

**Reprint**  
**as at 18 July 2013**

**Misuse of Drugs Amendment Act**  
**2005**

Public Act 2005 No 81  
Date of assent 21 June 2005

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**Note**

Changes authorised by section 17C of the Acts and Regulations Publication Act 1989 have been made in this eprint.

A general outline of these changes is set out in the notes at the end of this eprint, together with other explanatory material about this eprint.

**This Act is administered by the Ministry of Health.**

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**The Parliament of New Zealand enacts as follows:**

**1 Title**

- (1) This Act is the Misuse of Drugs Amendment Act 2005.
- (2) In this Act, the Misuse of Drugs Act 1975 is called “the principal Act”.
- (3) In this Act, the Misuse of Drugs Amendment Act 1978 is called “the amendment Act”.

**2 Commencement**

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1**  
**Substantive amendments to Misuse  
of Drugs Act 1975 and consequential  
amendments**

**3 Interpretation**

- (1) The definition of **precursor substance** in section 2(1) of the principal Act is amended by inserting, after the expression “or Part 2”, the expression “or Part 3”.
- (2) Section 2 of the principal Act is amended by inserting, after subsection (1), the following subsection:  
“(1A) Any reference in this Act to an **amount, level, or quantity at and over which a controlled drug is presumed to be for supply** is a reference to the amount, level, or quantity specified in Schedule 5.”

**4 Amendment of schedules that identify controlled drugs and precursor substances**

- (1) The heading to section 4 of the principal Act is amended by adding the words “, and set amount, level, or quantity at and over which controlled drugs are presumed to be for supply”.
- (2) Section 4 of the principal Act is amended by inserting, after subsection (1), the following subsections:  
“(1A) An Order in Council may not be made under subsection (1) in relation to a controlled drug if the effect of the Order in Council is—
  - “(a) to remove the controlled drug from all of Schedules 1 to 3; or
  - “(b) to move the controlled drug—
    - “(i) from Schedule 1 to Schedule 2 or Schedule 3; or
    - “(ii) from Schedule 2 to Schedule 3; or
    - “(iii) from Part 1 of Schedule 2 or of Schedule 3 to another part of the same schedule.
- “(1B) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend Schedule 5 by doing any of the following:
  - “(a) altering the amount, level, or quantity at and over which any controlled drug is presumed to be for supply:

- “(b) adding any substance, preparation, mixture, or article that is to be classified as a controlled drug to clause 1 of Schedule 5 and the amount, level, or quantity at and over which it is presumed to be for supply.
- “(1C) An Order in Council may not be made under subsection (1B)(a) in relation to a controlled drug unless the name or description of the controlled drug is, at the same time, being moved from Schedule 1, 2, or 3, or from a part or clause of Schedule 1, 2, or 3 to another of those schedules, parts, or clauses.
- “(1D) An Order in Council may not be made under subsection (1B)(b) in relation to a substance, preparation, mixture, or article unless its name or description is, at the same time, being added to Schedule 1, 2, or 3.”
- (3) Section 4(2) of the principal Act is amended by inserting, after the expression “subsection (1)”, the expression “or subsection (1B)”.
- (4) Section 4(3) of the principal Act is amended by adding the expression “or subsection (1B)”.
- (5) Section 4(4)(a) and (b) of the principal Act is amended by omitting the words “or Schedule 3”, and substituting the words “Schedule 3, or Schedule 5”.

## **5 Procedure for bringing Order in Council made under section 4(1) into force**

- (1) The heading to section 4A of the principal Act is amended by inserting, after the expression “section 4(1)”, the expression “or (1B)”.
- (2) Section 4A(1), (2), (3), and (4) of the principal Act is amended by inserting, after the expression “section 4(1)”, the expression “or (1B)”.

## **6 Matters to which Minister must have regard before recommending Order in Council under section 4(1)**

- (1) The heading to section 4B of the principal Act is amended by adding, after the expression “section 4(1)”, the expression “or (1B)”.



