



New South Wales

# Drug Misuse and Trafficking Amendment (Appointed Persons) Bill 2023

## Explanatory note

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

## Overview of Bill

The object of this Bill is to amend the *Drug Misuse and Trafficking Act 1985* to—

- (a) provide that certain persons may appoint a person to give certificate evidence relating to the result of a plant or substance analysis, and
- (b) provide that appointments made before the commencement of the proposed Act are taken to be, and always to have been, validly made.

## Outline of provisions

**Clause 1** sets out the name, also called the short title, of the proposed Act.

**Clause 2** provides for the commencement of the proposed Act.

## Schedule 1      Amendment of Drug Misuse and Trafficking Act 1985 No 226

**Schedule 1[1]** allows the Executive Director under the *Royal Botanic Gardens and Domain Trust Act 1980*, and other persons prescribed by the regulations, to appoint a person to give certificates relating to the result of a plant or substance analysis if the Executive Director or prescribed person considers the person to be suitably qualified.

**Schedule 1[6]** inserts a validation provision to provide that an appointment purported to have been made before the commencement of the proposed Act is taken to be, and always to have been, a valid appointment and that an evidentiary certificate given by a person whose appointment is

validated by the provision is taken to be, and always to have been, validly given. **Schedule 1[2]–[5]** make consequential amendments to insert part headings into Schedule 3.



New South Wales

# Drug Misuse and Trafficking Amendment (Appointed Persons) Bill 2023

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New South Wales

# Drug Misuse and Trafficking Amendment (Appointed Persons) Bill 2023

No. , 2023

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## **A Bill for**

An Act to amend the *Drug Misuse and Trafficking Act 1985* to provide for matters in relation to certificate evidence.

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**The Legislature of New South Wales enacts—**

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**1 Name of Act**

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This Act is the *Drug Misuse and Trafficking Amendment (Appointed Persons) Act 2023*.

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**2 Commencement**

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This Act commences on the date of assent to this Act.

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<b>Schedule 1</b>	<b>Amendment of Drug Misuse and Trafficking Act 1985 No 226</b>	1
		2
<b>[1]</b>	<b>Section 43 Certificate evidence</b>	3
	Omit section 43(5). Insert instead—	4
	(5) The following persons (each an <i>appointer</i> ) may appoint a person to give certificates for this section if the appointer considers the person to be suitably qualified—	5
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	(a) the Executive Director under the <i>Royal Botanic Gardens and Domain Trust Act 1980</i> ,	8
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	(b) a person prescribed by the regulations.	10
<b>[2]</b>	<b>Schedule 3 Savings, transitional and other provisions</b>	11
	Insert before clause 1—	12
	<b>Part 1 Transitional and saving regulations</b>	13
<b>[3]</b>	<b>Schedule 3</b>	14
	Insert after clause 1—	15
	<b>Part 2 Provision for Drug Misuse and Trafficking Amendment (Drug Exhibits) Act 2016</b>	16
		17
<b>[4]</b>	<b>Schedule 3</b>	18
	Insert after clause 2—	19
	<b>Part 3 Validation of amendments to Schedule 1</b>	20
<b>[5]</b>	<b>Schedule 3</b>	21
	Insert after clause 3—	22
	<b>Part 4 Provision for Justice Legislation Amendment Act (No 2) 2018</b>	23
		24
<b>[6]</b>	<b>Schedule 3</b>	25
	Insert after clause 4—	26
	<b>Part 5 Provision for Drug Misuse and Trafficking Amendment (Appointed Persons) Act 2023</b>	27
		28
	<b>5 Validation of appointments under section 43(5)</b>	29
	(1) An appointment purported to have been made under section 43(5) before the commencement of the <i>Drug Misuse and Trafficking Amendment (Appointed Persons) Act 2023</i> is taken to be, and always to have been, a valid appointment.	30
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	(2) Without limiting subclause (1), a relevant certificate is taken to be, and always to have been, a validly given certificate for the purposes of section 43.	34
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(3) In this clause—

*relevant certificate* means a certificate given under section 43 by a person whose appointment is, because of subclause (1), taken to be, and always to have been, a valid appointment.

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