

FIRST PRINT

**MISCELLANEOUS ACTS (DRUG MISUSE AND
TRAFFICKING) AMENDMENT BILL 1985**

EXPLANATORY NOTE

(This Explanatory Note relates to this Bill as introduced into Parliament)

This Bill is cognate with the Drug Misuse and Trafficking Bill 1985.

The object of this Bill is to amend certain Acts as a consequence of the enactment of the proposed Drug Misuse and Trafficking Act 1985.

Clause 1 specifies the short title of the proposed Act.

Clause 2 provides that the proposed Act will, with minor exceptions, commence on the commencement of the proposed Drug Misuse and Trafficking Act 1985.

Clause 3 is a formal provision that gives effect to the Schedule of amendments.

Schedule 1 specifies the Acts to be amended and the terms of each amendment. Except in the case of the Poisons Act 1966, each amendment substitutes a reference to a provision of the Poisons Act 1966 with a reference to the corresponding provision of the proposed Drug Misuse and Trafficking Act 1985. The Poisons Act 1966 is amended in the following respects:

Section 2 (division of Act) is omitted by way of statute law revision.

Section 4 (interpretation) is amended to omit certain definitions which are no longer required for the purposes of the Act and to make consequential amendments.

Section 5 (exemption from operation of Act) is amended consequentially.

The heading to Part IV is amended consequentially.

Section 21 (offences relating to prepared opium and other drugs of addiction), 22 (forging, etc., prescriptions) and 23 (obtaining drug by false representations) are omitted as the matters dealt with in these sections are dealt with in the proposed Drug Misuse and Trafficking Act 1985.

Divisions 3 (Prohibited Drugs) and 4 (Prohibited Plants) of Part IV are omitted as the matters dealt with in these Divisions are dealt with in the proposed Drug Misuse and Trafficking Act 1985.

Section 43 (powers of entry and search) is amended consequentially.

Section 43B (powers of detention and search) is amended consequentially.

Sections 45A (certain offences punishable on indictment) and 45AB (certain summary proceedings to become committal proceedings) are omitted as the matters dealt with in these sections are dealt with in the proposed Drug Misuse and Trafficking Act 1985.

Section 46 (publication, etc., of proclamations, certain orders and regulations) is amended consequentially.

**MISCELLANEOUS ACTS (DRUG MISUSE AND
TRAFFICKING) AMENDMENT BILL 1985**

No. , 1985

A BILL FOR

An Act to amend certain Acts as a consequence of the enactment of the
Drug Misuse and Trafficking Act 1985.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

5 Short title

1. This Act may be cited as the "Miscellaneous Acts (Drug Misuse and Trafficking) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Where the day appointed and notified under section 2 (2) of the Firearms and Dangerous Weapons (Amendment) Act 1985 in respect of Schedule 6 (2) (e) to that Act is later than the day appointed and notified under section 2 (2) of the Drug Misuse and Trafficking Act 1985, the amendment made in Schedule 1 to this Act to the Firearms and Dangerous Weapons Act 1973 shall commence on the firstmentioned day.

(3) Except as provided by subsections (1) and (2), this Act shall commence on the day appointed and notified under section 2 (2) of the Drug Misuse and Trafficking Act 1985.

20 Amendments

3. Each Act specified in Schedule 1 is amended in the manner specified in that Schedule in relation to that Act.

SCHEDULE 1

(Sec. 3)

25

AMENDMENTS

Child Welfare Act 1939 No. 17—

Section 72, definition of "Drug"—

30

Omit "drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, as subsequently amended", insert instead "prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985".

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

Community Welfare Act 1982 No. 76—

Section 199 (1)—

Omit the subsection, insert instead:

(1) In this section—

- 5 “drug” means a prohibited plant or prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985.