- (2) Section 4B(2) of the principal Act is amended by inserting, after the words “must have regard to”, the words “under subsection (1)(b)”.
- (3) Section 4B of the principal Act is amended by adding the following subsections:
- “(3) Before recommending to the Governor-General that an Order in Council be made under section 4(1B), the Minister must, in relation to the amount, level, or quantity at and over which any controlled drug is to be presumed to be for supply in the proposed Order in Council,—
- “(a) consult with, and consider any advice given by, the Expert Advisory Committee on Drugs established under section 5AA, about the amount, level, or quantity at and over which a controlled drug might be presumed to be for supply; and
- “(b) have regard to the matters in subsection (4).
- “(4) The matters that the Minister must have regard to under subsection (3)(b), and on which the Expert Advisory Committee on Drugs may give advice, are—
- “(a) the amount of the drug that could reasonably be possessed for personal use, including, without limitation, levels of consumption, the ability of the drug to create physical or psychological dependence, and the specific effects of the drug; and
- “(b) the amount, level, or quantity at and over which the drug is presumed to be for supply in other jurisdictions; and
- “(c) any other matters that the Minister considers relevant.”

## **7 Expert Advisory Committee on Drugs**

- (1) Section 5AA(2)(b) of the principal Act is amended by repealing subparagraph (ii), and substituting the following subparagraphs:
- “(ii) the amount, level, or quantity at and over which any substance, preparation, mixture, or article that is a controlled drug (or is proposed to be classified as a controlled drug), and that is to be specified or described in clause 1 of Schedule 5, is to be presumed to be for supply; and
- “(iii) the level at and over which controlled drugs to which clause 2 of Schedule 5 applies are presumed to be for supply; and”.

(2) Section 5AA(3) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

“(ca) 1 employee of the Ministry of Justice who has appropriate expertise in matters relating to the justice system; and”.

#### **8 Dealing with controlled drugs**

Section 6 of the principal Act is amended by repealing subsections (6) and (7), and substituting the following subsection:

“(6) For the purposes of subsection (1)(f), a person is presumed until the contrary is proved to be in possession of a controlled drug for any of the purposes in subsection (1)(c), (d), or (e) if he or she is in possession of the controlled drug in an amount, level, or quantity at or over which the controlled drug is presumed to be for supply (see section 2(1A)).”

#### **9 Aiding offences against corresponding law of another country**

Section 10(1) of the principal Act is amended by omitting the words “or section 9 of this Act” in both places where they appear, and substituting in each case the words “, 9, 12A, or 12AB”.

#### **10 New sections 12AB and 12AC inserted**

The principal Act is amended by inserting, after section 12A, the following sections:

##### **“12AB Offence to knowingly import or export precursor substances for unlawful use**

“(1) Every person commits an offence who—

- “(a) imports into New Zealand any precursor substance knowing that it will be used to commit an offence under section 6(1)(b) (which is the offence of producing or manufacturing any controlled drug); or
- “(b) exports from New Zealand any precursor substance knowing that it will be used to commit an offence under a provision of the law of the country to which the precursor substance is being exported that corresponds to an offence under section 6(1)(b).

- “(2) A person who commits an offence under subsection (1) is liable on conviction on indictment to imprisonment for a term not exceeding 7 years.
- “(3) If a person is summarily convicted of an offence under subsection (1),—
  - “(a) a court may sentence the person to imprisonment for a term not exceeding 1 year or a fine not exceeding \$1,000, or both; and
  - “(b) the sentencing limits contained in section 7 of the Summary Proceedings Act 1957 do not apply.

**“12AC Offence to import or export precursor substance without reasonable excuse**

- “(1) Every person commits an offence who, without reasonable excuse, imports into, or exports from, New Zealand any precursor substance.
- “(2) Without limiting the circumstances under subsection (1) in which a person may have a reasonable excuse, a person has a reasonable excuse if—
  - “(a) he or she imports a precursor substance into New Zealand in order that—
    - “(i) a medical practitioner, dentist, or veterinarian may, in the circumstances referred to in section 8(2)(a), produce or manufacture a controlled drug from the precursor substance; or
    - “(ii) a pharmacist or any person with the authority and under the immediate supervision of a pharmacist may, in any of the circumstances referred to in section 8(2)(b), produce or manufacture a controlled drug from the precursor substance; or
    - “(iii) the precursor substance be used for a lawful purpose (including, without limitation, an agricultural, commercial, or industrial purpose); or
  - “(b) the precursor substance that he or she is importing into, or exporting from, New Zealand has been lawfully supplied to that person for his or her own medical use; or
  - “(c) he or she exports a precursor substance from New Zealand in order that the precursor substance be used

for a purpose that is authorised or lawful under the law of the country to which it is being exported.

