Introduced by the Hon Jeremy Buckingham, MLC

First print



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-

Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 [NSW] Explanatory note

- (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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New South Wales

## 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.

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

The Legislature of New South Wales enacts—		
1	Name of Act	2
	This Act is the Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Act 2023.	3 4
2 Commencement		5
	This Act commences on the date of assent to this Act.	6

Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 [NSW] Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985 No 226

Schedule 1		le 1	Amendment of Drug Misuse and Trafficking Act 1985 No 226	1 2
[1]	Section 3 Definitions			3
	Insert in alphabetical order—			4
		1	adult for Part 2D—see section 36ZH.	5
			cannabis for Part 2D—see section 36ZH.	6
			residence for Part 2D—see section 36ZH.	7
			smoke-free area 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 10
	Inser	t after	section 23A(7)—	11
		(7A)	A person who cultivates a prohibited plant as provided for in Part 2D does not commit an offence under this section.	12 13
[3]	Secti	ion 24	Manufacture and production of prohibited drugs	14
	Inser	t after	section 24(4)—	15
		(4A)	A person who manufactures a prohibited drug from a prohibited plant or	16
			cannabis leaf possessed by the person as provided for in Part 2D does not commit an offence under this section.	17
			commit an orience under this section.	18
[4]	Part 2D		19	
	Inser	t after	section 36ZG—	20
	Par	t 2D	Personal adult possession and use of cannabis	21
3	Раг <sub>6ZH</sub>		Personal adult possession and use of cannabis	21 22
3			•	
3			hitions In this part— <i>adult</i> means an individual who is at least 18 years of age.	22
3			hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant.	22 23 24 25
3			hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant. <i>residence</i> , for an adult, means a dwelling at which the adult resides.	22 23 24 25 26
3			hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant.	22 23 24 25
		Defir	hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant. <i>residence</i> , for an adult, means a dwelling at which the adult resides. <i>smoke-free area</i> has the same meaning as in the <i>Smoke-free Environment Act</i>	22 23 24 25 26 27
	6ZH	Defir	hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant. <i>residence</i> , for an adult, means a dwelling at which the adult resides. <i>smoke-free area</i> has the same meaning as in the <i>Smoke-free Environment Act</i> 2000.	22 23 24 25 26 27 28
	6ZH	Defir	hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant. <i>residence</i> , for an adult, means a dwelling at which the adult resides. <i>smoke-free area</i> has the same meaning as in the <i>Smoke-free Environment Act</i> 2000.	22 23 24 25 26 27 28 29
	6ZH	Defir	hitions In this part— <i>adult</i> means an individual who is at least 18 years of age. <i>cannabis</i> means cannabis leaf and cannabis plant. <i>residence</i> , for an adult, means a dwelling at which the adult resides. <i>smoke-free area</i> has the same meaning as in the <i>Smoke-free Environment Act</i> 2000. <b>ain possession and use of cannabis lawful</b> Despite anything in this Act or another law, it is not an offence for—	22 23 24 25 26 27 28 29 30
	6ZH	Defir	<ul> <li>In this part— adult means an individual who is at least 18 years of age. cannabis means cannabis leaf and cannabis plant. residence, for an adult, means a dwelling at which the adult resides. smoke-free area has the same meaning as in the Smoke-free Environment Act 2000.</li> <li>ain possession and use of cannabis lawful Despite anything in this Act or another law, it is not an offence for— (a) an adult to possess cannabis as provided for in this part, or (b) an adult who is in possession of cannabis as provided for in this part to</li> </ul>	22 23 24 25 26 27 28 29 30 31 31 32
;	6ZH	Certa (1)	<ul> <li>In this part—</li> <li><i>adult</i> means an individual who is at least 18 years of age.</li> <li><i>cannabis</i> means cannabis leaf and cannabis plant.</li> <li><i>residence</i>, for an adult, means a dwelling at which the adult resides.</li> <li><i>smoke-free area</i> has the same meaning as in the <i>Smoke-free Environment Act</i> 2000.</li> <li>ain possession and use of cannabis lawful</li> <li>Despite anything in this Act or another law, it is not an offence for— <ul> <li>(a) an adult to possess cannabis as provided for in this part, or</li> <li>(b) an adult who is in possession of cannabis as provided for in this part to use the cannabis.</li> </ul> </li> </ul>	22 23 24 25 26 27 28 29 30 31 31 32 33
;	6ZH 36ZI	Certa (1)	<ul> <li>In this part— adult means an individual who is at least 18 years of age. cannabis means cannabis leaf and cannabis plant. residence, for an adult, means a dwelling at which the adult resides. smoke-free area has the same meaning as in the Smoke-free Environment Act 2000.</li> <li>ain possession and use of cannabis lawful</li> <li>Despite anything in this Act or another law, it is not an offence for— <ul> <li>(a) an adult to possess cannabis as provided for in this part, or</li> <li>(b) an adult who is in possession of cannabis as provided for in this part to use the cannabis.</li> </ul> </li> <li>Despite subsection (1)(b) cannabis must not be used in a smoke-free area.</li> </ul>	22 23 24 25 26 27 28 29 30 31 32 33 34

Drug Misuse and Trafficking Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023 [NSW] Schedule 1 Amendment of Drug Misuse and Trafficking Act 1985 No 226

3	6ZK	Possession of cannabis at residence		
		(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
36	6ZL	Poss	ession 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
36	6ZM	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]	Sect	ion 39	Seizure and forfeiture of cannabis plants and certain prohibited drugs	17
	Inser	t 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