

Amended. 39/64.
43/67
✓ 422 6/69
16/73

DANGEROUS DRUGS ORDINANCE 1928-1959.*

An Ordinance relating to Dangerous Drugs.

Short title and citation.

Short title amended: No. 17, 1938, s. 4.

Commencement.

Repeal.

Definitions.

Amended by No. 31, 1928, s. 3; No. 14, 1933, s. 2; No. 20, 1934, s. 2; and No. 22, 1959, s. 6 and First Schedule.

1. This Ordinance may be cited as the *Dangerous Drugs Ordinance 1928-1959*.*

2. This Ordinance shall commence on a date to be fixed by the Government Resident by notice in the *Gazette*.†

3. After the commencement of this Ordinance, the Acts of the State of South Australia and the Ordinance of the Northern Territory specified in the Schedule to this Ordinance, shall cease to apply to North Australia.

4. In this Ordinance unless the contrary intention appears—

“Coca Leaf” means the leaf of the *Erythroxylon Coca Lamarck* and the *Erythroxylon novo-granatense* (Morris) Hieronymus and their varieties, belonging to the family of Erythroxylaceæ and the leaf of other species of this genus from which it may be found possible to extract cocaine either directly or by chemical transformation;

“Cocaine” means methyl-benzoyl lævo-ecgonine ($[\alpha]D^{20} = -16^{\circ}4$ in 20 per cent. solution of chloroform,) of which the formula is $C_{17}H_{21}NO_4$;

* The *Dangerous Drugs Ordinance 1928-1959* comprises the *Dangerous Drugs Ordinance 1928* as amended. Particulars of the Principal Ordinance and of the amending Ordinances are set out in the following table:—

Ordinance.	Number and Year.	Date notified in Commonwealth Gazette.	Date of Assent by Administrator.	Date of Commencement.
<i>Dangerous Drugs Ordinance 1928</i> ..	No. 10, 1928	14th June, 1928	..	1st March, 1929
<i>Dangerous Drugs Ordinance (No. 2) 1928</i> ..	No. 31, 1928	13th December, 1928	..	(See Note below)
<i>Dangerous Drugs Ordinance 1933</i> ..	No. 14, 1933	21st December, 1933	..	21st December, 1933
<i>Dangerous Drugs Ordinance 1934</i> ..	No. 20, 1934	1st November, 1934	..	1st November, 1934
<i>Dangerous Drugs Ordinance 1939</i> ..	No. 13, 1939	22nd June, 1939	..	22nd June, 1939
<i>Dangerous Drugs Ordinance 1941</i> ..	No. 12, 1941	3rd July, 1941	..	3rd July, 1941
<i>Dangerous Drugs Ordinance 1956</i> ..	No. 11, 1956	..	4th May, 1956	4th May, 1956
<i>Administrator's Council Ordinance 1959</i> ..	No. 22, 1959	..	7th July, 1959	28th April, 1960

Note.—Section 2 of the *Dangerous Drugs Ordinance (No. 2) 1928* reads as follows:—

“2. This Ordinance shall commence on the same date as the Principal Ordinance.”

† The date fixed was 1st March, 1929—see table above.

“Crude Cocaine” means any extract of the coca leaf which can be used directly or indirectly for the manufacture of cocaine;

“Dangerous Drugs” includes—

- (a) medicinal opium, crude cocaine, ecgonine, morphine, diacetylmorphine, cocaine and their respective salts;
- (b) all preparations officinal and non-official (including the so-called anti-opium remedies) containing more than 0.2 per cent. of morphine or more than 0.1 per cent. of cocaine;
- (c) all preparations containing diacetylmorphine;
- (d) galenical preparations (extract and tincture) of Indian hemp; and
- (e) any other narcotic drug which the Administrator in Council by notice in the *Gazette* declares to be a dangerous drug;

“Diacetylmorphine” means diacetylmorphine (diamorphine heroin), having the chemical formula $C_{21}H_{23}NO_5$;

“Ecgonine” means lævo-ecgonine ($[a]D^{20} = -45.6$ in 5 per cent. solution of water), of which the formula is $C_9H_{15}NO_3 \cdot H_2O$, and all the derivatives of lævo-ecgonine which might serve industrially for its recovery; 43/67

“Indian Hemp” means the dried flowering or fruiting tops of the pistillate plant *Cannabis sativa L.* from which the resin has not been extracted, under whatever name they may be designated in commerce;

“Legally qualified medical practitioner” means a person duly registered as a medical practitioner under any law for the time being in force in North Australia;