- “(3) The requirements in section 67(8) of the Summary Proceedings Act 1957 relating to proof of any exception, excuse, or qualification do not apply to an offence under subsection (1).
- “(4) By way of explanation, the effect of subsection (3) is that, in order for a prosecution to be successful, the prosecution must negate beyond a reasonable doubt any reasonable excuse in dispute (being any matter raised as a reasonable excuse by the defendant).
- “(5) A person who commits an offence under subsection (1) is liable on summary conviction to imprisonment for a term not exceeding 1 year or a fine not exceeding \$1,000, or both.”

#### **11 Laundering proceeds of drug offences**

Section 12B(1) of the principal Act is amended by inserting, in paragraph (a) of the definition of specified drug offence, after the expression “section 12A”, the expression “or section 12AB”.

#### **12 Commission of offences outside New Zealand**

Section 12C(1) of the principal Act is amended by inserting, after paragraph (c), the following paragraph:

- “(ca) section 12AB; or”.

#### **13 Miscellaneous offences**

- (1) Section 13(1) of the principal Act is amended by repealing paragraph (aa), and substituting the following paragraph:

- “(aa) has in that person’s possession for the purpose of committing an offence under this Act any needle or syringe—
- “(i) that he or she obtained from a person (a **supplier**) who he or she could not have reasonably believed at the time of the acquisition was a pharmacist, pharmacy employee, approved medical practitioner, or an authorised representative; or
- “(ii) that another person (an **acquirer**) obtained on his or her behalf from a supplier who the acquirer could not have reasonably believed at the time the needle or syringe

- was obtained was a pharmacist, pharmacy employee, approved medical practitioner, or an authorised representative; or
- “(iii) other than a needle or syringe that he or she obtained in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes; or
- “(iv) other than a needle or syringe that the acquirer obtained on his or her behalf in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes; or”.
- (2) Section 13 of the principal Act is amended by inserting, after subsection (2), the following subsection:
- “(2A) No pharmacist, pharmacy employee, approved medical practitioner, or authorised representative commits an offence by selling or supplying any needle or syringe in accordance with any regulations made under section 37 that regulate the sale, exchange, or supply of needles or syringes.”
- (3) Section 13 of the principal Act is amended by adding the following subsection:
- “(4) For the purposes of this section, unless the context otherwise requires,—
- “**approved medical practitioner** means a medical practitioner who has been approved by the Director-General of Health under any regulations made under section 37 for the purposes of those regulations
- “**authorised representative** means, in relation to an agency, an association, or a body approved by the Director-General of Health, a person for the time being approved by the Director-General as a representative of that agency, association, or body
- “**needle** means a needle forming part of, or attached to, or designed for attachment to and use with, a syringe
- “**pharmacy employee** means a person employed in a pharmacy within the meaning of the Medicines Act 1981.”

#### 14 Search and seizure

- (1) Section 18(2) of the principal Act is amended—

- (a) by inserting, after the words “Schedule 3 to this Act”, the words “or any precursor substance specified or described in Part 3 of Schedule 4” ; and
  - (b) by inserting, after the words “in respect of that drug”, the words “or precursor substance”.
- (2) Section 18(3) of the principal Act is amended—
- (a) by inserting, after the words “Schedule 3 to this Act”, the words “or any precursor substance specified or described in Part 3 of Schedule 4” ; and
  - (b) by inserting, after the words “in respect of that drug”, the words “or precursor substance” ; and
  - (c) by inserting, after the words “any controlled drug”, in the second place where they appear, the words “or precursor substance”.

**15 Powers of Minister to prohibit prescribing, etc**

Section 23(2)(d) of the principal Act is amended by omitting the words “Council of the Pharmaceutical Society of New Zealand”, and substituting the words “Pharmacy Council”.

