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New South Wales

Industrial Hemp Production (Experimental Development) Bill 1995

Explanatory note

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

Overview of Bill

The object of this Bill is to enable industrial hemp to be cultivated, harvested, processed and distributed on an experimental basis for commercial purposes.

Outline of provisions

Clause 1 sets out the name (also called the short title) of the proposed Act.

Clause 2 provides that the proposed Act will commence on the date on which the Governor assents to it.

Clause 3 defines certain expressions used in the proposed Act. These include *authority* (an authority given under proposed section 4 (1)), *cannabis plant*, *Director-General* (the Director-General of the Department of Agriculture), *drug offence* and *industrial hemp* (a cannabis plant, or a part of such a plant, with a THC content of not more than 0.03%).

Clause 4 will allow the Director-General of the Department of Agriculture to authorise the cultivation of industrial hemp. An authority may be for a period of not more than 3 years. The names of the persons employed by the holder of an authority to take part in cultivating industrial hemp are to be specified in the authority. Conditions may be imposed as to the cultivation, harvesting, processing and distribution of industrial hemp.

Clause 5 is a machinery provision dealing with applications for authorities under proposed section 4.

Clause 6 will allow the Director-General to refuse an application for an authority, but only on specified grounds. One of the grounds is that the applicant does not have the requisite expertise to cultivate industrial hemp. If an application is refused, the Director-General will have to notify the applicant of, and give reasons for, the refusal.

Clause 7 will allow the Director-General to vary the conditions of an authority. The clause will also enable the Director-General, on the application of the holder of an authority, to strike out the names of persons specified in the authority as employees of that holder or to insert the names of additional employees of that holder.

Clause 8 will allow the Director-General to revoke, or suspend the operation of, an authority in certain circumstances. For example, an authority may be revoked if its holder is found not have the requisite expertise to cultivate industrial hemp, or if there is a failure to comply with a condition of the authority.

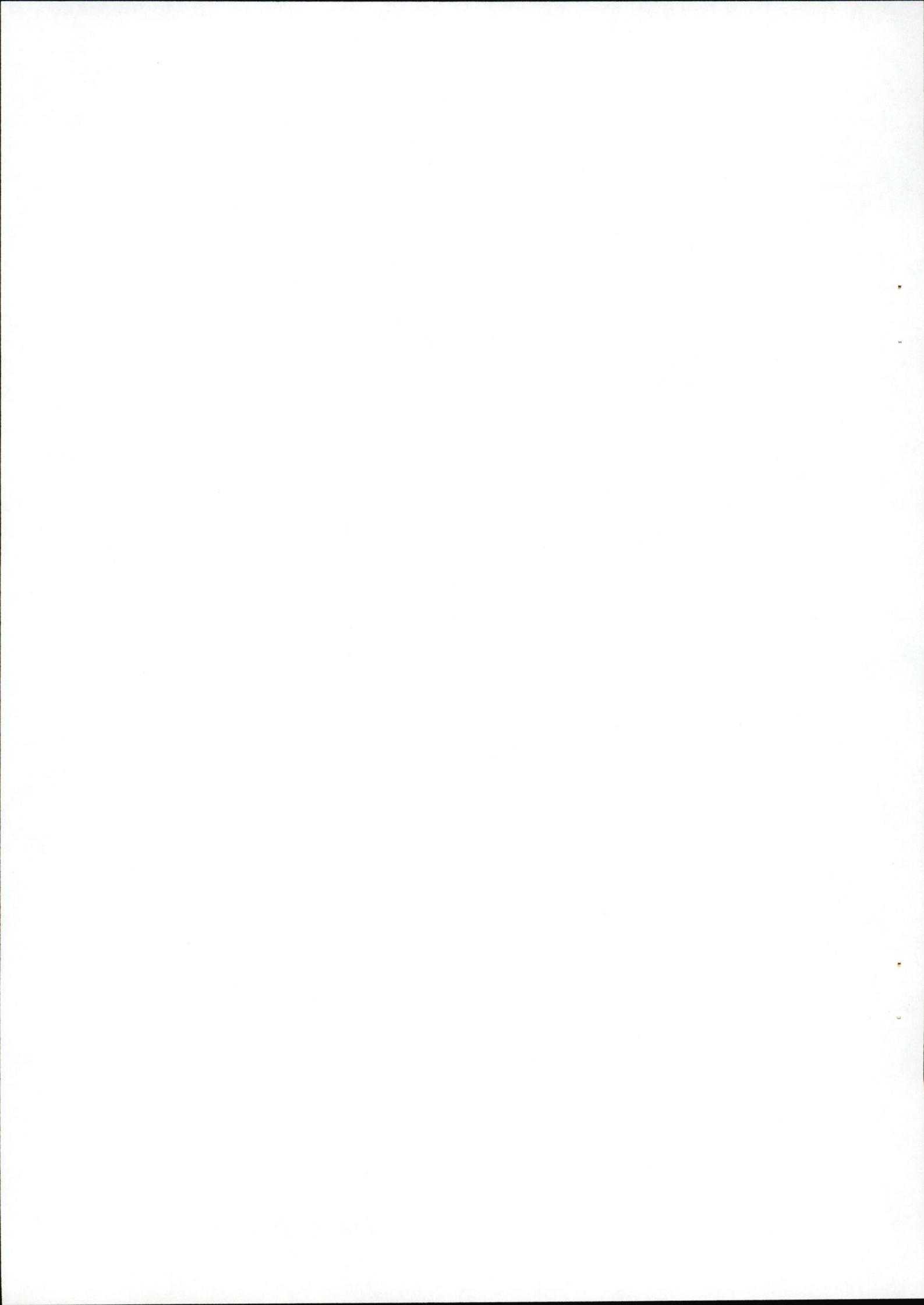
Clause 9 provides that the *Noxious Weeds Act 1993* does not apply to industrial hemp cultivated in accordance with an authority granted under the proposed Act.

