

PROHIBITED DRUGS ORDINANCE  
TABLE OF PROVISIONS

1. Short title
2. Commencement
3. Repeal and saving
4. Definitions
5. Use, possession, &c., of prohibited drug
6. Use, possession, &c., of cannabis
7. Presumption with regard to possession of certain quantities of prohibited drug or cannabis.
8. Presumption with respect to growing &c., plants from which prohibited drug or cannabis may be obtained
9. Defence
10. Responsibility of owner or occupier of premises with relation to prohibited drug or cannabis.
11. Search warrant
12. Power of police to stop, search and detain
13. Meaning of power to search
14. Search of female
15. Members of the Police Force and certain other persons may in certain circumstances be in possession of a prohibited drug or cannabis
16. Seizure of drugs, &c.
17. Forfeiture
18. Notice to claim thing seized
19. Penalties
20. Proof of exceptions
21. Application of *Justices Ordinance*
22. Evidence of analysis by certificate
23. Court may award costs to include expenses
24. Obstruction of police
25. Regulations

SCHEDULE 1

SCHEDULE 2

SCHEDULE 3

SCHEDULE 4

---



# PROHIBITED DRUGS ORDINANCE 1977

1373

---

## No. 60 of 1977

An Ordinance to prohibit the possession, manufacture, sale, distribution and administration of prohibited drugs and cannabis

[Assented to 20 December, 1977]

**B**E it ordained by the Legislative Assembly for the Northern Territory of Australia as follows:

1. This Ordinance may be cited as the *Prohibited Drugs Ordinance* 1977. Short title

2. This Ordinance shall come into operation on a date to be fixed by the Administrator by notice in the *Gazette*.\* Commencement

3.(1) The *Prohibited Drugs Ordinance* 1963 and the *Prohibited Drugs Ordinance* 1969 are repealed. Repeal and saving

(2) Notwithstanding the repeal effected by sub-section (1), the provisions of the repealed Ordinances continue to apply, as if this Ordinance had not come into operation, to any offence committed against those repealed Ordinances before the commencement of this Ordinance.

4.(1) In this Ordinance unless the contrary intention appears— Definitions

“cannabis” means a plant or a part of a plant of the genus *Cannabis*, an extract, resin or tincture of such a plant or a preparation or substance containing part of such a plant or such an extract, resin or tincture;

“offence” means an offence against this Ordinance;

“premises” includes a part of premises;

“prohibited drug” means—

(a) a drug;

(b) a substance; or

(c) a substance containing a drug,

specified in Schedule 1;

“use” includes to smoke, consume, take or administer to oneself.

---

\* The date fixed was 1 January 1978 (see *Northern Territory Government Gazette* No. 51B of 22 December 1977, page 1).

*Prohibited Drugs*

(2) A reference in this Ordinance to a vessel shall, when the context so admits, include a reference to an aircraft but shall not include a reference to a vessel then employed in Her Majesty's defence forces or in the defence forces of any Commonwealth or foreign Government.

(3) Without limiting the effect of any other law in force in the Territory, the powers in this Ordinance with respect to a vessel may be exercised whenever the vessel is within the territorial limits of the Territory or within the territorial sea of Australia (as defined in the *Seas and Submerged Lands Act 1973*) adjoining those territorial limits.

Use, possession,  
&c. of pro-  
hibited drug

**5. A person who—**

- (a) uses or has in his possession, or attempts to obtain possession of, a prohibited drug;
- (b) produces, prepares or manufactures a prohibited drug;
- (c) sells, supplies or administers a prohibited drug to another person; or
- (d) has in his possession a prohibited drug for the purpose of sale or supply to another person,

is guilty of an indictable offence.

Use, possession,  
&c. of cannabis

**6. A person who—**

- (a) uses or has in his possession, or attempts to obtain possession of, cannabis;
- (b) produces, prepares or manufactures cannabis;
- (c) sells, supplies or administers cannabis to another person; or
- (d) has in his possession cannabis for the purpose of sale or supply to another person,

is guilty of an indictable offence.