**16 Mistake as to nature of controlled drug or precursor substance**

Section 29 of the principal Act is amended by inserting, after the expression “section 12A”, the words “or section 12AB or section 12AC”.

**17 Further provision on crimes to be treated as included in extradition treaties**

Section 35A(1) of the principal Act is amended by inserting, after the expression “12A,”, the expression “12AB,”.

**18 Restrictions on surrender of offenders**

Section 35C(1) of the principal Act is amended by inserting, after the expression “12A,”, the expression “12AB,”.

**19 New section 36 substituted**

The principal Act is amended by repealing section 36, and substituting the following section:

**“36 Application of Customs and Excise Act 1996**

- “(1) Sections 137, 139, 140, 143 to 145, 148 to 149B, 149C(1) and (2), 149D, 151, 152, 161, 165 to 172, 225, and 226 of the Customs and Excise Act 1996 apply in relation to the controlled drugs and precursor substances referred to in subsection (2) as if they were prohibited imports or exports under that Act.
- “(2) The controlled drugs and precursor substances are—
- “(a) any controlled drug, other than a controlled drug specified or described in Part 6 of Schedule 3; and
  - “(b) any precursor substance specified or described in Schedule 4.”

**20 New Part 3 added to Schedule 4 of principal Act**

Schedule 4 of the principal Act is amended by adding the Part 3 set out in Schedule 1 of this Act.

**21 Schedule 4 of principal Act amended**

Schedule 4 of the principal Act is amended—

- (a) by inserting in clause 1 of Part 1, in their appropriate alphabetical order, the items “ACETIC ANHYDRIDE” and “POTASSIUM PERMANGANATE” ; and
- (b) by omitting from clause 1 of Part 2 the items “ACETIC ANHYDRIDE” and “POTASSIUM PERMANGANATE”.

**22 New Schedule 5 added**

The principal Act is amended by adding the Schedule 5 set out in Schedule 2 of this Act.

**23 Consequential amendments**

The enactments listed in Schedule 3 are consequentially amended in the manner indicated in that schedule.

**Part 2**  
**Amendments to Misuse of Drugs**  
**Amendment Act 1978**

**24 Allowing delivery of unlawfully imported drugs for purpose of detection, etc**

- (1) The heading to section 12 of the amendment Act is amended by inserting, after the words “imported drugs”, the words “or precursor substances”.
- (2) Section 12(1) of the amendment Act is amended—
  - (a) by inserting, after the words “any controlled drug”, the words “or precursor substance” ; and
  - (b) by inserting, after the expression “section 6(1)(a)”, the expression “or section 12AB” ; and
  - (c) by inserting, after the words “leave or replace that drug”, the words “or precursor substance”.
- (3) Section 12(2) of the amendment Act is amended by inserting, after the words “controlled drug”, the words “or precursor substance”.

**25 New sections 12A to 12D inserted**

The amendment Act is amended by inserting, after section 12, the following sections:

**“12A Searches relating to persons involved in delivery under section 12**

- “(1) If the circumstances in subsection (2) exist, a member of the police or a Customs officer may, during the course of a delivery in relation to which a Customs officer has exercised his or her powers under section 12,—
  - “(a) search any person involved in that delivery; and
  - “(b) detain that person for the purpose of carrying out that search.
- “(2) The circumstances are that the member of the police or the Customs officer believes on reasonable grounds that the person is in possession of any of the following:
  - “(a) a controlled drug;
  - “(b) a precursor substance:



- “(c) a package in relation to which the Customs officer has replaced all or a portion of any controlled drug or precursor substance:
  - “(d) evidence of the commission of an offence under section 6(1)(a) or section 12AB of the principal Act.
- “(3) Reasonable force may be used, if necessary, for either or both of the following purposes:
- “(a) to search a person under subsection (1):
  - “(b) to detain a person under subsection (1).
- “(4) A member of the police or a Customs officer may, without a search warrant issued under section 198 of the Summary Proceedings Act 1957, enter any building, craft, carriage, vehicle, premises, or place in order to carry out a search under subsection (1).
- “(5) A member of the police or a Customs officer who undertakes a search under subsection (1) must, within 3 working days of the search, give a written report of the search, the circumstances in which the search was conducted, and the matters that gave rise to the reasonable grounds to believe required under subsection (2), to—
- “(a) in the case of a member of the police, the Commissioner of Police; and
  - “(b) in the case of a Customs officer, the chief executive of the New Zealand Customs Service.
- “12B Seizure of items found during search under section 12A**
- “(1) A member of the police or a Customs officer may seize any thing found on or about a person when carrying out a search under section 12A(1) that the member of the police or the Customs officer has reasonable cause to suspect is a thing described in any of paragraphs (a) to (d) of section 12A(2).
- “(2) Reasonable force may be used, if necessary, to seize the thing.
- “12C Obligations on member of police or Customs officer conducting search under section 12A to identify self and power relied on**
- “(1) Every member of the police or Customs officer who exercises a power of search under section 12A(1) must—