Industrial Hemp Production (Experimental Development) Bill 1995

Explanatory note

Clause 10 amends the *Drug Misuse and Trafficking Act 1985* so as to provide that nothing in that Act will affect the provisions of the proposed Act. Nothing in the *Drug Misuse and Trafficking Act 1985* will make it unlawful:

- to cultivate or take part in cultivating industrial hemp under an authority in force under the proposed Act, or
- to manufacture or produce, or take part in manufacturing or producing, a derivative of industrial hemp if that hemp was cultivated under such an authority, or
- to supply, take part in supplying or be in possession of industrial hemp, or a derivative of industrial hemp, if that hemp was so cultivated.



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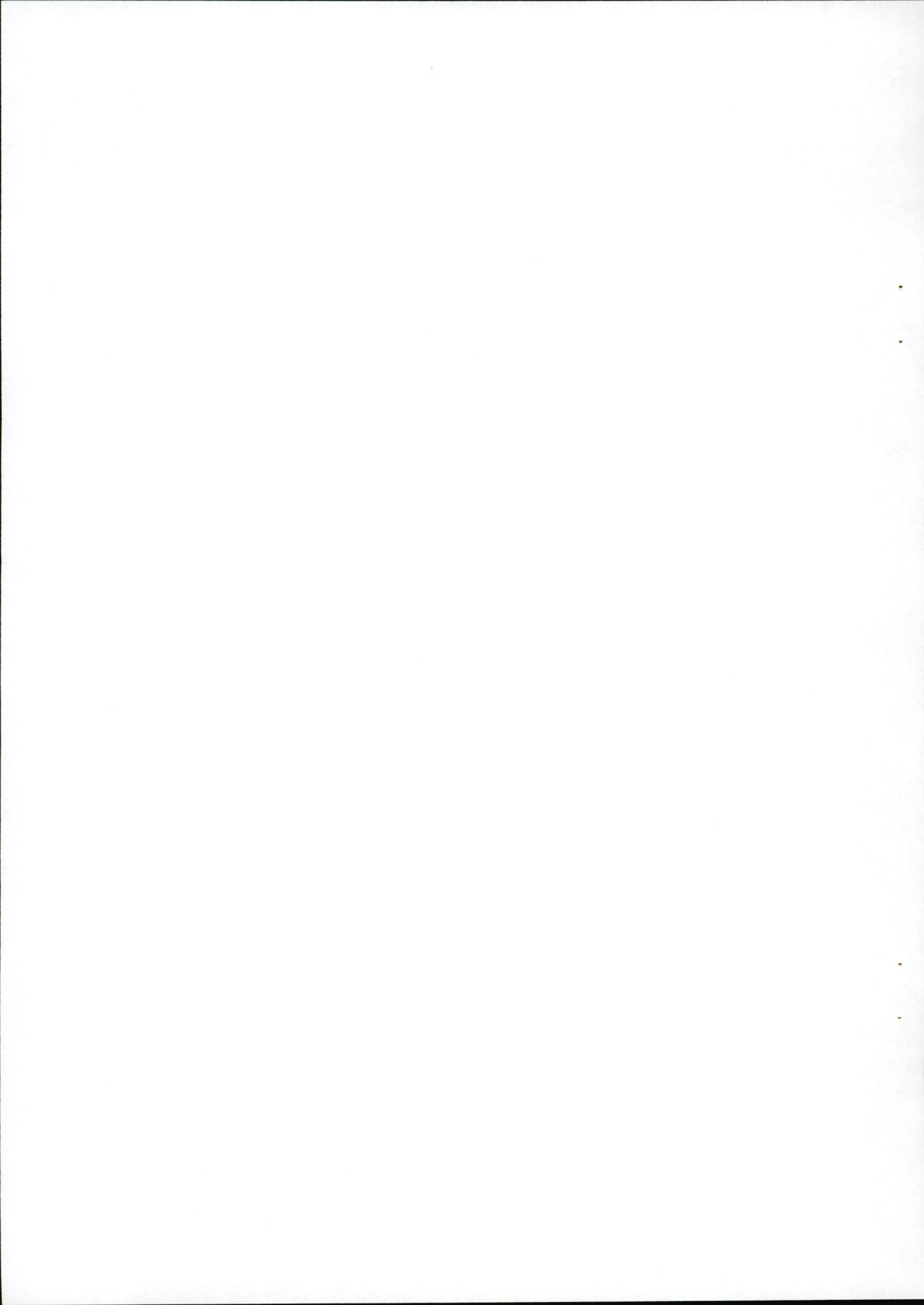


