

Queensland



DRUGS MISUSE AMENDMENT ACT 2000

Act No. 28 of 2000

Queensland



DRUGS MISUSE AMENDMENT ACT 2000

TABLE OF PROVISIONS

Section		Page
PART 1—PRELIMINARY		
1	Short title	4
PART 2—AMENDMENT OF DRUGS MISUSE ACT 1986		
2	Act amended in pt 2	4
3	Amendment of s 4 (Definitions)	4
4	Amendment of s 4A (Salts, derivatives and stereo-isomers)	5
5	Amendment of s 5 (Trafficking in dangerous drugs)	5
6	Amendment of s 6 (Supplying dangerous drugs)	5
7	Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)	5
8	Amendment of s 8 (Producing dangerous drugs)	6
9	Amendment of s 8A (Publishing or possessing instructions for producing dangerous drugs)	7
10	Amendment of s 9 (Possessing dangerous drugs)	7
11	Amendment of s 10 (Possessing things)	7
12	Amendment of s 11 (Permitting use of place)	8
13	Amendment of s 13 (Certain offences may be dealt with summarily)	9
14	Insertion of new pt 3	9
PART 3—ENFORCEMENT POWERS OF AUTHORISED HEALTH OFFICERS		
14	Authorised health officers may exercise powers under Health Act for enforcing s 9 for particular dangerous drugs	9
15	Production or display of officer's official identity card	9
15	Amendment of s 43A (Definitions)	10
16	Replacement of s 43H (Production or display of authorised officer's official identity card)	10

	43H	Production or display of officer's official identity card	10
17		Amendment of s 43I (Authorised officer may enter person's premises and inspect register and documents)	11
18		Amendment of s 43J (Power to seize evidence)	11
19		Amendment of s 43K (Receipt for seized things)	11
20		Amendment of s 43L (Procedure after thing seized)	11
21		Amendment of s 43O (Power to require name and address)	11
22		Amendment of s 43Q (Obstruction of authorised officers)	12
23		Amendment of s 43T (Compensation)	12
24		Omission of ss 43U and 43V	12
25		Insertion of new ss 57A and 57B	12
	57A	Evidence of prescribed substance by label	12
	57B	Evidence of prescribed substance—notice of challenge required . .	13
		PART 3—AMENDMENT OF REGULATIONS	
26		Regulations amended	14
		SCHEDULE	15
		AMENDMENT OF REGULATIONS	
		DRUGS MISUSE REGULATION 1987	15
		HEALTH (DRUGS AND POISONS) REGULATION 1996	18

Queensland



Drugs Misuse Amendment Act 2000

Act No. 28 of 2000

An Act to amend the *Drugs Misuse Act 1986*, and for other purposes

[Assented to 27 July 2000]

The Parliament of Queensland enacts—

PART 1—PRELIMINARY

Short title

1. This Act may be cited as the *Drugs Misuse Amendment Act 2000*.

PART 2—AMENDMENT OF DRUGS MISUSE ACT 1986

Act amended in pt 2

2. This part amends the *Drugs Misuse Act 1986*.

Amendment of s 4 (Definitions)

- 3.(1) Section 4—

insert—

‘ **“authorised health officer”** see section 14.

“official identity card”, of an authorised health officer or an environmental health officer, means an identity card issued by the chief executive for health containing a recent photograph of the officer and identifying the officer as an officer under the *Health Act 1937*.

“prescribed substance” means—

- (a) a dangerous drug specified in the *Drugs Misuse Regulation 1987*, schedule 2A; or
- (b) a controlled substance.’.

(2) Section 4, definition “**dangerous drug**”, paragraph (a), ‘or 2’—
omit, insert—
‘, 2 or 2A’.

Amendment of s 4A (Salts, derivatives and stereo-isomers)

4. Section 4A(a), ‘or 2’—
omit, insert—
‘, 2 or 2A’.

Amendment of s 5 (Trafficking in dangerous drugs)

5. Section 5, penalty—
insert—
‘(c) if the dangerous drug is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—5 years imprisonment.’.