- “(a) identify himself or herself to any person he or she intends to search; and
  - “(b) advise that person that the search is being undertaken under the authority of section 12A(1).
- “(2) Every member of the police or Customs officer who enters any building, craft, carriage, vehicle, premises, or place in order to carry out a search under section 12A(1) must—
- “(a) identify himself or herself to any person who questions his or her right to enter; and
  - “(b) advise that person that the entry is being undertaken under the authority of section 12A(1).
- “**12D International controlled delivery and liability for offences**
- “(1) In this section, an **international controlled delivery** means allowing a controlled drug or precursor substance (or substance substituted in the place of a controlled drug or precursor substance) to pass through or into the territory of 1 or more countries—
- “(a) with the agreement of the relevant law enforcement agencies of the countries which it is to pass through or into; and
  - “(b) with a view to identifying persons involved in the commission of an offence—
    - “(i) under section 6(1)(a) or section 12AB of the principal Act; or
    - “(ii) that would, if done or committed in New Zealand, be an offence under either of those sections.
- “(2) Nothing in subsection (3) affects the liability of any person charged with an offence under section 6(1)(a) or section 12AB or section 12AC of the principal Act.
- “(3) Any member of the police, Customs officer, or officer of a relevant law enforcement agency with which there is an agreement under subsection (1)(a) who is involved in an international controlled delivery—
- “(a) does not commit an offence under section 6(1)(a), 12AB, or 12AC of the principal Act by reason of taking part in that international controlled delivery; and

“(b) unless he or she is acting in bad faith, is not subject to any criminal or civil liability as a result of taking part in that international controlled delivery.”

**26 New sections 13EA to 13EE inserted**

The amendment Act is amended by inserting, after section 13E, the following sections:

**“13EA Searches associated with detention warrant**

“(1) If the circumstances in subsection (2) exist, a member of the police or a Customs officer may undertake any of the following in relation to a person (**person A**):

“(a) a rub-down search (as defined in section 13EB):

“(b) a strip search (as defined in section 13EC):

“(c) both a rub-down search and a strip search.

“(2) The circumstances are that—

“(a) a detention warrant has been issued under section 13E in relation to person A; and

“(b) the member of the police or the Customs officer has reasonable cause to suspect that person A has hidden on or about his or her person any Class A controlled drug or Class B controlled drug.

“(3) In deciding what type of search to undertake under subsection (1), a member of the police or a Customs officer must have regard to all of the relevant circumstances, including, without limitation, the matters referred to in section 13ED(2).

“(4) If, as a result of a search under subsection (1), a member of the police or a Customs officer finds any Class A controlled drug or Class B controlled drug, he or she may take possession of it.

“(5) Reasonable force may be used, if necessary, to undertake a search under subsection (1).

“(6) If a person who is undergoing a search under subsection (1) makes a request for an internal examination under section 13C(4), the member of the police or the Customs officer conducting the search may continue with and complete the search before arranging for the internal examination to take place.

