



New South Wales

Crimes Legislation Further Amendment Act 2000 No 107

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Crimes Legislation Further Amendment Act 2000 No 107

Act No 107, 2000

An Act to amend the *Drug Misuse and Trafficking Act 1985* in relation to the possession of drug precursors; to make a consequential amendment to the *Criminal Procedure Act 1986*; to amend the *Poisons and Therapeutic Goods Regulation 1994*; to amend the *Crimes (Forensic Procedures) Act 2000* to make further provision with respect to interim orders; and for other purposes. [Assented to 14 December 2000]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Crimes Legislation Further Amendment Act 2000*.

2 Commencement

This Act commences on a day or days to be appointed by proclamation.

3 Amendment of Drug Misuse and Trafficking Act 1985 No 226

The *Drug Misuse and Trafficking Act 1985* is amended as set out in Schedule 1.

4 Amendment of Criminal Procedure Act 1986 No 209

The *Criminal Procedure Act 1986* is amended as set out in Schedule 2.

5 Amendment of Poisons and Therapeutic Goods Regulation 1994

The *Poisons and Therapeutic Goods Regulation 1994* is amended as set out in Schedule 3.

6 Amendment of Crimes (Forensic Procedures) Act 2000 No 59

The *Crimes (Forensic Procedures) Act 2000* is amended as set out in Schedule 4.

Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985

(Section 3)

[1] Section 24A

Insert after section 24:

24A Possession of precursors for manufacture or production of prohibited drugs

- (1) A person who has possession of a precursor intended by the person for use in the manufacture or production, by that person or another person, of a prohibited drug is guilty of an offence.
- (2) Nothing in this section renders unlawful the manufacture or production of a prohibited drug by:
 - (a) a person licensed or authorised to do so under the *Poisons and Therapeutic Goods Act 1966*, or
 - (b) a person acting in accordance with an authority granted by the Director-General of the Department of Health where the Director-General is satisfied that the manufacture or production of the prohibited drug is for the purpose of scientific research, instruction, analysis or study,or renders unlawful the taking part by any other person in the manufacture or production of a prohibited drug by a person to whom paragraph (a) or (b) applies.
- (3) In this section, *precursor* means a substance specified or described in the regulations as a precursor for the purposes of this section.

[2] Section 31 Indictable offences—summary disposal of unless prosecution or accused elects otherwise

Insert after section 31 (1):

- (1A) This section also applies to an offence under section 24A.

[3] Section 33AB

Insert after section 33AA:

**33AB Penalty for offence involving possession of precursors for
manufacture or production of prohibited drugs**

The penalty for an offence under section 24A is a fine of 2,000 penalty units or imprisonment for a term of 10 years, or both, except as provided by section 31.

Schedule 2 Amendment of Criminal Procedure Act 1986

(Section 4)

Schedule 1 Indictable offences triable summarily

Insert after paragraph 30 in Part 6 of Table 1:

31 Offence involving possession of precursors for manufacture or production of prohibited drugs

An offence referred to in section 24A of the Drug Misuse and Trafficking Act 1985.

Schedule 3 Amendment of Poisons and Therapeutic Goods Regulation 1994

(Section 5)

Clause 131A

Insert after clause 131:

131A Prohibition on cash sales

A person must not supply a restricted quantity of a drug precursor to a person who does not have an account with the supplier and payment for the supply must be made through the account.

Maximum penalty: 15 penalty units.

Schedule 4 Amendment of Crimes (Forensic Procedures) Act 2000

(Section 6)

[1] Section 3 Interpretation

Insert in alphabetical order in section 3 (1):

authorised justice has the same meaning as in section 3 of the *Search Warrants Act 1985*.

Note. *Authorised justice* is defined in section 3 of the *Search Warrants Act 1985* to mean:

- (a) a Magistrate, or
- (b) a justice of the peace who is a Clerk of a Local Court or the registrar of the Drug Court, or
- (c) a justice of the peace who is employed in the Attorney General's Department and who is declared (whether by name or by reference to the holder of a particular office), by the Attorney General by instrument in writing or by order published in the Gazette, to be an authorised justice for the purposes of that Act.

[2] Section 3 (1), definition of “order”

Omit “a Magistrate” from paragraph (c) of the definition.

Insert instead “an authorised justice”.

[3] Section 3 (1), definition of “time out”

Omit “or Magistrate” from paragraph (k) of the definition.

Insert instead “or a Magistrate or other authorised justice”.

[4] Sections 5 and 6

Insert “or an authorised justice” after “Magistrate” wherever occurring in the Tables to the sections.

[5] Sections 13 (4), (5), (6) and (7), 14 (b), 39, 40 (1), 41 (1), (3) and (4), 42 (1) (a) and 98 (2) (c)

Insert “or other authorised justice” after “Magistrate” wherever occurring.

[6] Part 5, heading

Insert “or other authorised justice” after “Magistrate”.

[7] Section 22 Forensic procedure may be carried out by order of Magistrate or other authorised justice

Omit “by order of a Magistrate under section 24, 27 or 32”.

Insert instead “by order of a Magistrate under section 24 or 27, or by order of an authorised justice under section 32”.

[8] Section 23 Circumstances in which Magistrate or other authorised justice may order forensic procedure

Omit “A Magistrate may, under section 24 or 32, order”.

Insert instead “An order may be made by a Magistrate under section 24, or by an authorised justice under section 32, for”

[9] Sections 32 (1) and 35 (1) and (3)

Omit “A Magistrate” wherever occurring.

Insert instead “An authorised justice”.

[10] Sections 32 (1), 34 and 36 (2)

Omit “the Magistrate” wherever occurring.

Insert instead “the authorised justice”.

[11] Section 33 Application for interim order

Omit “a Magistrate” from section 33 (1).

Insert instead “an authorised justice”.

[12] Section 35 Making of interim order

Omit “the Magistrate” from section 35 (3). Insert instead “a Magistrate”.

[13] Section 36 Records of application and interim order

Omit “Magistrate’s” wherever occurring in section 36 (1) (e), (3), (4), (5) and (6).

Insert instead “authorised justice’s”.

[14] Sections 36 (3) and (4)

Omit “Magistrate” wherever occurring. Insert instead “authorised justice”.

[15] Part 5, Division 4, heading

Insert “or other authorised justice” after “Magistrate”.

[16] Section 91 Supply of forensic material for DNA database system purposes

Omit “and who is subsequently convicted of the offence” from paragraph (b) of the definition of *permitted forensic material* in section 91 (3).

[17] Section 107 Liability for forensic procedures

Omit “or Magistrate” from section 107 (b).

Insert instead “or a Magistrate or other authorised justice”.

[18] Schedule 1 Amendments

Insert “(other than an interim order)” after “order” in section 104 (6) (a) of the *Justices Act 1902* (as proposed to be inserted by Schedule 1.2).

[Minister's second reading speech made in—
Legislative Assembly on 29 November 2000
Legislative Council on 7 December 2000]