“Medicinal Opium” means raw opium which has undergone the processes necessary to adapt it for medicinal use in accordance with the requirements of the British Pharmacopoeia whether in powder form or granulated or otherwise or mixed with neutral materials;

“Morphine” means the principal alkaloid of opium having the chemical formula $C_{17}H_{19}NO_3$;

- “Opium” includes Raw Opium and Prepared Opium, and also includes any substance or fluid containing morphine, however small the quantity of morphine may be;
- “Pharmaceutical chemist” means a person duly registered as a pharmaceutical chemist under any law for the time being in force in North Australia;
- “Prepared Opium” means the product of raw opium obtained by a series of special operations, especially by dissolving, boiling, roasting and fermentation, designed to transform it into an extract suitable for consumption, and includes opium ash, opium charcoal and dross and other residues of opium;
- “Qualified Veterinary Surgeon” means a person who holds a degree in veterinary science, or a diploma or licence of competency in veterinary surgery and medicine from any University in Australia or from the Royal College of Veterinary Surgeons in Great Britain, or such other university, college or school as is prescribed and who is approved by the Minister, in writing as a veterinary surgeon.
- “Raw Opium” means the spontaneously coagulated juice obtained from the capsules of the *Papaver somniferum L.*, which has only been submitted to the necessary manipulations for packing and transport, whatever its content of morphine;
- “Registered dentist” means a person duly registered as a dentist under any law for the time being in force in North Australia.

Smoking or possession of opium an offence.

Substituted by N. 13, 1939, s. 2.

5. Any person who—

- (a) smokes opium;
- (b) prepares, manufactures, sells, deals or traffics in, or supplies opium; or
- (c) is in possession of opium or of any articles used in smoking opium or preparing opium for smoking,

shall be guilty of an offence.

Penalty: Not less than Ten pounds and not more than Two hundred pounds, or imprisonment with hard labour for not less than one month and not more than twelve months, or both fine and imprisonment.

Effect of averment of prosecutor.

Inserted by No. 14, 1933, s. 3.

5A.—(1.) In any prosecution for an offence against the last preceding section, the averments of the prosecutor contained in the information or complaint shall be *prima facie* evidence of the matter or matters averred.

(2.) The last preceding sub-section shall apply to any matter so averred although—

- (a) evidence in support or rebuttal of the matter averred or of any other matter is given by witnesses; or
- (b) the matter averred is a mixed question of law and fact, but in that case the averment shall be *prima facie* evidence of the fact only.

(3.) Any evidence given by witnesses in support or rebuttal of a matter so averred shall be considered on its merits and the credibility and probative value of such evidence shall be neither increased nor diminished by reason of this section.

(4.) This section shall not lessen or effect any onus of proof otherwise falling on the defendant.

5B. Any person who sells, supplies or gives any opium to any aboriginal or half-caste shall be guilty of an offence against this Ordinance, punishable upon conviction by a penalty of—

- (a) in the case of a first offence—not more than One hundred pounds or imprisonment for six months, or both; or
- (b) in the case of a second or subsequent offence—not more than Two hundred pounds or imprisonment for two years, or both, and not less than Fifty pounds or imprisonment for six months.

6. Any person who prepares, manufactures, sells, deals in, traffics in supplies, or is in possession of, any dangerous drug other than diacetylmorphine or a preparation containing diacetylmorphine shall be guilty of an offence.

Penalty: Not less than Ten Pounds and not more than Two hundred Pounds, or imprisonment with hard labour for not less than one month and not more than twelve months, or both fine and imprisonment.

7. Sections five and six of this Ordinance shall not apply to—

- (a) the purchase or possession of dangerous drugs or opium by a legally qualified medical practitioner or pharmaceutical chemist or a person licensed to sell poison under the *Poisons Ordinance 1924* of the Northern Territory; ~~43/67~~
- (b) the preparation of dangerous drugs by a legally qualified medical practitioner or by a pharmaceutical chemist;

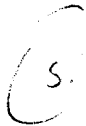
Supplying opium to aboriginals or half-castes. Inserted by No. 12, 1941, s. 2.

Preparation, &c., of dangerous drugs an offence.

Amended by No. 13, 1939, s. 3; and No. 11, 1956, s. 2.

Exception of medicinal dangerous drugs and opium.

Substituted by No. 31, 1928, s. 4; amended by No. 20, 1934, s. 3.