Amendment of s 6 (Supplying dangerous drugs)

6. Section 6(1), penalty—
insert—
‘(e) if the dangerous drug is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—5 years imprisonment.’.

Amendment of s 7 (Receiving or possessing property obtained from trafficking or supplying)

7.(1) Section 7(1), ‘(other than a dangerous drug)’—
omit, insert—
‘, other than a dangerous drug, (“**offence property**”)’.
(2) Section 7(1), penalty—
omit, insert—

‘Maximum penalty—

- (a) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2—20 years imprisonment; or
- (b) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—5 years imprisonment.’.

(3) Section 7(2), ‘the property so obtained’—

omit, insert—

‘the offence property’.

(4) Section 7(2), penalty—

omit, insert—

‘Maximum penalty—

- (a) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2—20 years imprisonment; or
- (b) if the offence or act, from the commission of which the offence property was obtained, related to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—5 years imprisonment.’.

Amendment of s 8 (Producing dangerous drugs)

8. Section 8, penalty—

insert—

- ‘(f) if the dangerous drug is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—5 years imprisonment.’.

Amendment of s 8A (Publishing or possessing instructions for producing dangerous drugs)**9.** Section 8A(1), penalty—*insert—*

- ‘(c) if the dangerous drug to which the instructions relate is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—2 years imprisonment.’.

Amendment of s 9 (Possessing dangerous drugs)**10.** Section 9, penalty—*insert—*

- ‘(e) if the dangerous drug is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—2 years imprisonment.’.

Amendment of s 10 (Possessing things)**11.(1)** Section 10(1), penalty—*omit, insert—*

‘Maximum penalty—

- (a) if possession of the thing is for use, or has been used, in connection with the commission of a crime relating to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2—15 years imprisonment; or
- (b) if possession of the thing is for use, or has been used, in connection with the commission of a crime relating to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—2 years imprisonment.’.

(2) Section 10—*insert—*

‘**(6)** For subsection (1), the dangerous drug to which the commission of a crime relates is the dangerous drug directly or indirectly involved and in relation to which proof is required to establish the commission of the crime.’

Example—

Suppose a person is guilty of a crime against this section because he or she has in his or her possession equipment for use in connection with the commission of a crime defined in section 8 of unlawfully producing a dangerous drug. That dangerous drug is the dangerous drug referred to in the penalty for subsection (1).’.

Amendment of s 11 (Permitting use of place)

12.(1) Section 11, penalty—

omit, insert—

‘Maximum penalty—

- (a) if the place is permitted to be used for the commission of a crime in relation to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 1 or 2—15 years imprisonment; or
- (b) if the place is permitted to be used for the commission of a crime in relation to a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A—2 years imprisonment.’.

(2) Section 11—

insert—

‘**(2)** For subsection (1), the dangerous drug to which the commission of a crime relates is the dangerous drug directly or indirectly involved and in relation to which proof is required to establish the commission of the crime.

Example—

Suppose a person is guilty of a crime against this section because, being the occupier of a place, he or she permitted another person to use the place for the commission of a crime defined in section 8A of publishing instructions about the way to produce a dangerous drug. That dangerous drug is the dangerous drug referred to in the penalty for subsection (1).’.

Amendment of s 13 (Certain offences may be dealt with summarily)

13. Section 13(1), (2)(c) and (4), ‘a maximum of’—
omit, insert—
‘not more than’.

Insertion of new pt 3

14. After section 13—
insert—

**‘PART 3—ENFORCEMENT POWERS OF
AUTHORISED HEALTH OFFICERS**

‘Authorised health officers may exercise powers under Health Act for enforcing s 9 for particular dangerous drugs

‘**14.(1)** The chief executive for health may, by signed writing, authorise an officer, or officer of a class of officer, within the meaning of the *Health Act 1937* (“**authorised health officer**”) to enforce section 9 for a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A.