Presumption  
with regard to  
possession of  
certain  
quantities of  
prohibited drug  
or cannabis

7.(1) A person who has in his possession a prohibited drug of a kind specified in the first column of Schedule 2 in a quantity in excess of that specified in the second column of that Schedule opposite that drug in the first column shall be deemed to have that prohibited drug in his possession for the purpose of sale or supply to another person, unless the contrary is proved.

(2) A person who has in his possession cannabis in a quantity in excess of 50 grams shall be deemed to have that cannabis in his possession for the purpose of sale or supply to another person, unless the contrary is proved.

Presumption  
with respect  
to growing,  
&c., plants  
from which  
prohibited drug  
or cannabis may  
be obtained

8.(1) A person who knowingly grows, cultivates or has in his possession a plant from which a prohibited drug may be obtained shall be deemed to have that prohibited drug in his possession for the purpose of sale or supply to another person, unless the contrary is proved.

(2) A person who knowingly grows, cultivates or has in his possession cannabis in plant form shall be deemed to have that cannabis in his possession for the purpose of sale or supply to another person, unless the contrary is proved.

9. It is a defence to a prosecution for an offence of being in possession of a prohibited drug or cannabis if the person charged proves—

Defence

- (a) that he was not knowingly in possession of that prohibited drug or cannabis; or
- (b) that he had a reasonable excuse for being in possession of that prohibited drug or cannabis.

10.(1) The owner or occupier of premises who knowingly allows a prohibited drug—

Responsibility of owner or occupier of premises with relation to prohibited drug or cannabis

- (a) to be produced, prepared or manufactured by another person; or
- (b) to be used or kept by another person,

on those premises is guilty of an indictable offence.

(2) The owner or occupier of premises who knowingly allows cannabis—

- (a) to be produced, prepared or manufactured by another person; or
- (b) to be kept by another person,

on those premises is guilty of an indictable offence.

11.(1) Where it is made to appear to a Justice, by application on oath, that there are reasonable grounds for believing—

Search warrant

- (a) that there is in or on certain premises or a vehicle or vessel a prohibited drug or cannabis; or
- (b) that a prohibited drug or cannabis may be concealed on a person or on or in any property in the immediate control of a person,

that Justice may issue a warrant authorizing a member of the Police Force named in the warrant, with such assistance as he thinks necessary, to search—

- (c) in the case of paragraph (a)—the premises, vehicle or vessel; or
- (d) in the case of paragraph (b)—
  - (i) the body of that person;
  - (ii) the clothing worn by that person; or
  - (iii) the property in the immediate control of that person.

*Prohibited Drugs*

(2) Under this section—

- (a) an application for a warrant and any submissions concerning an application may be made;
- (b) any information concerning an application may be furnished; and
- (c) any oath may be administered,

in whole or in part, by telephone, telex, radio or other similar facilities.

(3) A warrant—

(a) shall—

- (i) if it is issued under sub-section (1)(a)—be substantially in accordance with the form prescribed in Schedule 3; and

- (ii) if it is issued under sub-section (1)(b)—be substantially in accordance with the form prescribed in Schedule 4; and

- (b) shall remain in force for such period as the Justice issuing it stipulates in the warrant.

(4) Where a warrant is issued by a Justice as the result of an action taken under or in pursuance of sub-section (2), that Justice shall, unless otherwise requested by the applicant, send that warrant, within 7 days of its issue, to the Commissioner of Police.

(5) Where it is necessary for a member of the Police Force to satisfy any person that a warrant under this section was issued authorizing that member to conduct a search and, for reasonable cause, that member cannot at the time produce the warrant, he may produce a copy of the warrant completed and endorsed in accordance with sub-section (6) and that production shall be deemed to be a production of the warrant.

