



ANNO DECIMO NONO

ELIZABETHAE II REGINAE

A.D. 1970

No. 65 of 1970

An Act to amend the Dangerous Drugs Act, 1934-1955

[Assented to 17th December, 1970]

BE IT ENACTED by the Governor of the State of South Australia, with the advice and consent of the Parliament thereof, as follows:

1. (1) This Act may be cited as the "Dangerous Drugs Act Amendment Act (No. 2), 1970". Short titles.

(2) The Dangerous Drugs Act, 1934-1955, as amended by this Act, may be cited as the "Narcotic and Psychotropic Drugs Act, 1934-1970".

(3) The Dangerous Drugs Act, 1934-1955, is hereinafter referred to as "the principal Act".

2. This Act shall come into operation on a day to be fixed by proclamation. Commencement.

3. Section 3 of the principal Act is amended—

(a) by striking out the definition of "Indian hemp" and inserting in lieu thereof the following definitions:— Amendment of principal Act, s. 3— Interpretation.

"drug to which this Act applies" means any drug that is a drug to which this Act applies in pursuance of the provisions of section 4 of this Act:

“Indian hemp” means any part of the plant known as *Cannabis Sativa L.*, or any resinous or other extract or derivative obtained therefrom, or the residue of any part of that plant after the extract or derivative has been obtained therefrom, and includes any such part, extract, derivative or residue in any state of dehydration and by whatever name it is called;

(b) by inserting after the definition of “medicinal opium” the following definition:—

“owner” of premises includes a person who is entitled to receive the rents of the premises;

and

(c) by inserting after the definition of “prepared opium” the following definition:—

“prohibited plant” means—

(a) the opium poppy (*papaver somniferum L.*);

(b) any plant of any genus of the erythroxy-laceae, from the leaves of which cocaine can be extracted either directly or by chemical transformation;

or

(c) the plant known as *Cannabis Sativa L.*

Amendment of
principal Act,
s. 4—
Drugs to
which Act
applies.

4. Section 4 of the principal Act is amended—

(a) by inserting after the passage “medicinal opium” in paragraph (a) of subsection (1) the passage “, prepared opium,”;

(b) by striking out from paragraph (b) of subsection (1) the passage “any extract or tincture of”;

and

(c) by striking out subsection (3) and inserting in lieu thereof the following subsections:—

(3) If, in the opinion of the Governor, it is desirable that—

(a) any derivative of morphine or cocaine or of any salts of morphine or cocaine;

- (b) any other alkaloid of opium;
- (c) any psychotropic drug or substance;
- or
- (d) any other drug or substance of whatever kind,

should be brought within the provisions of this Act, the Governor may declare by proclamation that that derivative, alkaloid, drug or substance shall be a drug to which this Act applies and thereupon it shall become a drug to which this Act applies in accordance with the proclamation.

(3a) A proclamation made under subsection (3) of this section may provide that the provisions of this Act shall apply to or in relation to the derivative, alkaloid, drug or substance referred to in the proclamation with such modifications as are specified in the proclamation and those provisions shall apply accordingly.

5. Section 5 of the principal Act is repealed and the following section is enacted and inserted in its place:—

Repeal of
s. 5 of
principal Act
and enactment
of section in
its place—

Prohibition of
manufacture,
administra-
tion, etc., of
drugs.

5. (1) A person who—
- (a) knowingly has in his possession any drug to which this Act applies;
 - (b) smokes, consumes or administers to himself any drug to which this Act applies;
 - or
 - (c) has in his possession any pipes, syringes or other utensils or any appliance or thing for use in connection with the preparation, smoking or administration of any drug to which this Act applies,

shall be guilty of an offence against this Act.

- (2) A person who—
- (a) produces, prepares or manufactures a drug to which this Act applies;
 - (b) cultivates a prohibited plant knowing it to be a prohibited plant;
 - (c) sells, gives, supplies or administers, or offers to sell, give, supply or administer any drug to which this Act applies to any other person or otherwise deals or trades in any such drug;

(d) has in his possession any drug to which this Act applies for any of the purposes set out in paragraph (c) of this section;

or

(e) being the owner, lessee or occupier of any premises, or concerned in the management of any premises, permits those premises to be used for the production, preparation, manufacture, sale, distribution, smoking, consumption or administration of any drug to which this Act applies,

shall be guilty of an indictable offence and liable to a penalty of four thousand dollars or imprisonment for ten years, or both.

(3) Paragraph (b) of subsection (2) of this section does not apply in relation to a plant cultivated by The Governors of the Botanic Garden.

(4) A person who knowingly has in his possession more than a prescribed quantity of any drug to which this Act applies shall be deemed to have that drug in his possession for the purposes referred to in paragraph (c) of subsection (2) of this section unless the contrary is proved.

