

# NARCOTIC DRUGS AMENDMENT ACT 1976

## No. 176 of 1976

An Act to amend the *Narcotic Drugs Act 1967*.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:—

1. (1) This Act may be cited as the *Narcotic Drugs Amendment Act 1976*.<sup>1</sup> Short title, &c.

(2) The *Narcotic Drugs Act 1967*<sup>2</sup> is in this Act referred to as the Principal Act.

2. This Act shall come into operation on a date to be fixed by Proclamation. Commencement.

3. Section 4 of the Principal Act is amended by omitting from sub-section (1) the definition of “Collector”, “Comptroller” and “officer” and substituting the following definitions:— Interpretation.

“Collector” and “Comptroller” have the same respective meanings as in the *Customs Act 1901*;

“Director-General” means the Director-General of Health;”.

4. Section 6 of the Principal Act is amended by omitting the words “The Minister” and substituting the words “The Minister for Health, the Minister for Business and Consumer Affairs, the Director-General”. Ministers, &c., to have regard to Convention.

5. Section 9 of the Principal Act is amended by adding at the end thereof the following sub-section:— Licence to manufacture.

“(5) In this section, ‘Minister’ means the Minister for Health.”.

6. Section 10 of the Principal Act is amended by adding at the end thereof the following sub-section:— Revocation of licences.

“(2) In this section, ‘Minister’ means the Minister for Health.”.

7. Section 11 of the Principal Act is amended— Permits to manufacture.

(a) by omitting from sub-section (1) the word “Comptroller” and substituting the word “Director-General”; and

(b) by omitting from sub-section (2) the word “Comptroller” (wherever occurring) and substituting the word “Director-General”.

8. Section 12 of the Principal Act is repealed and the following section substituted:—

Directions with respect to security of premises and handling of narcotic materials.

“12. (1) The Comptroller may, by notice in writing served on a licensed manufacturer—

- (a) direct him to take specified measures for regulating and controlling—
  - (i) the entry of persons or vehicles into, or the departure of persons or vehicles from, the licensed premises or a specified part of the licensed premises; or
  - (ii) the entry of persons or vehicles into, or the departure of persons or vehicles from, a specified part of the licensed premises from or into another part of the licensed premises;
- (b) direct him to take specified measures for preventing—
  - (i) the entry of persons or vehicles into, or the departure of persons or vehicles from, the licensed premises; or
  - (ii) the entry of persons or vehicles into, or the departure of persons or vehicles from, a specified part of the licensed premises from or into another part of the licensed premises, otherwise than at specified places; or
- (c) give directions to him with respect to the handling, otherwise than upon the licensed premises, of narcotic materials in his possession or control.

“(2) A direction under this section in relation to the handling of narcotic materials may be given in respect of narcotic materials generally, in respect of a narcotic material of a kind specified in the direction or in respect of such particular narcotic materials as are specified in the direction.

“(3) In this section—

‘licensed premises’, in relation to a licensed manufacturer, means the premises at which the licensed manufacturer is, under this Act, licensed to manufacture a drug;

‘narcotic material’ means a drug, a narcotic preparation or a substance, whether natural or synthetic, that is used in the manufacture of a drug.”

Directions with respect to manufacturing and labelling of drugs.

9. Section 13 of the Principal Act is amended by omitting subsection (1) and substituting the following sub-section:—

“(1) The Director-General may, by notice in writing served on a licensed manufacturer, give directions to him with respect to—

- (a) operations connected with the manufacturing of drugs; or
- (b) the labelling of drugs manufactured by him.”

10. After section 14 of the Principal Act the following section is inserted in Part II:—

- “14A. (1) Application may be made to the Administrative Appeals Tribunal for review of—
- (a) a refusal by the Minister for Health to grant a licence to manufacture a particular drug at particular premises to a person who made application under section 9 for such a licence;
  - (b) a specification by the Minister for Health, under section 9, of particular conditions in a licence granted under that section;
  - (c) a revocation by the Minister for Health, under section 10, of a licence granted under section 9;
  - (d) a direction given by the Comptroller under section 12; or
  - (e) a direction given by the Director-General under section 13.

Review of certain decisions by Administrative Appeals Tribunal.

“(2) For the purposes of a review upon an application under sub-section (1), the Tribunal may be constituted by a presidential member alone.”.

11. Section 17 of the Principal Act is repealed and the following section substituted:—

- “17. A licensed manufacturer shall comply with any direction given to him in pursuance of section 12 or paragraph 13 (1) (a).”.

Licensed manufactures to comply with directions under section 12 and paragraph 13 (1) (a).

12. Section 19 of the Principal Act is amended—

- (a) by omitting from sub-section (1) the words “a Collector” and substituting the words “the Director-General”; and
- (b) by omitting from sub-section (2) the word “Collector” and substituting the word “Director-General”.

Destruction, &c., of drugs, &c., by licensed manufacturers.

13. Section 22 of the Principal Act is amended by adding at the end of sub-section (3) the words “for Business and Consumer Affairs”.

Drugs passing through Australia.

14. Section 23 of the Principal Act is amended by omitting from sub-section (1) the word “Comptroller” (wherever occurring) and substituting the word “Director-General”.

Manufacturers and wholesale dealers to keep records and furnish reports.

Inspection of  
manu-  
facturer's  
premises, &c.