‘**(2)** For enforcing section 9, an authorised health officer may exercise the powers conferred on the officer under the *Health Act 1937*, section 132.¹

‘Production or display of officer’s official identity card

‘**15.(1)** An authorised health officer may exercise a power for enforcing section 9 for a dangerous drug that is a thing specified in the *Drugs Misuse Regulation 1987*, schedule 2A in relation to someone else (the “**other person**”) only if the officer—

- (a) first produces the officer’s official identity card for the other person’s inspection; or

¹ *Health Act 1937*, Section 132 (Powers of officers)

- (b) has the official identity card displayed so that it is clearly visible to the other person.

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the authorised health officer must produce the official identity card for the other person’s inspection at the first reasonable opportunity.’.

Amendment of s 43A (Definitions)

15.(1) Section 43A, definitions “**authorised officer**”, and “**official identity card**”—

omit.

(2) Section 43A, definitions “**chief executive for health**”, “**controlled substance**” and “**environmental health officer**”—

relocate to section 4.

Replacement of s 43H (Production or display of authorised officer’s official identity card)

16. Section 43H—

omit, insert—

‘Production or display of officer’s official identity card

‘**43H.(1)** An environmental health officer may exercise a power under this part in relation to someone else (the “**other person**”) only if the officer—

- (a) first produces the officer’s official identity card for the other person’s inspection; or
- (b) has the official identity card displayed so that it is clearly visible to the other person.

‘(2) However, if for any reason it is not practicable to comply with subsection (1) before exercising the power, the environmental health officer must produce the official identity card for the other person’s inspection at the first reasonable opportunity.’.

Amendment of s 43I (Authorised officer may enter person's premises and inspect register and documents)

17.(1) Section 43I, heading, 'Authorised'—

omit, insert—

'Environmental health'.

(2) Section 43I, 'authorised'—

omit, insert—

'environmental health'.

Amendment of s 43J (Power to seize evidence)

18. Section 43J, 'authorised'—

omit, insert—

'environmental health'.

Amendment of s 43K (Receipt for seized things)

19. Section 43K(1), 'authorised'—

omit, insert—

'environmental health'.

Amendment of s 43L (Procedure after thing seized)

20. Section 43L, 'authorised'—

omit, insert—

'environmental health'.

Amendment of s 43O (Power to require name and address)

21. Section 43O, 'authorised'—

omit, insert—

'environmental health'.

Amendment of s 43Q (Obstruction of authorised officers)

22.(1) Section 43Q, heading, ‘authorised’—

omit, insert—

‘**environmental health**’.

(2) Section 43Q, ‘authorised’—

omit, insert—

‘environmental health’.

Amendment of s 43T (Compensation)

23. Section 43T(1), ‘authorised’—

omit, insert—

‘environmental health’.

Omission of ss 43U and 43V

24. Sections 43U and 43V—

omit.

Insertion of new ss 57A and 57B

25. After section 57—

insert—

‘Evidence of prescribed substance by label

‘57A.(1) This section applies if, in a proceeding for an offence against this Act, it is relevant to prove that a substance owned or supplied by, or in the possession of, a person was a prescribed substance.

‘(2) The substance is proved to have been a prescribed substance if—

- (a) there is evidence that the container containing the substance had a label indicating the substance was a prescribed substance; and

- (b) a police officer, authorised health officer or environmental health officer gives evidence that the police officer, authorised health officer or environmental health officer believes the container contained a prescribed substance; and
- (c) written notice mentioned in section 57B(4) has not been received from the person summonsed or charged by—
 - (i) if the proceedings have been brought by a police officer—the commissioner of the police service; or
 - (ii) if the proceedings have been brought by an authorised health officer or an environmental health—the chief executive for health; and
- (d) the court considers the belief mentioned in paragraph (b) to be reasonably held; and
- (e) there is no evidence to the contrary.

‘Evidence of prescribed substance—notice of challenge required

‘**57B.(1)** This section applies if a summons has been served on a person for, or a person has been charged with, an offence to which section 57A applies.

‘**(2)** A notice in the approved form must be served on the person when the person is served with the summons or charged with the offence.

