



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.



New South Wales

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

## Contents

---

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



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.

---

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

1

**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

<b>Schedule 1</b>	<b>Amendment of Drug Misuse and Trafficking Act 1985 No 226</b>	1
		2
<b>[1] Section 3 Definitions</b>		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
<b>[2] Section 23A Offences with respect to enhanced indoor cultivation of prohibited plants in presence of children</b>		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
<b>[3] Section 24 Manufacture and production of prohibited drugs</b>		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
<b>[4] Part 2D</b>		15
	Insert after section 36ZG—	16
		17
		18
		19
		20
		21
		22
		23
		24
		25
		26
		27
		28
		29
		30
		31
		32
		33
		34
		35
		36
		37
		38
		39

<b>36ZK Possession of cannabis at residence</b>	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
<b>36ZL Possession of cannabis—other than at residence</b>	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
<b>36ZM Gifts of cannabis</b>	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
<b>[5] Section 39 Seizure and forfeiture of cannabis plants and certain prohibited drugs</b>	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