

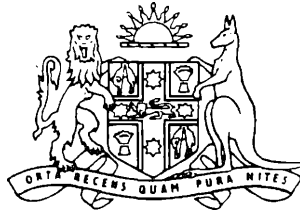


New South Wales

Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Act 1998 No 160

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New South Wales

Drug Misuse and Trafficking Amendment (Controlled Operations and Integrity Testing Programs) Act 1998 No 160

Act No 160, 1998

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*. [Assented to 14 December 1998]

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*.

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.

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,

[2] Section 23 Offences with respect to prohibited plants

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

, or

- (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

- (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)”.

[5] Section 39I Destruction of prohibited drugs

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

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- (3) The requirements of subsection (1) do not apply if an order for destruction is rescinded under subsection (2) or if the prohibited drug to which the order relates becomes the subject of a request under section 39J or a direction under section 39RA.

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

Insert after section 39N (2):

- (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:

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:
 - (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*.
- (2) A direction under this section may be given in relation to a prohibited plant or prohibited drug:
 - (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.

- (3) A direction under this section may be given subject to such conditions as the Commissioner of Police considers appropriate and is subject to a further condition to the effect that the prohibited plant or prohibited drug to which the direction relates is to be kept securely until it is used in connection with a controlled operation or integrity testing program.
- (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) 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.

[Minister's second reading speech made in—
Legislative Assembly on 29 October 1998
Legislative Council on 1 December 1998]