantity - imprisonment for 7 years.

"9. POSSESSION

"(1) A person who unlawfully possesses a dangerous drug is guilty of a crime.

"(2) A person guilty of a crime under subsection (1) is, subject to section 22, punishable on conviction by a penalty not exceeding:

- (a) Where the dangerous drug is a dangerous drug specified in Schedule 1 and the amount of the dangerous drug is a commercial quantity - imprisonment for 25 years.
- (b) Where the dangerous drug is a dangerous drug specified in Schedule 1 and the amount of the dangerous drug is not a commercial quantity but is a traffickable quantity -
 - (i) if the person is in possession of it in a public place - imprisonment for 14 years; and
 - (ii) in any other case - imprisonment for 7 years.

Misuse of Drugs Amendment

- (c) Where the dangerous drug is a dangerous drug specified in Schedule 1 and the amount of the dangerous drug is neither a commercial quantity nor a traffickable quantity -
 - (i) if the person is in possession of it in a public place - \$10,000 or imprisonment for 5 years; or
 - (ii) in any other case - \$5,000 or imprisonment for 2 years.
- (d) Where the dangerous drug is a dangerous drug specified in Schedule 2 and the amount of the dangerous drug is a commercial quantity - imprisonment for 14 years.
- (e) Where the dangerous drug is a dangerous drug specified in Schedule 2 and the dangerous drug is not a commercial quantity but is a traffickable quantity - \$10,000 or imprisonment for 5 years.
- (f) Where the dangerous drug is a dangerous drug specified in Schedule 2 and the amount of the dangerous drug is neither a commercial quantity nor a traffickable quantity -
 - (i) if the person is in possession of it in a public place - \$5,000 or imprisonment for 2 years; or
 - (ii) in any other case - \$2,000.

7. REPEAL AND SUBSTITUTION

Section 11 of the Principal Act is repealed and the following substituted:

"11. THEFT OF DANGEROUS DRUGS

"(1) A person who steals a dangerous drug is guilty of a crime.

"(2) A person guilty of a crime under subsection (1) is, subject to section 22, punishable on conviction by a penalty not exceeding:

- (a) Where the dangerous drug is a dangerous drug specified in Schedule 1 - imprisonment for 14 years.

Misuse of Drugs Amendment

- (b) Where the dangerous drug is a dangerous drug specified in Schedule 2 - imprisonment for 7 years."

8. PROTECTION OF INFORMERS

Section 24 of the Principal Act is amended -

- (a) by omitting from subsection (1) ", the informer's identity" and substituting "then, subject to section 25(3), the informer's identity"; and
- (b) by omitting from subsection (2) "A person" and substituting "Subject to subsection 25(3), a person".

9. SOURCE OF INFORMATION NOT TO BE DISCLOSED

Section 25 of the Principal Act is amended by adding at the end the following:

"(3) Subsection (1) or (2) does not apply to the extent that the defendant satisfies the court that it is in the interest of justice in the particular case that the information be given, the report or document produced or the statement made, as the case may be."

10. REPEAL OF SECTION 30

Section 30 of the Principal Act is repealed.

11. UNDERCOVER OPERATIONS

Section 32 of the Principal Act is amended -

- (a) by omitting from subsection (1) "Sergeant may authorize a person who is not a member of the Police Force to acquire" and substitute "Commander may in writing, subject to such conditions as he or she thinks fit, authorize a member of the Police Force below that rank, or a person who is not a member of the Police Force, to acquire or supply";
- (b) by inserting in subsection (2), after "acquire", the words "or supply"; and
- (c) by omitting from subsection (3) "Police Force" and substituting "Police Force, unless the person is also authorized under that subsection to supply the drug and he or she supplies it in accordance with the authorization".

- Schedule 2 to the Principal Act is amended -

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(being any part of the plant) | 50.00g | 500.00 g |
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(being any part of the Cannabis plant, including