**15. Section 24 of the Principal Act is amended—**

- (a) by omitting from sub-section (1) the words “An authorized inspector may, at any reasonable time and on production of his authority as an authorized inspector” and substituting the words “A person appointed by the Minister for Health to be an authorized inspector may, at any reasonable time and on production of his instrument of appointment”;
- (b) by omitting from sub-section (1) the words “or narcotic preparation” (wherever occurring); and
- (c) by omitting sub-sections (2) and (3) and substituting the following sub-sections:—

“(2) A person appointed by the Minister for Business and Consumer Affairs to be an authorized inspector may, at any reasonable time and on production of his instrument of appointment, enter any premises at which a licensed manufacturer is, under this Act, licensed to manufacture a drug for the purpose of inspecting the state of those premises or for the purpose of ascertaining what security measures are being taken with respect to any matter concerning which a direction may be given under section 12.

“(3) A person shall not, without reasonable excuse, obstruct or hinder an authorized inspector acting in pursuance of sub-section (1) or (2), and the occupier and the person in charge of any premises which an authorized inspector enters in pursuance of sub-section (1) or (2) shall provide the authorized inspector with all reasonable facilities and assistance for the effective exercise of his powers under that sub-section.

Penalty: \$1,000.

“(4) In this section, ‘drug’ includes narcotic preparation.”.

**16. Section 25 of the Principal Act is repealed and the following section substituted:—**

Delegation.

“25. (1) The Minister for Health, the Minister for Business and Consumer Affairs, the Director-General or the Comptroller may, either generally or as otherwise provided by the instrument of delegation, by writing signed by him, delegate to a person any of his powers and functions under this Act, other than this power of delegation.

“(2) A power or function so delegated, when exercised or performed by the delegate shall, for the purposes of this Act, be deemed to have been exercised or performed by the Minister for Health, the Minister for Business and Consumer Affairs, the Director-General or the Comptroller, as the case may be.

“(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the Minister for Health, the

Minister for Business and Consumer Affairs, the Director-General or the Comptroller, as the case may be.”

17. The Principal Act is further amended as set out in the Schedule. Formal amendments.

18. (1) A licence in force under the Principal Act immediately before the commencement of this Act shall be deemed, upon the commencement of this Act, to have been revoked. Minister to issue new licences.

(2) On the date of commencement of this Act, the Minister of Health shall grant, under section 9 of the Principal Act as amended by this Act, to each person holding, immediately before that date, a licence (in this section referred to as the “original licence”) in force under the Principal Act to manufacture a particular drug or particular drugs at particular premises, a licence (in this section referred to as the “substituted licence”) to manufacture that drug or those drugs at those premises, being a licence specifying, under that licence conditions no less favourable than the conditions to which the original licence was subject.

(3) The Minister for Health may, under section 10 of the Principal Act as amended by this Act, revoke a substituted licence granted to a person in pursuance of sub-section (2) if the person has, before the date of commencement of this Act, done, or omitted to do, an act and the act or omission—

- (a) constituted a failure to comply with a condition of the original licence to which the substituted licence relates; and
- (b) would, if it had occurred on or after the date of commencement of this Act, have constituted a failure to comply with a condition of the substituted licence.

19. (1) A permit that was in force under section 11 of the Principal Act, or a direction that was in force under section 13 of the Principal Act, immediately before the commencement of this Act has effect after the commencement of this Act as if it had been granted or given by the Director-General of Health under section 11 or 13, as the case may be, of the Principal Act as amended by this Act. Transitional provisions and savings.

(2) A direction that was in force under section 12 of the Principal Act immediately before the commencement of this Act continues in force after the commencement of this Act as if it had been given under section 12 of the Principal Act as amended by this Act.

(3) A requirement that was in force under section 23 of the Principal Act immediately before the commencement of the Act, being a requirement that a person keep such records, and furnish to the Comptroller such returns and information as are specified in that requirement, has effect after the commencement of this Act as if it has been made by the Director-General of Health under section 23 of the Principal Act as amended by this Act, and as if it required such of the returns and information specified in the requirement as are required to be furnished after

the commencement of this Act to be furnished to the Director-General of Health.

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**SCHEDULE**

Section 17

**FORMAL AMENDMENTS**

1. The following provisions of the Principal Act are amended by omitting the words "of this Act", "to this Act" and "of this section" (wherever occurring):—

Sections 4 (1) (definitions of "drug", "manufacturer's licence", "permit" and "the Convention"), 5, 15 (1), 18 and 20 (1).

2. The Principal Act is further amended as set out in the following table:—

Provision	Amendment
Section 4 (1) (definition of "the Convention")	Omit "the thirtieth day of March, One thousand nine hundred and sixty-one", substitute "30 March 1961".
Section 7 . . . . .	Omit "of this Act" (first occurring).
Section 16 . . . . .	Omit "paragraph (a) of sub-section (2) of section 11 of this Act", substitute "paragraph 11 (2) (a)". Omit "paragraph (b) of sub-section (2) of section 11 of this Act", substitute "paragraph 11 (2) (b)".
Section 22 (5) . . . . .	Omit "the nineteenth day of February, One thousand nine hundred and twenty-five", substitute "19 February 1925".

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**NOTES**

1. Act No. 176, 1976; assented to 13 December 1976.
2. Act No. 53, 1967, as amended. For previous amendment *see* Act No. 216, 1973 (as amended by No. 20, 1974).