Firearms and Dangerous Weapons Act 1973 No. 38—

Section 6 (1), definition of “prescribed narcotics offence”—

Omit paragraph (a), insert instead:

- 10 (a) an offence under the Drug Misuse and Trafficking Act 1985, being an offence committed in respect of a prohibited plant or prohibited drug within the meaning of that Act, other than any such offence declared by regulations made under this Act to be an offence to which this paragraph does not apply; or

15 Liquor Act 1982 No. 147—

Section 125E—

- 20 Omit “a prohibited drug or restricted substance within the meaning of the Poisons Act, 1966” wherever occurring, insert instead “a prohibited plant or a prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985”.

Listening Devices Act 1984 No. 69—

Section 3 (1), definition of “serious narcotics offence”—

Omit “to which section 45A of the Poisons Act, 1966, applies”, insert instead “under Division 2 of Part II of the Drug Misuse and Trafficking Act 1985”.

25 Local Government Act 1919 No. 41—

Section 475IA (1)—

Omit “as defined in section 4 (1) of the Poisons Act, 1966”, insert instead “within the meaning of the Drug Misuse and Trafficking Act 1985”.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*
AMENDMENTS—*continued*

Motor Traffic Act 1909 No. 5—

Section 5 (2), paragraph (a) of the definition of “drug”—

- 5 Omit “a drug of addiction or prohibited drug, as defined in section 4 of the Poisons Act, 1966”, insert instead “a prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985”.

Poisons Act 1966 No. 31—

(1) Section 2—

Omit the section.

- 10 (2) (a) Section 4 (1), definitions of “Cultivate”, “Indian hemp”, “Opium”, “Owner”, “Prepared opium”, “Prohibited drug”, “Prohibited plant”, “Smoking”—

Omit the definitions.

(b) Section 4 (1), definition of “Drug of addiction”—

Omit the definition, insert instead:

- 15 “Drug of addiction” means any substance specified in Schedule Eight of the Poisons List.

(c) Section 4 (1), definition of “Substance”—

Omit “but does not include any prohibited plant”.

(d) Section 4 (2)—

Omit “or any proclamation made under section 31”.

- 20 (e) Section 4 (3), (4)—

Omit the subsections.

(3) Section 5 (2)—

Omit “, drugs of addiction, prohibited drugs or prohibited plants”, insert instead “or drugs of addiction”.

- 25 (4) Part IV, heading—

Omit “, PROHIBITED DRUGS AND PROHIBITED PLANTS”.

(5) Sections 21, 22, 23—

Omit the sections.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

- (6) Part IV, Divisions 3, 4—
Omit the Divisions.
- (7) (a) Section 43 (1) (a)—
Omit “or prohibited drug or prohibited plant”.
- 5 (b) Section 43 (1) (a)—
Omit “or drug or any premises on which there are any prohibited plants”.
- (c) Section 43 (1) (c)—
Omit “or drug or of any prohibited plants”.
- (d) Section 43 (1) (d), (e), (3A)—
10 Omit “, drug or plant” wherever occurring.
- (e) Section 43 (4) (b)—
Omit “, substance, drug or plant”, insert instead “or substance”.
- (8) Section 43B (1), definition of “prescribed restricted substance”—
Omit the definition of “prohibited substance”, insert instead:
15 “prescribed restricted substance” means a restricted substance prescribed for
the purposes of section 16.
- (9) Sections 45A, 45AB—
Omit the sections.
- (10) Section 46 (1)—
20 Omit “or 31”.
- Registered Clubs Act 1976 No. 31—**
Section 54A—
25 Omit “a prohibited drug or restricted substance within the meaning of the
Poisons Act, 1966” wherever occurring, insert instead “a prohibited plant or
a prohibited drug within the meaning of the Drug Misuse and Trafficking Act
1985”.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*
 AMENDMENTS—*continued*

Search Warrants Act 1985 No. 37—

Section 5 (2), definition of “narcotics offence”—

Omit the definition, insert instead:

“narcotics offence” means—

- 5 (a) an offence under the Poisons Act 1966, or the regulations thereunder, being an offence committed in respect of—
- (i) a restricted substance prescribed for the purposes of section 16 of that Act; or
- (ii) a drug of addiction within the meaning of that Act; or
- 10 (b) an offence under the Drug Misuse and Trafficking Act 1985, or the regulations thereunder.