(6) To comply with sub-section (5), a member of the Police Force—

- (a) shall complete a form of warrant substantially in the terms of the warrant issued by the Justice; and

- (b) shall write on that form of warrant a statement that a warrant in those terms was issued giving—

- (i) the name of the Justice who issued that warrant; and

- (ii) the date on which and time and place at which it was issued.

(7) Where it is necessary for a court, in any proceeding, to be satisfied that a search was authorized by a warrant issued by a Justice in accordance with this section, and the warrant issued by the Justice under this section is not produced in evidence, the court shall assume, unless the contrary is proved, that the search was not authorized by that warrant.

**12.** A member of the Police Force may stop, search and detain— Power of police to stop, search and detain

- (a) a vessel, vehicle, caravan, trailer or other conveyance in which that member has reason to suspect that a prohibited drug or cannabis may be found; and
- (b) a person in a public place who that member has reason to suspect has in his possession, or is in any way conveying, a prohibited drug or cannabis.

**13.** The power to search conferred by section 12 or under a warrant issued under section 11 authorizes a member of the Police Force— Meaning of power to search

- (a) to use such reasonable force as is necessary to break into, enter and search the premises or conveyance to be searched;
- (b) to use such reasonable force as is necessary to open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found on or in those premises or in that conveyance; and
- (c) to search a person found on or in the premises or in the conveyance being searched.

**14.(1)** A search under this Ordinance of a female shall be carried out only— Search of female

- (a) by a female member of the Police Force;
- (b) by a medical practitioner registered under the *Medical Practitioners Registration Ordinance* and authorized by a member of the Police Force to carry out that search; or
- (c) where there is neither a female member of the Police Force nor a medical practitioner available—by a female person authorized by a member of the Police Force to carry out that search.

(2) Where a medical practitioner or a female person is authorized in pursuance of sub-section (1) to carry out a search of a female, the medical practitioner or female person carrying out that search has, for the purposes of that search, the same powers, and is subject to the same protection, as a member of the Police Force.

Members of the Police Force and certain other persons may in certain circumstances be in possession of a prohibited drug or cannabis

15.(1) Notwithstanding anything contained in this Ordinance, the possession of a prohibited drug or cannabis by a member of the Police Force or a person authorized by a member of the Police Force to have that prohibited drug or cannabis in this possession is not an offence if that prohibited drug or cannabis—

- (a) was seized or obtained in—
  - (i) the execution of the duties; or
  - (ii) the exercise of the powers, of that member or other person under this Ordinance;
- (b) is in his possession pending the institution and hearing of proceedings under this Ordinance or;
- (c) is in his possession for a purpose associated with the administration of this Ordinance.

(2) A prohibited drug or cannabis shall be deemed to be in the possession of a person for a purpose associated with the administration of this Ordinance if it is held by him for analysis for the purpose of proceedings for an offence or of qualifying him to give evidence at the hearing of those proceedings.

(3) Where proceedings for an offence have commenced, no member of the Police Force who has purchased a prohibited drug or cannabis and no person who has purchased a prohibited drug or cannabis at the request in writing 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, nor shall the evidence of that member of the Police Force or of that person be deemed, on the hearing of the proceedings, to be the evidence of an accomplice.

Seizure of drugs, &c.

16.(1) A member of the Police Force may seize—

- (a) a substance found in the possession of a person or as the result of a search, being a substance that that member has reason to suspect is a prohibited drug or cannabis;
- (b) any money or valuable security found—
  - (i) in the possession of a person; or
  - (ii) as the result of a search, being money or security that that member has reason to suspect is the proceeds of the sale of a prohibited drug or cannabis; or
- (c) where a person is apprehended for a breach of this Ordinance, an article—
  - (i) found in the possession of that person; or
  - (ii) found as the result of a search, being an article that is of a type used in the production, preparation, manufacture, consumption, smoking or administration of a prohibited drug or cannabis.



