



New South Wales

Drug Misuse and Trafficking Amendment (Dangerous Exhibits) Act 2002 No 128

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New South Wales

Drug Misuse and Trafficking Amendment (Dangerous Exhibits) Act 2002 No 128

Act No 128, 2002

An Act to amend the *Drug Misuse and Trafficking Act 1985* so as to provide for the disposal of dangerous exhibits; and for other purposes. [Assented to 16 December 2002]

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Drug Misuse and Trafficking Amendment (Dangerous Exhibits) Act 2002*.

2 Commencement

This Act commences on a day 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.

Schedule 1 Amendment

(Section 3)

Part 3A, Division 2A

Insert after Division 2 of Part 3A:

Division 2A Order for disposal of dangerous exhibit

39PA Order for disposal of dangerous exhibit

- (1) At any time, a police officer of or above the rank of Superintendent may order in writing that any substance or article (whether or not it consists of or includes a prohibited drug or prohibited plant) is to be destroyed or otherwise disposed of if:
 - (a) the substance or article has been seized and is being retained for the purpose of proceedings for an offence relating to the manufacture, production, supply or use of a prohibited drug or the cultivation of a prohibited plant, and
 - (b) an analyst has certified in writing that, in the interest of health or safety, the substance or article is required to be destroyed or otherwise disposed of.
- (2) Before any substance or article is destroyed or otherwise disposed of in accordance with such an order:
 - (a) evidence of the substance or article is to be recorded, whether by photographing or otherwise, and
 - (b) where practicable in the case of a substance, two samples of the substance are to be taken and retained, each of a sufficient quantity to allow its analysis, and
 - (c) the owner or occupier of the premises at which the substance or article was seized, and any person charged with an offence to which the substance or article relates, are to be given at least 35 days' written notice (by post or otherwise) of the proposal to destroy or otherwise dispose of it. However, such a notice need not be given if an analyst certifies in writing that, in the interest of health or safety, it needs to be destroyed immediately.

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- (3) A court may defer the carrying out of, or revoke, an order under this section in the course of any proceedings in which it may make an order for the restitution or disposal of property under section 126 or 134 of the *Criminal Procedure Act 1986*.
- (4) Subject to subsections (2) and (3), any substance or article (whether seized before or after the commencement of this section) may be destroyed or otherwise disposed of in accordance with an order under this section.
- (5) In this section, ***analyst*** means:
- (a) any person employed by the Government of New South Wales, or by an area health service, as an analyst, or
 - (b) any person who is an analyst within the meaning of the *Poisons and Therapeutic Goods Act 1966*, or
 - (c) any person prescribed as an analyst for the purposes of this section by the regulations.

[Second reading speech made in—

Legislative Assembly on 19 November 2002

Legislative Council on 6 December 2002 am]

BY AUTHORITY