**“13EB Definition of rub-down search**

- “(1) For the purposes of this section, section 13EA and sections 13ED to 13M, a rub-down search means a search of a clothed person in which the person conducting the search may do all or any of the following:
- “(a) run or pat his or her hand over the body of the person being searched, whether outside or inside the clothing (other than any underclothing) of that person:
  - “(b) insert his or her hand inside any pocket or pouch in the clothing (other than any underclothing) of the person being searched:
  - “(c) for the purpose of permitting a visual inspection, require the person being searched to do all or any of the following:
    - “(i) open his or her mouth:
    - “(ii) display the palms of his or her hands:
    - “(iii) display the soles of his or her feet:
    - “(iv) lift or rub his or her hair.
- “(2) For the purpose of facilitating any of the actions referred to in any of paragraphs (a) to (c) of subsection (1), the person conducting a rub-down search may require the person being searched—
- “(a) to remove, raise, lower, or open any outer clothing (including (without limitation) any coat, jacket, jumper, or cardigan) being worn by the person being searched, except where that person has no other clothing, or only underclothing, under that outer clothing; and
  - “(b) to remove any head covering, gloves, or footwear (including socks or stockings) being worn by that person.
- “(3) Authority to conduct a rub-down search includes the authority to conduct a visual examination (whether or not facilitated by any instrument or device designed to illuminate or magnify) of the mouth, nose, and ears, but does not authorise the insertion of any instrument, device, or thing into any such orifice.
- “(4) Authority to conduct a rub-down search of a person includes the authority to search—
- “(a) any item carried by, or in the possession of, the person; and

- “(b) any outer clothing removed, raised, lowered, or opened for the purposes of the search; and
- “(c) any head covering, gloves, or footwear (including socks or stockings) removed for the purposes of the search.

“**13EC Definition of strip search**

- “(1) For the purposes of this section, section 13EA, and sections 13ED to 13M, a **strip search** means a search where the person conducting the search may require the person being searched to remove, raise, lower, or open all or any of that latter person’s clothing.
- “(2) For the purpose of facilitating a strip search, the person conducting the search may require the person being searched to do all or any of the following:
  - “(a) open his or her mouth:
  - “(b) display the palms of his or her hands:
  - “(c) lift or rub his or her hair:
  - “(d) display the soles of his or her feet:
  - “(e) raise his or her arms to expose his or her armpits:
  - “(f) with his or her legs spread apart, bend his or her knees.
- “(3) Authority to conduct a strip search includes the authority to conduct a visual examination (whether or not facilitated by any instrument or device designed to illuminate or magnify) of the mouth, nose, and ears, but does not authorise the insertion of any instrument, device, or thing into any such orifice.
- “(4) Authority to conduct a strip search of a person includes the authority to search—
  - “(a) any item of clothing removed, raised, lowered, or opened for the purposes of the search; and
  - “(b) any item carried by, or in the possession of, the person.

“**13ED Restrictions on searches associated with detention warrant**

- “(1) A rub-down search or strip search, or both, may be carried out only by a person of the same sex as the person to be searched, and no strip search may be carried out in view of any person who is not of the same sex as the person to be searched.

- “(2) A person who carries out a rub-down search or strip search, or both, must conduct the search with decency and sensitivity and in a manner that affords to the person being searched the greatest degree of privacy and dignity consistent with the purpose of the search.
- “(3) No member of the police or Customs officer may conduct a strip search unless another member or officer is also present.
- “(4) A strip search of a person must not be carried out in view of any other person who is detained or being searched.

**“13EE Reporting search associated with detention warrant**

A member of the police or a Customs officer who undertakes a search under section 13EA must, within 3 working days of the search, give a written report of the search, the circumstances in which it was conducted, and the matters that gave rise to the reasonable cause to suspect required by section 13EA(2)(b) to,—

- “(a) in the case of a member of the police, the Commissioner of Police; and
- “(b) in the case of a Customs officer, the chief executive of the New Zealand Customs Service.”

**27 Renewal of warrants**

- (1) Section 13I(2) of the amendment Act is amended by inserting, after paragraph (c), the following paragraph:
- “(ca) the date or dates of any rub-down search or strip search undertaken under section 13EA, the circumstances in which it was conducted, and the results of the search:”.
- (2) Section 13I(5) of the amendment Act is amended by inserting, after the words “or paragraph (c)”, the words “or paragraph (ca)”.

**28 Commissioner of Police and chief executive of New Zealand Customs Service to report to Parliament**

Section 13M of the amendment Act is amended by adding the following paragraph:

“(f) the number of rub-down searches and strip searches undertaken by members of the police or Customs officers under section 13EA.”