(2) In this section “search” means a search under a power conferred under or by virtue of this Ordinance.

17.(1) Upon the conviction of a person for an offence any prohibited drug or cannabis in respect of which the conviction is made or any article seized under section 16(1)(c) is forfeited to the Crown. Forfeiture

(2) Where it is proved to the satisfaction of the court, that a sum of money, or valuable security, seized under section 16(1)(b) has been obtained from the sale of a prohibited drug or cannabis, then, unless the court otherwise directs, that money or valuable security is forfeited to the Crown.

(3) Anything forfeited under this section shall be dealt with in such manner as the Administrator directs.

18.(1) When a thing is seized under this Ordinance and no proceedings are instituted for an offence relating to the thing seized, the Commissioner of Police— Notice to claim  
thing seized

- (a) shall return the thing seized to the person who he reasonably believes is its owner; or
- (b) shall, by notice in writing, where he is not satisfied as to whom that thing should be returned require the person from whom the thing was seized, or any person appearing to the Commissioner of Police to be the likely owner of that thing, to claim delivery to him of that thing.

(2) If no claim is made within 21 days of the date of service in writing, or the person to whom the notice is addressed cannot be found, the thing seized is forfeited to the Crown and shall be disposed of in the manner directed by the Administrator.

(3) Where a person served with a notice under sub-section (1)(b) makes a claim for the delivery to him of a thing seized, the Commissioner of Police shall refer the claim to a court of summary jurisdiction and the court may deal with the matter as if the claim were made by a claimant of property under section 130B of the *Justices Ordinance*.

19. A person who is guilty of an offence—

Penalties

- (a) shall, if the offence is one against section 5(a), 10(1)(b), be liable—
  - (i) for a first offence—to a fine of 5,000 dollars;
  - (ii) for a second offence—to imprisonment for 5 years; and

- (iii) for any subsequent offence—to imprisonment for 10 years;
- (b) shall, if the offence is one against section 5(b), (c) or (d), 6(b), (c) or (d), 10(1)(a) or 10(2)(a), be liable—
  - (i) for a first offence—to imprisonment for 7 years;
  - (ii) for a second offence—to imprisonment for 15 years; and
  - (iii) for any subsequent offence—to imprisonment for 25 years; and
- (c) shall, if the offence is one against section 6(a) or 10(2)(b), be liable—
  - (i) for a first offence—to a fine of 500 dollars;
  - (ii) for a second offence—to a fine of 1,000 dollars; and
  - (iii) for any subsequent offence—to a fine of 2,000 dollars.

**Proof of exceptions**

**20.**(1) Where a person is charge with an offence, an exception relating to a substance the subject of the charge need not be specified or negatived in the information or the indictment.

(2) The burden of proof of an exception referred to in sub-section (1) is on the person alleging it.

**Application of Justices Ordinance**

**21.**(1) Section 120 of the *Justices Ordinance* does not apply to or in respect of an offence against section 5(a), 6(a), 10(1)(b) or 10(2)(b).

(2) Division 2 of Part V of the *Justices Ordinance* does not apply to or in respect of an offence against section 5(b), (c) or (d), 6(b), (c) or (d), 10(1)(a) or 10(2)(a).

**Evidence of analysis by certificate**

**22.**(1) Subject to sub-section (2), in proceedings for an offence a certificate purporting to be signed by a person who claims in the certificate that he carried out a scientific analysis or examination—

- (a) setting out particulars of his qualifications to carry out that analysis or examination;
  - (b) identifying the thing analysed or examined by him; and
  - (c) giving particulars concerning the analysis or examination that he carried out and stating the conclusions at which he arrived,
- is evidence of the matters stated in that certificate.