State Drug Crime Commission Act 1985 No. 117—

Section 3 (1), definition of “serious drug offence”—

- 15 (a) In paragraph (a), after “referred to”, insert “(before the commencement of the Drug Misuse and Trafficking Act 1985)”.
- (b) After paragraph (a), insert:
- (a1) an offence under Division 2 of Part II of the Drug Misuse and Trafficking Act 1985, other than an offence which is prescribed for the purposes of this paragraph;
- 20 (c) In paragraph (c), after “paragraph (a)”, insert “, (a1)”.
- (d) In paragraph (d), after “paragraph (a),”, insert “(a1),”.

MISCELLANEOUS ACTS (DRUG MISUSE AND TRAFFICKING)
AMENDMENT ACT 1985 No. 227

New South Wales



ANNO TRICESIMO QUARTO

ELIZABETHÆ II REGINÆ

* * * * *

Act No. 227, 1985

An Act to amend certain Acts as a consequence of the enactment of the
Drug Misuse and Trafficking Act 1985. [Assented to, 18th December,
1985.]

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

BE it enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of New South Wales in Parliament assembled, and by the authority of the same, as follows:

Short title

1. This Act may be cited as the "Miscellaneous Acts (Drug Misuse and Trafficking) Amendment Act 1985".

Commencement

2. (1) Sections 1 and 2 shall commence on the date of assent to this Act.

(2) Where the day appointed and notified under section 2 (2) of the Firearms and Dangerous Weapons (Amendment) Act 1985 in respect of Schedule 6 (2) (e) to that Act is later than the day appointed and notified under section 2 (2) of the Drug Misuse and Trafficking Act 1985, the amendment made in Schedule 1 to this Act to the Firearms and Dangerous Weapons Act 1973 shall commence on the firstmentioned day.

(3) Except as provided by subsections (1) and (2), this Act shall commence on the day appointed and notified under section 2 (2) of the Drug Misuse and Trafficking Act 1985.

Amendments

3. Each Act specified in Schedule 1 is amended in the manner specified in that Schedule in relation to that Act.

SCHEDULE 1

(Sec. 3)

AMENDMENTS

Child Welfare Act 1939 No. 17—

Section 72, definition of "Drug"—

Omit "drug of addiction or prohibited drug, as defined in section four of the Poisons Act, 1966, as subsequently amended", insert instead "prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985".

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*

AMENDMENTS—*continued*

Community Welfare Act 1982 No. 76—

Section 199 (1)—

Omit the subsection, insert instead:

(1) In this section—

“drug” means a prohibited plant or prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985.

Firearms and Dangerous Weapons Act 1973 No. 38—

Section 6 (1), definition of “prescribed narcotics offence”—

Omit paragraph (a), insert instead:

- (a) an offence under the Drug Misuse and Trafficking Act 1985, being an offence committed in respect of a prohibited plant or prohibited drug within the meaning of that Act, other than any such offence declared by regulations made under this Act to be an offence to which this paragraph does not apply; or

Liquor Act 1982 No. 147—

Section 125E—

Omit “a prohibited drug or restricted substance within the meaning of the Poisons Act, 1966” wherever occurring, insert instead “a prohibited plant or a prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985”.

Listening Devices Act 1984 No. 69—

Section 3 (1), definition of “serious narcotics offence”—

Omit “to which section 45A of the Poisons Act, 1966, applies”, insert instead “under Division 2 of Part II of the Drug Misuse and Trafficking Act 1985”.

