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New South Wales

# **Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Bill 1998**

## **Explanatory note**

This explanatory note relates to this Bill as introduced into Parliament.

### **Overview of Bill**

The object of this Bill is to amend the *Drug Misuse and Trafficking Act 1985* so as to facilitate the use of prohibited plants and prohibited drugs in connection with:

- (a) controlled operations under the *Law Enforcement (Controlled Operations) Act 1997*, and
  - (b) integrity testing programs under Part 10A of the *Police Service Act 1990*.
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## Outline of provisions

**Clause 1** sets out the name (also called the short title) of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act on a day or days to be appointed by proclamation.

**Clause 3** is a formal provision giving effect to the amendments to the *Drug Misuse and Trafficking Act 1985* set out in Schedule 1.

**Schedule 1 [1]** amends section 10 so as to legalise the possession of a prohibited drug by a person acting in accordance with a direction by the Commissioner of Police under proposed section 39RA.

**Schedule 1 [2]** amends section 23 so as to legalise the supply and possession of a prohibited plant by a person acting in accordance with a direction by the Commissioner of Police under proposed section 39RA.

**Schedule 1 [3] and [4]** amend section 25 so as to legalise the supply of a prohibited drug by a person acting in accordance with a direction by the Commissioner of Police under proposed section 39RA.

**Schedule 1 [5], [6] and [7]** make consequential amendments to sections 39I and 39N.

**Schedule 1 [8]** inserts proposed section 39RA. The proposed section authorises the Commissioner of Police to direct that any prohibited plant or prohibited drug that has been seized by a police officer be retained for use in connection with a controlled operation under the *Law Enforcement (Controlled Operations) Act 1997* or an integrity testing program under Part 10A of the *Police Service Act 1990*. The functions of the Commissioner of Police under the proposed section will not be delegable except to a Deputy Commissioner of Police.

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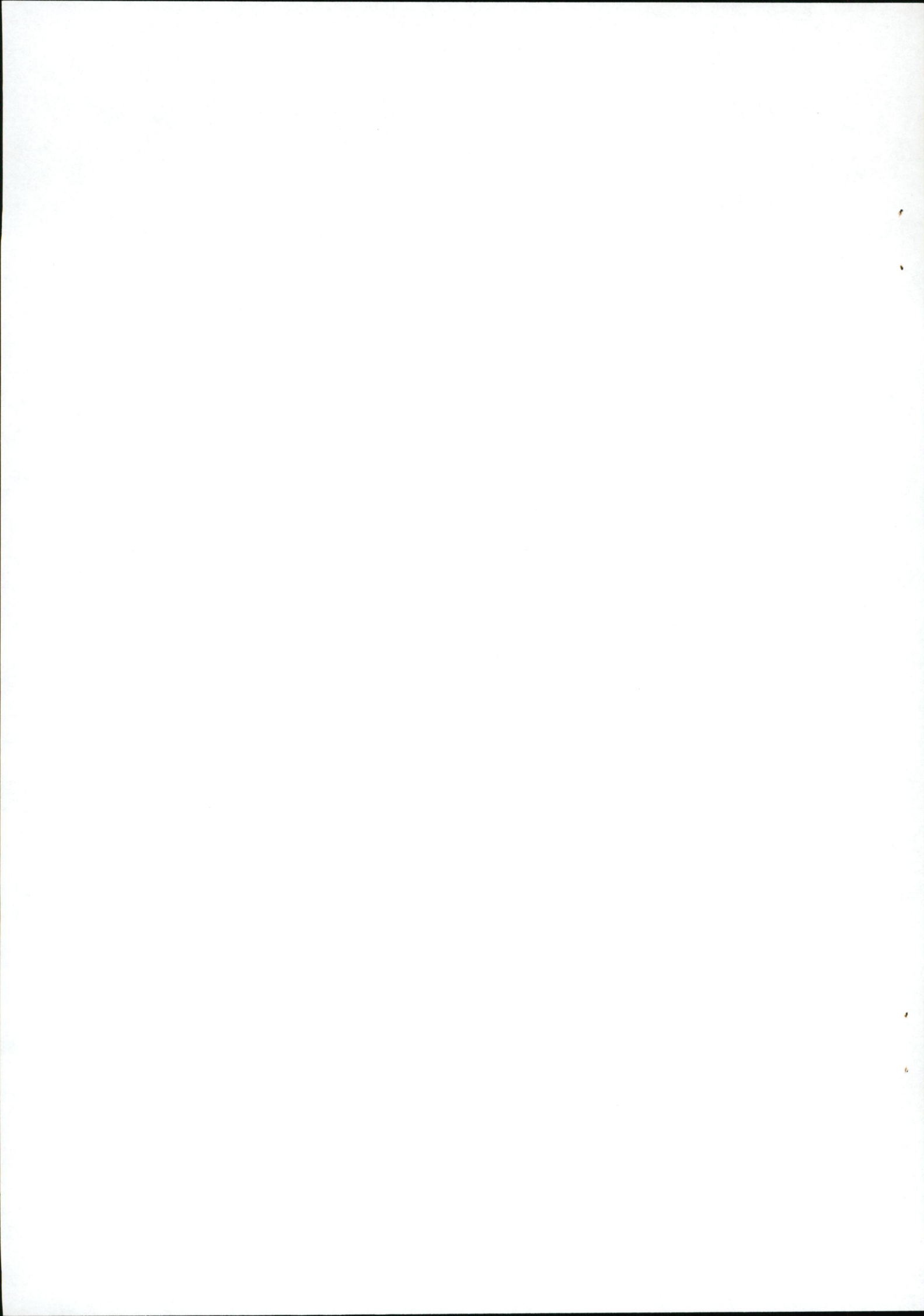
# Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Bill 1998