(2) A certificate may not be tendered in pursuance of sub-section (1), without the consent of the person charged with the offence—

(a) unless, at least 7 days before the certificate is tendered, the person intending to tender the certificate serves upon the person charged—

(i) a copy of the certificate; and

(ii) a notice in writing drawing the attention of the person charged to this section, informing him that it is proposed to tender the certificate in evidence in the proceedings and furnishing the name of a person (herein called "the prosecutor") who will accept service of notices and an address for services; or

(b) if, within 4 days of being served with a certificate and notice under paragraph (a), the person charged serves upon the prosecutor a notice in writing that the person charged objects to the certificate being given in evidence.

23. Where a scientific analysis or examination has been carried out for the purpose of proceedings for an offence, the court may, in addition to any other order as to costs, make such order as it thinks proper—

Court may award costs to include expenses

(a) as to the payment of the expenses of and incidental to the analysis or examination; and

(b) where the person charged has served a notice of objection under section 22(2)(b)—as to the payment of the expenses of and incidental to the attendance at court of the person who carried out the analysis or examination.

24. A person shall not obstruct or hinder a member of the Police Force in the performance of his duties under this Ordinance, or the execution of the powers by this Ordinance vested in him.

Obstruction of police

Penalty: 500 dollars or imprisonment for 6 months or both.

25. The Administrator in Council 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.

Regulations



## Prohibited Drugs

## SCHEDULE 1

## Prohibited Drugs

- Allyl-iso-propyl-acetyl Urea  
 Amidopyrine (aminopyrine) and derivatives, including dipyrone  
 Buniodyl Sodium  
 Desmorphine  
 Diacetylmorphine (Heroin)  
 Diethyltryptamine (DET), Dimethyltryptamine (DMT), Baffotamine, Bufotenine, Psilocybin, Psilocine, Psilotsin and other substances structurally derived from 3-(2 aminoethyl)-indole  
 DMHP-3 (1, 2 dimethylheptyl)-1-hydroxy-7, 8, 9, 10 tetrahydro-6, 6, 9-trimethyl-6H-dibenzo (b, 9) pyran  
 Ketobemidone  
 Lysergic Acid, Lysergide, (Lysergic Acid Diethylamide) (LSD) or other amides structurally derived from Lysergic acid  
 Mescaline, Methylenedioxy-amphetamine (MDA), Dimethoxymethyl-amphetamine (STP) (DOM), Triethoxy-amphetamine (TMA) all isomers and other substances structurally derived from any of those compounds  
 Methyl Cinchopen (methyl ester of phenylcinchoninic acid)  
 Parahexyl  
 Tetrahydrocannabinol  
 Thalidomide  
 Triparanol  
 The isomers (unless excepted under this Ordinance or another law of the Territory) of the substances specified in this Schedule wherever the existence of such isomers is possible within the chemical designation  
 The esters and ethers (unless excepted under this Ordinance or another law of the Territory) of the substances specified in this Schedule wherever the existence of those esters or ethers is possible.  
 The salts of the substances specified in this Schedule (unless excepted under this Ordinance or another law of the Territory) including the salts of esters, ethers and isomers wherever those salts are possible.

## SCHEDULE

Section 7(1)

## Minimum Quantities of Prohibited Drugs

Prohibited drug	Quantity
Desmorphine	0.5 grams
Diacetylmorphine (heroin)	0.5 grams
Diethyltryptamine (DET)	0.5 grams
Dimethyltryptamine (DMT)	0.5 grams
Baffotamine	0.5 grams
Bufotenine	0.5 grams
Psilocybin	0.1 grams
Psilocine	0.1 grams
Psilotsin and other substances structurally derived from 3-(2 aminoethyl)-indole	0.1 grams
DMHP-3 (1, 2 dimethylheptyl)-1-hydroxy-7, 8, 9, 10 tetrahydro-6, 6, 9-trimethyl-6H-dibenzo (b, 9) pyran	0.5 grams
Ketobemidone	0.5 grams
Lysergic Acid, Lysergide (Lysergic Acid Diethylamide) (LSD) or other amides structurally derived from Lysergic acid	0.002 grams
Mescaline	7.0 grams
Methylenedioxy-amphetamine (MDA)	0.5 grams
Parahexyl	0.5 grams
Dimethoxymethyl-amphetamine (STP), (DOM)	0.5 grams
Tetrahydrocannabinol	2.0 grams
Trimethoxy-amphetamine (TMA)	0.5 grams

SCHEDULE 3  
 PROHIBITED DRUGS ORDINANCE  
 SEARCH WARRANT

Section 11

To: (full name) , a member of the Police Force of the Northern Territory.

