



New South Wales

Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) 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 permit adults to cultivate and possess small amounts of cannabis for personal use.

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 on the date of assent to the proposed Act.

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

Schedule 1[1] makes consequential amendments to the definitions section.

Schedule 1[2] makes an amendment to section 23A to clarify that a person who cultivates or possesses cannabis as provided for in proposed Part 2D does not commit an offence under that section.

Schedule 1[3] makes an amendment to section 24 to clarify that a person who cultivates or possesses cannabis as provided for in proposed Part 2D does not commit an offence under that section.

Schedule 1[4] inserts proposed Part 2D to provide as follows—

- (a) an adult may cultivate not more than 6 cannabis plants at the adult's residence, with not more than 6 cannabis plants able to be cultivated at a residence at the same time,
- (b) an adult may possess cannabis leaf from 6 cannabis plants that have been removed from the medium in which the plants were grown,
- (c) an adult may possess not more than 50g of cannabis leaf outside the adult's residence,
- (d) an adult may make a gift of not more than 50g of cannabis to another adult.

Schedule 1[5] makes an amendment to section 39 to clarify that the power of a member of the NSW Police Force to seize a cannabis plant or cannabis leaf does not extend to a cannabis plant or cannabis leaf lawfully in the possession of an adult under proposed Part 2D.



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Contents

		Page
	1 Name of Act	2
	2 Commencement	2
Schedule 1	Amendment of Drug Misuse and Trafficking Act 1985 No 226	3



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Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023

No. , 2023

A Bill for

An Act to amend the *Drug Misuse and Trafficking Act 1985* to make it lawful for an adult to possess small quantities of cannabis for personal use; to make it lawful for an adult to cultivate not more than 6 cannabis plants for personal use; to permit an adult lawfully in possession of cannabis to give the cannabis, by way of a gift, to another adult; and for related purposes.

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 (Regulation of Personal Adult Use of Cannabis) 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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Schedule 1	Amendment of Drug Misuse and Trafficking Act 1985 No 226	1
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[1] Section 3 Definitions		3
	Insert in alphabetical order—	4
	<i>adult</i> for Part 2D—see section 36ZH.	5
	<i>cannabis</i> for Part 2D—see section 36ZH.	6
	<i>residence</i> for Part 2D—see section 36ZH.	7
	<i>smoke-free area</i> for Part 2D—see section 36ZH.	8
[2] Section 23A Offences with respect to enhanced indoor cultivation of prohibited plants in presence of children		9
	Insert after section 23A(7)—	10
	(7A) A person who cultivates a prohibited plant as provided for in Part 2D does not commit an offence under this section.	11
[3] Section 24 Manufacture and production of prohibited drugs		12
	Insert after section 24(4)—	13
	(4A) A person who manufactures a prohibited drug from a prohibited plant or cannabis leaf possessed by the person as provided for in Part 2D does not commit an offence under this section.	14
[4] Part 2D		15
	Insert after section 36ZG—	16
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36ZK Possession of cannabis at residence	1
(1) The following amounts of cannabis may be possessed at a residence—	2
(a) not more than 6 cannabis plants, and	3
(b) cannabis leaf from not more than 6 cannabis plants that have been removed from the medium in which the plants were grown.	4 5
(2) Cannabis possessed under this section must be under the control of—	6
(a) an adult who resides at the residence, or	7
(b) the adult carer of an adult who resides at the residence.	8
36ZL Possession of cannabis—other than at residence	9
An adult who is at a place other than the adult’s residence may possess not more than 50g of cannabis leaf.	10 11
36ZM Gifts of cannabis	12
(1) An adult who is in possession of cannabis as provided for in this part may give cannabis as a gift to another adult.	13 14
(2) A gift of cannabis must be for not more than 50g of cannabis.	15
(3) To avoid doubt, nothing in this section authorises the sale of cannabis.	16
[5] Section 39 Seizure and forfeiture of cannabis plants and certain prohibited drugs	17
Insert at the end of the section—	18
(2) This section does not apply to a cannabis plant or cannabis leaf that is lawfully in the possession of an adult under Part 2D.	19 20