

[Act 2000 No 107]



New South Wales

# Crimes Legislation Further Amendment Bill 2000

## Explanatory note

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

### Overview of Bill

The objects of this Bill are:

- (a) to amend the *Drug Misuse and Trafficking Act 1985* to make it an offence to possess a drug precursor intended for use in the manufacture or production of a prohibited drug, subject to certain appropriate exceptions, and
  - (b) to amend the *Poisons and Therapeutic Goods Regulation 1994* to require chemical supply companies to supply drug precursors only to account customers, and
  - (c) to amend the *Crimes (Forensic Procedures) Act 2000* to enable both authorised officers and Magistrates to make interim orders for the carrying out of certain forensic procedures.
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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.

**Clause 4** is a formal provision giving effect to the amendment to the *Criminal Procedure Act 1986* set out in Schedule 2.

**Clause 5** is a formal provision giving effect to the amendment to the *Poisons and Therapeutic Goods Regulation 1994* set out in Schedule 3.

**Clause 6** is a formal provision giving effect to the amendments to the *Crimes (Forensic Procedures) Act 2000* set out in Schedule 4.

## Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985

**Schedule 1 [1]** inserts proposed section 24A into the *Drug Misuse and Trafficking Act 1985*. The proposed section makes it an indictable offence to have possession of a precursor with the intention of using it in the manufacture or production of a prohibited drug. **Precursor** is defined to be a substance specified or described in the regulations as a precursor for the purposes of the proposed section. The proposed section will not render unlawful the manufacture or production of a prohibited drug by a person who has authority to do so either under the *Poisons and Therapeutic Goods Act 1966* or from the Director-General of the Department of Health.

**Schedule 1 [3]** provides that the penalty for the offence created by proposed section 24A is a fine of 2,000 penalty units or imprisonment for a term of 10 years, or both.

**Schedule 1 [2]** enables the summary disposal of the offence unless the prosecution or the accused elects otherwise. If the offence is dealt with summarily, the maximum penalty is a fine of 100 penalty units or imprisonment for 2 years, or both.

## **Schedule 2 Amendment of Criminal Procedure Act 1986**

**Schedule 2** makes a consequential amendment to the *Criminal Procedure Act 1986* in relation to the summary prosecution of the offence created by proposed section 24A of the *Drugs Misuse and Trafficking Act 1985*.

## **Schedule 3 Amendment of Poisons and Therapeutic Goods Regulation 1994**

**Schedule 3** inserts proposed clause 131A into the *Poisons and Therapeutic Goods Regulation 1994*. The proposed clause makes it an offence for a person to supply a restricted quantity (as defined in the Regulation) of a drug precursor (as so defined) to a person who does not have an account with the supplier. The proposed clause also requires payment for the supply to be made through the account.

## **Schedule 4 Amendment of Crimes (Forensic Procedures) Act 2000**

Part 5 of the Crimes (Forensic Procedures) Act 2000 provides for the making of orders for the carrying out of certain forensic procedures. Both final orders and interim orders must be obtained from a Magistrate. However, Magistrates are not available on a 24 hour basis.

**Schedule 4 [1]–[15]** and **[17]** of the proposed amendments provide for both Magistrates and other authorised justices to make interim orders. Authorised justices are available 24 hours per day.

**Schedule 4 [18]** of the proposed amendments makes a consequential amendment.

**Schedule 4 [16]** of the proposed amendments ensures that section 91 of the Act is consistent with section 93. Currently section 91 allows forensic material taken from a suspect to be entered on a DNA database system only where the suspect is subsequently convicted of the offence. However, section 93 allows profiles taken from suspects to be matched against various indices of the database created pursuant to the Act, including the crime scene index, regardless of whether the suspect is subsequently convicted of the offence. The proposed amendment of section 91 would make it consistent with section 93 regarding taking forensic material from suspects.