WHEREAS, on an application on oath under the *Prohibited Drugs Ordinance*, in relation to premises at (give address or otherwise identify premises) [or a vehicle (identify vehicle) or a vessel (identify vessel)] I, (full name) , a Justice within the meaning of that expression in that Ordinance, am satisfied—

- (a) that there is reasonable ground for believing that there is on or in those premises (or that vehicle or that vessel) prohibited drugs or cannabis; and
- (b) that the issue of a warrant is reasonably required for the purposes of that Ordinance;

YOU ARE HEREBY AUTHORIZED, with such assistance as you think necessary to enter, those premises (or that vehicle or that vessel), during the hours of (or at any time), if necessary by force, for the purpose of exercising the powers of a member of the Police Force under that Ordinance namely to search those premises (or that vehicle or that vessel) and—

- (a) to use such reasonable force as is necessary to open any cupboard, drawer, chest, trunk, box, package or other receptacle, whether a fixture or not, found on or in those premises (or vehicle or that vessel);
- (b) to seize—
  - (i) any substance found in the possession of a person or as the result of the search which you have reason to suspect is a prohibited drug or cannabis;
  - (ii) any money or valuable security found as a result of the search and suspected of being the proceeds of sale of prohibited drugs or cannabis; or
  - (iii) any article found as a result of the search, being an article of a type used in the production, preparation, manufacture, consumption, smoking or administration of prohibited drugs or cannabis;
- (c) to search any person found on or in those premises (or that vehicle or that vessel); and
- (d) to do or perform such other acts as that Ordinance permits.

AND for so doing, this shall be your sufficient warrant.

The authority granted by this warrant expires on (insert date)

Issued at o'clock in the noon this day of , 19 .

Justice.

SCHEDULE 4  
 PROHIBITED DRUGS ORDINANCE  
 SEARCH WARRANT

Section 11

To: (full name) , a member of the Police Force of the Northern Territory.

WHEREAS, on an application on oath under the *Prohibited Drugs Ordinance*, in relation to (full name) of (address) (in this warrant called "the person named") I, (full name) , a Justice within the meaning of that expression in that Ordinance, am satisfied, by information—

- (a) that there is reasonable ground for believing that a prohibited drug or cannabis—
  - (i) is concealed on the person named; or
  - (ii) is concealed on or in property in the immediate control of the person named; and
- (b) that the issue of a warrant is reasonably required for the purposes of that Ordinance;

YOU ARE HEREBY AUTHORIZED, with such assistance as you think necessary—

- (a) to use such reasonable force as is necessary to search—
  - (i) the body of the person named;
  - (ii) the clothing worn by the person named; and
  - (iii) property in the immediate possession of the person named, namely (describe the property to be searched);

*Prohibited Drugs*

(b) to seize—

- (i) any substance found as the result of the search which you have reason to suspect is a prohibited drug or cannabis reasonably suspected of being a thing connected with an offence;
- (ii) any money or valuable security found as a result of the search and suspected of being the proceeds of sale of prohibited drugs or cannabis; or
- (iii) any article found as a result of the search and being an article of a type used in the production, preparation, manufacture, consumption, smoking or administration of prohibited drugs or cannabis; and

(c) to do or perform such other acts as that Ordinance permits.

And for so doing, this shall be your sufficient warrant.

The authority granted by this warrant expires on (insert date)

Issued at o'clock in the noon this day of , 19

Justice.