**29 Schedule 2 amended**

Schedule 2 of the amendment Act is amended by inserting, before the heading “SUPERVISING LAWYER AND DOCTOR” the heading “Searches” and the words “If a detention warrant is issued there are certain circumstances in which a member of the police or a Customs officer may undertake a rub-down search or strip search, or both.”

**30 Transitional provision relating to person detained under amendment Act on commencement of this Act**

If a person is detained under section 13A of the amendment Act when this Act comes into force, the detained person may not be searched under section 13EA of the amendment Act during the course of that detention.

**Part 3  
Restricted substances**

*[Repealed]*

Part 3: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**31 Interpretation**

*[Repealed]*

Section 31: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Functions of Expert Advisory Committee on  
Drugs under this Part*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**32 Functions of Expert Advisory Committee on Drugs under this Part***[Repealed]*

Section 32: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Scheduling restricted substances**[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**33 Amendment to Schedule 4***[Repealed]*

Section 33: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**34 Procedure for bringing Order in Council into force***[Repealed]*

Section 34: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**35 Matters to which Minister must have regard before recommending Order in Council under section 33(1)***[Repealed]*

Section 35: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Sale and supply restrictions**[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**36 Restriction on selling restricted substances to persons under 18 years***[Repealed]*

Section 36: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).



**37 Defence to charge of selling restricted substance to person under 18 years**

*[Repealed]*

Section 37: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**38 Restriction on persons under 18 years selling restricted substances**

*[Repealed]*

Section 38: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**39 Restriction on supplying restricted substances to persons under 18 years**

*[Repealed]*

Section 39: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**40 Defence to charge of supplying restricted substance to person under 18 years**

*[Repealed]*

Section 40: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**41 Restriction on place of sale or supply of restricted substances**

*[Repealed]*

Section 41: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**42 Restriction on free of charge distribution and rewards of restricted substances**

*[Repealed]*

Section 42: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Advertising restrictions and requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**43 Restrictions and requirements relating to advertising  
restricted substances**

*[Repealed]*

Section 43: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Labelling restrictions and requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**44 Restrictions and requirements relating to labelling  
restricted substances**

*[Repealed]*

Section 44: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Packaging restrictions and requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**45 Restrictions and requirements relating to packaging  
restricted substances**

*[Repealed]*

Section 45: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Health warning requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**46 Requirement relating to health warning**

*[Repealed]*

Section 46: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Signage requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**47 Requirement to display signage**

*[Repealed]*

Section 47: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Quantity, dosage, form, and serving restrictions  
and requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**48 Restrictions and requirements relating to quantity,  
dosage, form, or serving of restricted substances**

*[Repealed]*

Section 48: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Storage and display restrictions and  
requirements*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**49 Restrictions and requirements relating to storage and  
display of restricted substances**

*[Repealed]*

Section 49: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Manufacturing requirement*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**50 Requirement to manufacture restricted substances in accordance with code of practice**

*[Repealed]*

Section 50: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**51 Restriction on import of restricted substances**

*[Repealed]*

Section 51: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Recall*  
*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**52 Recall of restricted substances in certain circumstances**

*[Repealed]*

Section 52: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Record-keeping requirement*  
*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**53 Requirement to keep records relating to restricted substances**

*[Repealed]*

Section 53: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Certain persons prohibited from selling or manufacturing restricted substances*  
*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**54 Certain persons prohibited from selling or manufacturing restricted substances**

*[Repealed]*

Section 54: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Enforcement officers*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**55 Enforcement officers**

*[Repealed]*

Section 55: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Enforcement powers*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**56 Entry and inspection for purposes of ensuring compliance with this Part**

*[Repealed]*

Section 56: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**57 Powers of entry and inspection if reasonable grounds to believe offence committed under this Part**

*[Repealed]*

Section 57: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**58 Requirement to give identifying information**

*[Repealed]*

Section 58: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**59 Time for filing charging document under this Part***[Repealed]*

Section 59: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Offences relating to enforcement**[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**60 Offence to obstruct enforcement officer or constable under this Part***[Repealed]*

Section 60: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**61 Offence to make false statement to enforcement officer or constable under this Part***[Repealed]*

