

# Narcotic Drug Regulations (2018 Measures No. 1) Instrument 2018

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I, {insert author} make the following instrument. Dated 1s April 2018

{insert author}

## Contents

1	Name	1
2	Commencement	1
3	Authority	1
4	Schedules	2

## 1 Name

This instrument is Narcotic Drug Regulations (2017 Measures No. 1) Instrument 2017

## 2 Commencement

(1) Each provision of this instrument specified in column 1 of the table commences, or is taken to have commenced, in accordance with column 2 of the table. Any other statement in column 2 has effect according to its terms.

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<b>Commencement information</b>		
<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>
<b>Provisions</b>	<b>Commencement</b>	<b>Date/Details</b>
1. The whole of this instrument		

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Note: This table relates only to the provisions of this instrument as originally made. It will not be amended to deal with any later amendments of this instrument.

(2) Any information in column 3 of the table is not part of this instrument. Information may be inserted in this column, or information in it may be edited, in any published version of this instrument.

## 3 Authority

This instrument is made under the Narcotic Drugs Act 1967.

## 4 Schedules

Each instrument that is specified in a Schedule to this instrument is amended or repealed as set out in the applicable items in the Schedule concerned, and any other item in a Schedule to this instrument has effect according to its terms.

*The following changes clarify regulations to time limit information requested to match Federal Regulations on record keeping, which is generally 7 years.*

### Part 1, Section 4

Withdraw

**affected by bankruptcy:** an applicant for a licence is affected by bankruptcy if the applicant has ever:

Replace with:

**affected by bankruptcy:** an applicant for a licence is affected by bankruptcy if the applicant has in the last 7 years:

### Part 2, Division 1, Section 5

Withdraw

(3) If the applicant is a natural person, the application must also contain the following information:

(a) details of any conviction, at any time, of the applicant for an offence against a law of the Commonwealth, a State, a Territory or another country;

(b) details of any civil penalty (however described) imposed, at any time, upon the applicant under a law of the Commonwealth, a State or a Territory;

Replace with

(3) If the applicant is a natural person, the application must also contain the following information:

(a) details of any conviction, within the last 7 years, of the applicant for an offence against a law of the Commonwealth, a State, a Territory or another country;

(b) details of any civil penalty (however described) imposed, within the last 7 years, upon the applicant under a law of the Commonwealth, a State or a Territory;

**Part 2, Division 1, Section 5**

Withdraw

(3) If the applicant is a natural person, the application must also contain the following information:

Replace with:

(3) If the applicant is a natural person, the application must also contain the following information: for a period within 7 years of the date of the application is lodged:

**Part 2, Division 1, Section 5**

*Remove requirement to provide a work history going back to the cradle*

Withdraw

(h) details of the applicant's previous business experience;

Replace with:

(h) details of the applicant's previous business experience relevant to the application;

**Part 2, Division 1, Section 5**

Withdraw

(i) if the applicant holds any professional qualifications issued under a law of the Commonwealth, a State or a Territory—details of any disciplinary or other action that is being, or has ever been, taken against the applicant;

Replace with

(i) if the applicant holds any professional qualifications issued under a law of the Commonwealth, a State or a Territory—details of any disciplinary or other action that is being, or has been taken within the last 7 years, taken against the applicant;

## **Part 2, Division 1, Section 10**

*Clarify application for medical cannabis permit does not require an actual plant to be provided to the department.*

Withdraw

(b) if the applicant proposes to cultivate cannabis plants in accordance with the permit—  
evidence of the following:

Replace with:

(b) if the applicant proposes to cultivate cannabis plants in accordance with the permit—  
documentary evidence of the following:

## **Part 2, Division 3, Section 19**

*10(J)1 of the Act requires that a cultivator must have sold every plant before planting, and 10 (J)2 requires that a processor must have sold the output from every plant before they purchase it in from the grower. This threatens the viability of both operations. Section 10(J)(3) a contract under (1) or (2) is not required (a) in the circumstances (if any) prescribed by the regulations; or (b) if the Secretary determines in a particular case that such a contract is not required to be in existence. We use that here to make 10 (J) 1 and 2 commercially viable for the cultivator and processor.*

*New regulation to allow for a contingency approach to cultivation and processing.*

Addition:

4(c) Contingency: Contracts required under 10(J)1 must total an amount not less than 80% of the value of the cultivation permit;

*New regulation to explain what happens if the contingency is not sold at maturity*

4(d) Storage of contingency: All cultivation must be sold or destroyed within 30 days of harvest or maturity;

*Amend (5) to bring it into line with 4(c) giving the cultivator 30 days after maturity or harvest to sell the crop or destroy it*

Withdraw

(5) Paragraph (4)(a) ceases to apply in relation to the first licence holder if the first licence holder fails to arrange a new contract within 4 months after the contract mentioned in that paragraph has ceased to be in existence.

Replace with:

(5) Paragraph (4)(a) ceases to apply in relation to the first licence holder if the first licence holder fails to arrange a new contract within 30 days from crop harvest or maturity.