Local Government Act 1919 No. 41—

Section 4751A (1)—

Omit “as defined in section 4 (1) of the Poisons Act, 1966”, insert instead “within the meaning of the Drug Misuse and Trafficking Act 1985”.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*
 AMENDMENTS—*continued*

Motor Traffic Act 1909 No. 5—

Section 5 (2), paragraph (a) of the definition of “drug”—

Omit “a drug of addiction or prohibited drug, as defined in section 4 of the Poisons Act, 1966”, insert instead “a prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985”.

Poisons Act 1966 No. 31—

(1) Section 2—

Omit the section.

(2) (a) Section 4 (1), definitions of “Cultivate”, “Indian hemp”, “Opium”, “Owner”, “Prepared opium”, “Prohibited drug”, “Prohibited plant”, “Smoking”—

Omit the definitions.

(b) Section 4 (1), definition of “Drug of addiction”—

Omit the definition, insert instead:

“Drug of addiction” means any substance specified in Schedule Eight of the Poisons List.

(c) Section 4 (1), definition of “Substance”—

Omit “but does not include any prohibited plant”.

(d) Section 4 (2)—

Omit “or any proclamation made under section 31”.

(e) Section 4 (3), (4)—

Omit the subsections.

(3) Section 5 (2)—

Omit “, drugs of addiction, prohibited drugs or prohibited plants”, insert instead “or drugs of addiction”.

(4) Part IV, heading—

Omit “, PROHIBITED DRUGS AND PROHIBITED PLANTS”.

(5) Sections 21, 22, 23—

Omit the sections.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*
AMENDMENTS—*continued*

- (6) Part IV, Divisions 3, 4—

Omit the Divisions.

- (7) (a) Section 43 (1) (a)—

Omit “or prohibited drug or prohibited plant”.

- (b) Section 43 (1) (a)—

Omit “or drug or any premises on which there are any prohibited plants”.

- (c) Section 43 (1) (c)—

Omit “or drug or of any prohibited plants”.

- (d) Section 43 (1) (d), (e), (3A)—

Omit “, drug or plant” wherever occurring.

- (e) Section 43 (4) (b)—

Omit “, substance, drug or plant”, insert instead “or substance”.

- (8) Section 43B (1), definition of “prescribed restricted substance”—

Omit the definition of “prohibited substance”, insert instead:

“prescribed restricted substance” means a restricted substance prescribed for the purposes of section 16.

- (9) Sections 45A, 45AB—

Omit the sections.

- (10) Section 46 (1)—

Omit “or 31”.

Registered Clubs Act 1976 No. 31—

Section 54A—

Omit “a prohibited drug or restricted substance within the meaning of the Poisons Act, 1966” wherever occurring, insert instead “a prohibited plant or a prohibited drug within the meaning of the Drug Misuse and Trafficking Act 1985”.

Miscellaneous Acts (Drug Misuse and Trafficking) Amendment 1985

SCHEDULE 1—*continued*
AMENDMENTS—*continued*

Search Warrants Act 1985 No. 37—

Section 5 (2), definition of “narcotics offence”—

Omit the definition, insert instead:

“narcotics offence” means—

- (a) an offence under the Poisons Act 1966, or the regulations thereunder, being an offence committed in respect of—
 - (i) a restricted substance prescribed for the purposes of section 16 of that Act; or
 - (ii) a drug of addiction within the meaning of that Act; or
- (b) an offence under the Drug Misuse and Trafficking Act 1985, or the regulations thereunder.

State Drug Crime Commission Act 1985 No. 117—

Section 3 (1), definition of “serious drug offence”—

- (a) In paragraph (a), after “referred to”, insert “(before the commencement of the Drug Misuse and Trafficking Act 1985)”.
- (b) After paragraph (a), insert:
 - (a1) an offence under Division 2 of Part II of the Drug Misuse and Trafficking Act 1985, other than an offence which is prescribed for the purposes of this paragraph;
- (c) In paragraph (c), after “paragraph (a)”, insert “, (a1)”.
- (d) In paragraph (d), after “paragraph (a),”, insert “(a1),”.