Section 61: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Regulations**[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**62 Regulations***[Repealed]*

Section 62: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Code of manufacturing practice**[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**63 Code of manufacturing practice**

*[Repealed]*

Section 63: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

*Relationship of this Part to other specified enactments*

*[Repealed]*

Heading: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**64 Relationship of this Part to specified enactments**

*[Repealed]*

Section 64: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**65 Sections of principal Act that do not apply to restricted substances**

*[Repealed]*

Section 65: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**66 Application of section 31 of principal Act to this Part**

*[Repealed]*

Section 66: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

**67 Administration of this Part**

*[Repealed]*

Section 67: repealed, on 18 July 2013, by section 110 of the Psychoactive Substances Act 2013 (2013 No 53).

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**Schedule 1**  
**New Part 3 added to Schedule 4 of**  
**principal Act**

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PART 3

- 1 The following substances:  
EPHEDRINE  
PSEUDOEPHEDRINE
- 2 The salts of the substances listed in clause 1 whenever the existence of such salts is possible.

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**Schedule 2**  
**New Schedule 5 added to principal Act**

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**Schedule 5**  
**Amount, level, or quantity at and over**  
**which controlled drugs are presumed to**  
**be for supply**

ss 2(1A), 6(1)(f)

- 1 The controlled drugs listed in the first column are presumed to be for supply at and over the amount, level, or quantity listed in the second column.
- |           |  |
|-----------|--|
| Morphine  | 5 grams, whether or not contained in a substance, preparation, or mixture  |
| Cocaine   | half a gram, whether or not contained in a substance, preparation, or mixture  |
| Heroin    | half a gram, whether or not contained in a substance, preparation, or mixture  |
| Lysergide | 2 and a half milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug |



DOB (2-amino- 1-(4- bromo-2.5- dimethoxyphenyl) propane) (also known as bromo- DMA)	100 milligrams or 25 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDMA (2-methy- lamino- 1-(3,4- methylene- dioxyphenyl) propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
N-ETHYL MDA (2-ethy- lamino- 1-(3,4- methylene- dioxyphenyl) propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
MDA (2-amino- 1-(3,4- methylene- dioxyphenyl) propane)	5 grams or 100 flakes, tablets, capsules, or other drug forms each containing some quantity of the drug
Tetrahydro- cannabinol (as described in Schedule 2)	250 milligrams, whether or not contained in a substance, preparation, or mixture

Any cannabis preparation (as described in Schedule 2)	5 grams or 100 cigarettes containing the drug
Cannabis plant (as described in Schedule 3)	28 grams or 100 cigarettes containing the drug
Methamphetamine	5 grams, whether or not contained in a substance, preparation, or mixture
2	Any controlled drug not specified in clause 1 is presumed to be for supply at and over the level of 56 grams.

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### Schedule 3

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#### Consequential amendments to other enactments

##### **Extradition Act 1999 (1999 No 55)**

Insert in section 101A(2)(b), after the expression “section 35”, the expression “and section 35A”.

##### **Health (Needles and Syringes) Regulations 1998 (SR 1998/254)**

Revoke regulation 10 and the heading before that regulation.

##### **Mutual Assistance in Criminal Matters Act 1992 (1992 No 86)**

Insert in the second column of the Schedule in item 4 (which relates to the Misuse of Drugs Act 1975), in its appropriate numerical order:

12AB	Offence to knowingly import or export precursor substances for unlawful use
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**Contents**

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**Notes****1 General**

This is an eprint of the Misuse of Drugs Amendment Act 2005. The eprint incorporates all the amendments to the Act as at 18 July 2013. The list of amendments at the end of these notes specifies all the amendments incorporated into this eprint since 3 September 2007.

Relevant provisions of any amending enactments that contain transitional, savings, or application provisions that cannot be compiled in the eprint are also included, after the principal enactment, in chronological order.

**2 About this eprint**

This eprint has not been officialised. For more information about eprints and officialisation, please *see* <http://www.pco.parliament.govt.nz/eprints/>.

**3 List of amendments incorporated in this eprint (most recent first)**

Psychoactive Substances Act 2013 (2013 No 53): section 110

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