New South Wales

Industrial Hemp Production (Experimental Development) Bill 1995

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New South Wales

Industrial Hemp Production (Experimental Development) Bill 1995

No. , 1995

A Bill for

An Act to allow the experimental cultivation, supply and possession of low-grade cannabis plants for commercial purposes; to amend the *Drug Misuse and Trafficking Act 1985*; and for related purposes.

The Legislature of New South Wales enacts:

1 Name of Act

This Act is the *Industrial Hemp Production (Experimental Development) Act 1995*.

2 Commencement

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This Act commences on the date of assent.

3 Definitions

In this Act:

authority means a written authority under section 4 (1).

cannabis plant has the same meaning as in the *Drug Misuse and Trafficking Act 1985*. 10

cultivate has the same meaning as in the *Drug Misuse and Trafficking Act 1985*.

Director-General means the Director-General of the Department of Agriculture. 15

drug offence means an offence against the *Drug Misuse and Trafficking Act 1985* or an offence under a law of the Commonwealth, another State or a Territory that corresponds to that Act.

externally-administered body corporate has the same meaning as in the *Corporations Law*. 20

industrial hemp means a cannabis plant, or part of a cannabis plant, that has a concentration of tetrahydrocannabinol of no more than 0.03 per cent.

insolvent under administration has the same meaning as in the *Corporations Law*. 25

4 Authorised production of industrial hemp

- (1) The Director-General may, by written authority, authorise a person to cultivate industrial hemp for a specified commercial purpose. 30

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- (2) An authority may be for a period of not more than 3 years. However, when or immediately before an authority expires, the holder of an authority may be granted a further authority.
 - (3) An authority must specify the purpose for which industrial hemp cultivated under the authority may be used. 5
 - (4) An authority must also specify the names of those persons employed by the holder of the authority to take part in cultivating industrial hemp for that holder.
 - (5) Only the holder of an authority, and those persons employed by that holder whose names are specified in the authority, are authorised to cultivate or take part in cultivating industrial hemp. 10
 - (6) An authority is subject to such conditions relating to the cultivation, harvesting, processing and distribution of industrial hemp as the Director-General specifies in the authority.

5 Applications for authorities 15

- (1) An application for an authority under section 4 must be made in writing to the Director-General.
- (2) An application must:
 - (a) specify the name and address of the applicant, and
 - (b) specify the names and addresses of any persons employed by the applicant who would, if the application were granted, take part in cultivating industrial hemp for the applicant, and 20
 - (c) provide a description of the area over which it is proposed to cultivate industrial hemp, and 25
 - (d) contain, or be accompanied by a document outlining, a scheme for the cultivation of industrial hemp and arrangements for the harvesting, processing and distribution of that hemp, and
 - (e) contain such other information, and be accompanied by such other documents, as the Director-General requires in order to determine the application. 30

- (3) If asked to do so, the Director-General must provide an applicant with particulars of information and documents required under subsection (2).