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New South Wales

# Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Bill 1998

No. , 1998

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## **A Bill for**

An Act to amend the *Drug Misuse and Trafficking Act 1985* to facilitate the use of prohibited plants and prohibited drugs in connection with controlled operations under the *Law Enforcement (Controlled Operations) Act 1997* and integrity testing programs under the *Police Service Act 1990*.

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**The Legislature of New South Wales enacts:**

**1 Name of Act**

This Act is the *Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Act 1998*.

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**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.

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## Schedule 1 Amendments

(Section 3)

### [1] Section 10 Possession of prohibited drugs

Insert after section 10 (2) (b):

- (b1) a person acting in accordance with a direction given by the Commissioner of Police under section 39RA. 5

### [2] Section 23 Offences with respect to prohibited plants

Insert at the end of section 23 (4) (b):

- . or 10
- (c) a person acting in accordance with a direction given by the Commissioner of Police under section 39RA.

### [3] Section 25 Supply of prohibited drugs

Insert at the end of section 25 (4) (b):

- , or 15
- (c) a person acting in accordance with a direction given by the Commissioner of Police under section 39RA.

### [4] Section 25 (4)

Omit "paragraph (a) or (b)".  
Insert instead "paragraph (a), (b) or (c)". 20

### [5] Section 39I Destruction of prohibited drugs

Omit ", except as provided by subsection (2) and section 39J," from section 39I (1). 25

**[6] Section 39I (3)**

Insert after section 39I (2):

- (3) The requirements of subsection (1) do not apply if an order for destruction is rescinded under subsection (2) or if the prohibited drug to which the order relates becomes the subject of a request under section 39J or a direction under section 39RA. 5

**[7] Section 39N Order on determination of proceedings before Magistrate**

Insert after section 39N (2): 10

- (3) The requirements of subsection (1) do not apply if the prohibited plant or prohibited drug becomes the subject of a direction under section 39RA.

**[8] Section 39RA**

Insert after section 39R: 15

**39RA Use of prohibited plants and prohibited drugs in controlled operations and integrity testing programs**

- (1) The Commissioner of Police may, by order in writing, direct that any prohibited plant or prohibited drug that has been seized by a police officer be retained by a police officer specified in the direction for the purpose of its being used in connection with: 20
  - (a) a controlled operation under the *Law Enforcement (Controlled Operations) Act 1997*, or
  - (b) an integrity testing program under Part 10A of the *Police Service Act 1990*. 25
- (2) A direction under this section may be given in relation to a prohibited plant or prohibited drug: 30
  - (a) whether it is intended for immediate use or for use at some later time, and
  - (b) whether it is intended for use by the police officer specified in the direction or for use by some other person.



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- (3) A direction under this section may be given subject to such conditions as the Commissioner of Police considers appropriate.
- (4) A direction under this section need not identify a particular controlled operation or integrity testing program, nor need a particular controlled operation or integrity testing program be in contemplation before such a direction may be made. 5
- (5) Despite any other Act or law to the contrary, the functions of the Commissioner of Police under this section may not be delegated except to a Deputy Commissioner of Police. 10