‘**(3)** The notice may be served on the person in the same way as a summons may be served under the *Justices Act 1886*, section 56.²

‘**(4)** The notice must inform the person that, if the person intends challenging that a substance claimed in the charge to be a prescribed substance was a prescribed substance, the person must give written notice of challenge to—

- (a) if the proceedings have been brought by a police officer—the commissioner of the police service; or

² *Justices Act 1886*, section 56 (Service of summonses)

- (b) if the proceedings have been brought by an authorised health officer or an environmental health officer—the chief executive for health.

‘(5) The notice of challenge must be given to the commissioner or chief executive at least 14 days before the day fixed for the hearing of the offence.

‘(6) If a summons is served on the person, a statement in a deposition made for the *Justices Act 1886*, section 56(3)(b) that the notice was served as required by subsection (2) is evidence of the fact.

‘(7) The *Justices Act 1886*, section 56(5) applies to the deposition.

‘(8) If the person is charged with an offence mentioned in subsection (1), a statement in a deposition made for the *Justices Act 1886*, section 56(7) that the notice was served as required by subsection (2) is evidence of the fact.

‘(9) The *Justices Act 1886*, section 56(8) applies to the deposition.’.

PART 3—AMENDMENT OF REGULATIONS

Regulations amended

- 26.** The schedule amends the regulations it mentions.

SCHEDULE**AMENDMENT OF REGULATIONS**

section 26

DRUGS MISUSE REGULATION 1987**1. After schedule 2—***insert—***‘SCHEDULE 2A****‘DANGEROUS DRUGS**

sections 4, 5, 6, 8, 8A, 9 and 59 of the Act

Androisoxazole

Atamestane

Bambuterol

Bolandiol

Bolesterone

Bolazine

Boldenone (dehydrotestosterone)

Bolenol

Bolmantalate

SCHEDULE (continued)

Calusterone
Chlorandrostebolone
4-Chloromethandienone
Chloroxydienone
Chloroxymesterone (dehydrochloromethyltestosterone)
Clenbuterol
Clostebol (4-chlorotestosterone)
Danazol
Dihydrolone
Dimethandrostanolone
Drostanolone
Enestebol
Ephedrine
Epitiostanol
Ethyldienolone
Ethyloestanol
Fenoterol
Flunitrazepam
Fluoxymesterone
Formebolone (formyldienolone)
Formoterol
Furazabol
Hydroxystenozol
Mebolazine
Mepitiostane
Mesabolone

SCHEDULE (continued)

Mestanolone (androstalone)

Mesterolone

Methandienone

Methandriol

Methenolone

Methylclostebol

Methyltestosterone

Methyltrienolone

Metribolone

Mibolerone

Nandrolone

Norandrostenolone

Norbolethone

Norclostebol

Norethandrolone

Normethandrone

Ovandrotone

Oxabolone

Oxandrolone

Oxymesterone

Oxymethalone

Prasterone

Propetandriol

Quinbolone

Reproterol

SCHEDULE (continued)

Salbutamol, except in metered aerosols or dry powder or capsules of dry powder for inhalation

Silandrone

Somatropin

Stanolone

Stanazolol

Stenbolone

Terbutaline, except in metered aerosols for inhalation

Testolactone

Testosterone, except in implant preparations for growth promotion in animals

Thiomesterone (tiomesterone)

Trenbolone (trienbolone, trienolone), except in implant preparations for use in animals

Trestolone

Any other anabolic and androgenic steroidal agent’.

HEALTH (DRUGS AND POISONS) REGULATION 1996

1. Section 94—

insert—

‘(2) In this section—

SCHEDULE (continued)

“**controlled drug**” does not include a controlled drug that is also a dangerous drug under the *Drugs Misuse Act 1986*, schedule 2A.³.

2. Section 204—

insert—

‘(2) In this section—

“**restricted drug**” does not include a restricted drug that is also a dangerous drug under the *Drugs Misuse Act 1986*, schedule 2A.⁴.

© State of Queensland 2000

³ The *Drugs Misuse Act 1986*, section 9 provides that a person who has possession of a dangerous drug is guilty of a crime.

⁴ The *Drugs Misuse Act 1986*, section 9 provides that a person who has possession of a dangerous drug is guilty of a crime.