- (c) the purchase from, or sale by, a legally qualified medical practitioner or pharmaceutical chemist, or a person licensed to sell poison under the *Poisons Ordinance* 1924 of the Northern Territory, of dangerous drugs or opium for use medically by direction of a legally qualified medical practitioner or for use by a registered dentist for dental purposes;
- (d) the purchase or possession of dangerous drugs by a registered dentist for use in the conduct of his profession; and
- (e) the purchase or possession of dangerous drugs by a qualified veterinary surgeon for use in the conduct of his profession.

Preparation,
&c., of
diacetyl-
morphine an
offence.

Inserted by
N. 11, 1956,
s. 3.

7A.—(1.) Notwithstanding the provisions of the last preceding section, the preparation, manufacture, sale, dealing in, trafficking in, supplying or being in possession of diacetylmorphine or a preparation containing diacetylmorphine is absolutely prohibited.

7B See 43/67
7C(2.) Any person who prepares, manufactures, sells, deals in, traffics in, supplies or is in possession of diacetylmorphine or any preparation containing diacetylmorphine shall be guilty of an offence.

Penalty: Not less than Ten pounds and not more than Two hundred pounds, or imprisonment with hard labour for not less than one month and not more than Twelve months, or both fine and imprisonment.

Power of Police
to enter
premises.

8. Any member of the Police Force may, at any time, break into and enter the premises of any person whom he has reasonable cause to suspect of infringing any of the provisions of this Ordinance, and may apprehend without a warrant any person found therein whom he has reasonable ground for believing to be there for an illegal purpose, and may seize and take away any dangerous drug opium or articles used in smoking opium or preparing opium for smoking. See 43/67

Forfeiture.

9.—(1.) All dangerous drugs opium and articles used in smoking opium or preparing opium for smoking seized in pursuance of this Ordinance, or in the possession of any person contrary to the provisions of this Ordinance, shall be forfeited to the King and shall be dealt with in such manner as the Government Resident directs. See 43/67.

(2.) A conviction for an offence against this Ordinance shall operate as a forfeiture of the dangerous drug opium or articles used in smoking opium or preparing opium for smoking in respect of which the conviction was made.

10. Any person who obstructs or hinders any member of the Police Force in the performance of any of his duties under this Ordinance, or the execution of any of the powers by this Ordinance vested in him, shall be guilty of an offence.

Obstruction of Police.

Penalty: Not less than Ten Pounds nor more than Fifty Pounds, or imprisonment with hard labour for not more than three months, or both fine and imprisonment.

11. All proceedings for offences against this Ordinance shall be by information or complaint and shall be heard and determined before a Special Magistrate or two Justices of the Peace in a summary way.

Procedure.

12. Where any information or complaint has been laid for an offence against this Ordinance, no member of the Police Force who has purchased dangerous drugs or opium, and no person who has purchased dangerous drugs or opium at the request of a member of the Police Force shall, by reason of that circumstance, be deemed an accomplice in that offence or guilty of an offence against this Ordinance, nor shall the evidence of the member of the Police Force or of that person be deemed, on the hearing of the information or complaint, to be the evidence of an accomplice. See 43/67.

Members of Police Force purchasing dangerous drugs or opium not subject to this Ordinance.

13 On the hearing of any information or complaint under this Ordinance the Court may convict the person accused upon the uncorroborated evidence of an accomplice; and the fact that the accused was convicted upon the uncorroborated evidence of an accomplice shall not be a ground of appeal from the decision of the court.

Uncorroborated evidence of accomplice sufficient in certain cases.

14. Section twenty-five of the *Justices Procedure Act Amendment Act* 1883-4 of the State of South Australia or any re-enactment thereof shall not apply to offences against this Ordinance.

No discretion to mitigate punishment.

15. Without restricting the meaning of the word "possession" dangerous drugs opium and articles used in smoking opium or preparing opium for smoking shall be deemed to be in the possession of any person if found upon any land occupied by him, or if used, enjoyed, or controlled by him in any place whatever, unless it is shown that he had no knowledge thereof.

Definition of possession.

See 43/67

Regulations.

16. The Government Resident may make regulations, not inconsistent with this Ordinance, prescribing all matters required or permitted to be prescribed or necessary or convenient to be prescribed, for carrying out or giving effect to this Ordinance.

THE SCHEDULE.

The *Opium Act* 1895 (Act No. 644 of the State of South Australia).

The *Opium Act Amendment Act* 1905 (Act No. 890 of the State of South Australia).

Opium Smoking Prohibition Ordinance 1924 (Ordinance No. 1 of 1924 of the Northern Territory).