(5) A person shall be deemed to have a drug to which this Act applies in his possession if the drug is in the disposition of that person.

(6) This section shall not be construed as prohibiting anything authorized by a licence granted under this Act, or otherwise authorized by or under, or done in compliance with, this Act.

**Amendment of
principal Act,
s. 7—
Regulations.**

6. Section 7 of the principal Act is amended—

(a) by striking out from subsection (1) the passage “For the purpose of preventing the improper use of the drugs to which this Act applies the Governor may make regulations making provision for regulating and controlling the manufacture, sale, possession, distribution and supply of those drugs, and in particular and without limiting the generality of the foregoing power for” and inserting in lieu thereof the passage “The Governor may make such regulations as are contemplated by this Act, or as he deems necessary or expedient for the purposes of this Act, and, without limiting the generality of the foregoing, he may make regulations for”;

(b) by inserting after paragraph (b) of subsection (1) the following paragraphs:—

(ba) making any prohibition, restriction or special provision that the Governor may deem necessary or desirable in relation to any drug, alkaloid, derivative or substance declared by proclamation to be a drug to which this Act applies;

(bb) providing that licences may be granted in accordance with the regulations by the Minister permitting the cultivation of prohibited plants:

(c) by striking out from paragraph (c) of subsection (1) the passage “the issue by legally qualified medical practitioners” and inserting in lieu thereof the passage “or prohibiting the issue by legally qualified medical practitioners, registered dentists,”;

and

(d) by inserting after the passage “medical practitioners” in paragraph (d) of subsection (1) the passage “, registered dentists,”.

7. Section 9 of the principal Act is amended—

(a) by inserting after the passage “medical practitioner” in subsection (1) the passage “, registered dentist,”;

(b) by striking out from subsection (1) the word “misdemeanour” and inserting in lieu thereof the passage “indictable offence”;

and

(c) by inserting after the passage “medical practitioner” in paragraph (a) of subsection (2) the passage “, registered dentist,”.

Amendment of principal Act, s. 9—
Forging, etc., prescriptions.

8. Section 10 of the principal Act is amended by inserting after the passage “medical practitioner” the passage “registered dentist”

Amendment of principal Act, s. 10—
False representation.

9. Section 11 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsection:—

(1) If a member of the police force or a person authorized in writing by the Minister has reasonable cause to suspect that there is, in contravention of this

Amendment of principal Act, s. 11—
Power to search for drugs.

Act, in any house, building, ship, vessel or place any drug to which this Act applies, he may, with the authority in writing of a special magistrate or an officer of police, break open, enter and search that house, building, ship, vessel or place and may seize and carry away any drug to which this Act applies and may arrest any person whom he has reasonable grounds to suspect of committing or having committed an offence against this Act.;

and

(b) by inserting after the passage "member of the police force" in subsection (2) and subsection (3) the passage "or person authorized in writing by the Minister".

Amendment of
principal Act,
s. 12—
Power to
enter.

10. Section 12 of the principal Act is amended by striking out from subsection (1) the passage "of or above the rank of sergeant".

Amendment of
principal Act,
s. 14—
Proceedings.

11. Section 14 of the principal Act is amended—

(a) by striking out subsection (1) and inserting in lieu thereof the following subsections:—

(1) A person who is guilty of an offence against this Act shall be liable (where no penalty is specifically provided for that offence) upon conviction to a penalty not exceeding two thousand dollars or imprisonment for two years, or both.

(1a) A court before which a person is convicted of an offence against this Act may order that any articles employed in or connected with the commission of the offence be forfeited to the Crown.;

and

(b) by inserting after subsection (7) the following subsections:—

(8) Subject to subsection (9) of this section, proceedings in respect of an offence against this Act shall be heard and determined in all respects as if the offence were a minor indictable offence as defined in the Justices Act, 1921, as amended.

(9) At any time in the course of proceedings in respect of an offence against this Act up to and including the completion of the case for the prosecution, the defendant may elect to be tried upon indictment and upon the making of that election, the court shall not proceed to convict the defendant but may commit him for trial upon indictment.

12. The following section is enacted and inserted in the principal Act immediately after section 14 thereof:—

Enactment of
new section 14a
of the principal
Act—

14a. Where a person is convicted of an offence under this Act and the court is satisfied that it is expedient in the interests of the rehabilitation of the convicted person so to do, it shall, pursuant to the provisions of the Offenders Probation Act, 1913, as amended, impose a sentence of imprisonment upon the convicted person and suspend the sentence on condition that the convicted person undergoes such treatment as the court thinks appropriate to alleviate or control the convicted person's addiction to, or propensity towards the use of, drugs of dependence.

Court to impose
suspended
sentence in
appropriate
cases.

In the name and on behalf of Her Majesty, I hereby assent
to this Bill.

J. W. HARRISON, Governor.