### ***Repeat the exercise for processors***

7(c) Contingency: Contracts required under 10(J)1 must total an amount not less than 80% of the value of the processing permit;

*New regulation to explain what happens if the contingency is not sold at completion*

4(d) Storage of contingency: All processed cannabis must be sold or destroyed within 30 days of completion of processing.

*Amend (5) to bring it into line with 4(c) giving the processor 30 days after processing to sell or destroy it*

Withdraw

(5) Paragraph (4)(a) ceases to apply in relation to the first licence holder if the first licence holder fails to arrange a new contract within 4 months after the contract mentioned in that paragraph has ceased to be in existence.

Replace with:

(5) Paragraph (4)(a) ceases to apply in relation to the first licence holder if the first licence holder fails to arrange a new contract within 30 days of completion of processing.

### ***Allow a processor to sell to another processor***

*Adding a contingency will allow a processor to sell their contingency to another processor with a shortfall, or who has been affected by a natural disaster, fire or similar. This provides continuity of supply to patients and gives processors and manufacturers the flexibility to eliminate low quality batches without exposing themselves to non-supply of contracted volumes. The legislation does not prevent a sale between processors, nor is it specifically allowed for.*

*New regulation to clarify the ability of a processor to on-sell to another processor*

4(e) Nothing in these regulations prevents a processor selling medical cannabis obtained under these regulations to another licensed processor where that processor has contracts under Section 10(J)2 for the supply of that cannabis to a licensed manufacturer as otherwise provided in these regulations.

## **Part 2 Section 9**

### ***Duration of License***

The duration of a license to cultivate, process or manufacture issued under these regulations shall be for a duration of three (3) years unless surrendered by the licensee or cancelled in a manner specified by these regulations.

## **Part 2 Division3 Section 20**

*This relates to security on the premises. Section (a) creates a notification event out of any unauthorised access to a secure area where no harm was done. This places unwarranted pressure on staff training and supervision of new employees, and is likely to encourage non compliance. Amended to change unauthorised to unlawful which carries a standard legal meaning and would include break-in, trespass or vandalism.*

Withdraw

(a) a security breach, a suspected security breach, an unauthorised access or a suspected unauthorised access, in relation to the location, premises or facilities covered by the licence;

Replace with:

(a) a security breach, a suspected security breach, an unlawful access or a suspected unlawful access, in relation to the location, premises or facilities covered by the licence;

## **Part 2, Division1, Section 35**

*Amending this section for reasons of procedural fairness, replacing all time with 7 years.*

Withdraw

(3) If the applicant is a natural person, the application must also contain the following information:

(a) details of any conviction, at any time, of the applicant for an offence against a law of the Commonwealth, a State, a Territory or another country;

(b) details of any civil penalty (however described) imposed, at any time, upon the applicant under a law of the Commonwealth, a State or a Territory;

Replace with:

(3) If the applicant is a natural person, the application must also contain the following information:

(a) details of any conviction, within the last 7 years, of the applicant for an offence against a law of the Commonwealth, a State, a Territory or another country;

(b) details of any civil penalty (however described) imposed, within the last 7 years, upon the applicant under a law of the Commonwealth, a State or a Territory;

### **Part 2, Division 1, section 35**

*Remove requirement to provide work experience covering their whole life.*

Withdraw

(h) details of the applicant's previous business experience;

Replace with:

(h) details of the applicant's previous relevant business experience;

### **Part 3, Division 1, Section 37**

*Authorises medical cannabis to be manufactured for the purposes of prescription by...change Pharmacist in a public hospital to supplied by a pharmacist.*

Withdraw

37. For the purposes of subparagraph 11K(2)(b)(iii) of the Act, a prescribed circumstance is that the medicinal cannabis product will be supplied by a pharmacist in a public hospital in accordance with the Therapeutic Goods Act 1989.

Replace with

37. For the purposes of subparagraph 11K(2)(b)(iii) of the Act, a prescribed circumstance is that the medicinal cannabis product will be supplied by a pharmacist in accordance with the Therapeutic Goods Act 1989.

### **Part 3, Division 2, Section 39**

*This relates to security on the premises. Section (a) creates a notification event out of any unauthorised access to a secure area where no harm was done. This places unwarranted pressure on staff training and supervision of new employees, and is likely to encourage non compliance. Amended to change unauthorised to unlawful which carries a standard legal meaning and would include break-in, trespass or vandalism.*

Withdraw

(a) a security breach, a suspected security breach, an unauthorised access or a suspected unauthorised access, in relation to the location, premises or facilities covered by the licence;

Replace with

(a) a security breach, a suspected security breach, an unlawful access or a suspected unlawful access, in relation to the location, premises or facilities covered by the licence;



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Note 1. All legislative instruments and compilations are registered on the Federal Register of Legislation kept under the Legislation Act 2003. See <http://www.legislation.gov.au>