6 Director-General to grant or refuse application

- (1) The Director-General may refuse an application for an authority only on the ground that: 5
- (a) the applicant does not have the expertise to cultivate industrial hemp and to carry out activities relating to cultivation, or
 - (b) the applicant has failed to satisfy the Director-General that industrial hemp cultivated by the applicant will be used only for an industrial purpose approved by the Director-General or for scientific research, or 10
 - (c) if the applicant is a natural person—the person:
 - (i) is insolvent under administration, or 15
 - (ii) has been found guilty of a drug offence, or
 - (iii) is otherwise unfit to hold an authority, or
 - (d) if the applicant is a body corporate:
 - (i) the body is an externally-administered body corporate, or 20
 - (ii) any director of, or any person concerned in the management of, the body is insolvent under administration, has been found guilty of a drug offence or is otherwise unfit to be involved in the management or operation of the body, or 25
 - (e) it would, for any other reason, be contrary to the public interest to grant the application.
- (2) The Director-General must not refuse an application for an authority unless the applicant has been given an opportunity to make representations to the Director-General about the application. 30

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- (3) If an application for an authority is refused, the Director-General must give the applicant notice in writing of the decision refusing the application. The notice must be given to the applicant within 14 days of the decision and set out the reasons for it.

7 Variation of authority

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- (1) The Director-General may, from time to time, vary the conditions of an authority by notice in writing given to the holder of the authority.
- (2) A notice varying the conditions of an authority takes effect when the notice is given to the holder of the authority or, if a later date is specified in the notice, on that later date. 10
- (3) The Director-General may, on the application of the holder of an authority, strike out the names of persons whose names are specified in the authority as employees of that holder, or insert the names of other persons who are to be employed by that holder to take part in cultivating industrial hemp. 15

8 Revocation or suspension of authority

- (1) The Director-General may revoke an authority at the request in writing of its holder.
- (2) The Director-General may revoke an authority held by a natural person if the person: 20
- (a) becomes insolvent under administration, or
 - (b) is found guilty of a drug offence.
- (3) The Director-General may revoke an authority held by a body corporate if: 25
- (a) the body corporate ceases to carry on business, or
 - (b) the body corporate becomes an externally-administered body corporate, or
 - (c) a director of, or other person concerned in the management of, the body corporate: 30
- (i) becomes insolvent under administration, or
 - (ii) is found guilty of a drug offence.

- (4) The Director-General may also revoke an authority on the ground that:
- (a) the holder does not have the expertise to carry out the activities authorised under the authority, or
 - (b) industrial hemp cultivated by the holder is being used for a purpose other than a purpose specified in the authority, or 5
 - (c) the application for the authority was materially false or misleading, or
 - (d) material information was omitted from that application, or
 - (e) a condition of the authority has been contravened, or 10
 - (f) if the holder of the authority is a natural person—the person is unfit to hold the authority, or
 - (g) if the holder of the authority is a body corporate—any director of, or other person concerned in the management of, the body is unfit to be involved in the management or operation of the body, or 15
 - (h) it would, for any other reason, be in the public interest to revoke the authority.
- (5) The Director-General may, instead of revoking an authority on a ground specified in subsection (4) (paragraphs (c) and (d) excepted), suspend the operation of an authority for a specified period. 20
- (6) The Director-General may, at any time, revoke or vary such a suspension.
- (7) For the purposes of section 23 of the *Drug Misuse and Trafficking Act 1985*, a person is taken not to hold an authority during a period for which its operation is suspended under this section. 25
- (8) The Director-General must not revoke, or suspend the operation of, an authority on a ground specified in subsection (4) without giving the holder of the authority an opportunity to make representations to the Director-General as to why the authority should not be revoked, or its operation should not be suspended. 30

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- (9) The Director-General must, on revoking, or suspending the operation of, an authority, give the person concerned a notice in writing of the revocation or suspension. The notice must set out the reasons for the revocation or suspension.
- (10) The revocation, or suspension of the operation of, an authority takes effect when notice of it is given under subsection (9). 5

9 Noxious Weeds Act 1993 not apply to authorised industrial hemp

The *Noxious Weeds Act 1993* does not apply to industrial hemp cultivated in accordance with an authority. 10

10 Amendment of Drug Misuse and Trafficking Act 1985 No 226

The *Drug Misuse and Trafficking Act 1985* is amended by inserting after section 8 the following section:

8A Relationship with Industrial Hemp Production (Experimental Development) Act 1995 15

- (1) Nothing in this Act affects any provision of, or any provision made under, the *Industrial Hemp Production (Experimental Development) Act 1995* or renders unlawful:
- (a) cultivating, or taking part in cultivating, industrial hemp in accordance with an authority in force under that Act, or 20
- (b) manufacturing or producing, or taking part in manufacturing, any derivative of industrial hemp if that hemp was cultivated under such an authority, or 25
- (c) supplying or possessing, or taking part in supplying, industrial hemp, or a derivative of industrial hemp, if that hemp was cultivated under such an authority. 30

- (2) In this section, *industrial hemp* has the same meaning as in the *Industrial Hemp Production (Experimental Development) Act 1995*.