

1991
THE LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

(As presented)

(Mr. Collaery)

**Drugs of Dependence (Amendment) Bill
1991**

**A BILL
FOR**

An Act to amend the *Drugs of Dependence Act 1989*

The Legislative Assembly for the Australian Capital Territory enacts as follows:

Short title

- 5 1. This Act may be cited as the *Drugs of Dependence (Amendment) Act 1991*.

Principal Act

2. In this Act, "Principal Act" means the *Drugs of Dependence Act 1989*.

Sale or supply—cannabis

- 10 3. Section 165 of the Principal Act is amended by adding at the end the following subsections:

Job No.: 1991/54

“(6) Where a person is convicted of an offence against paragraph (1) (a), (b) or (c) which was committed on or in—

- (a) licensed premises;
- (b) a school;
- 5 (c) a playground;
- (d) a youth centre;
- (e) a video facility; or
- (f) a public swimming pool;

10 the court shall impose a term of imprisonment of not less than 28 days unless, having regard to the particular circumstances of the offence and the offender, it is of the opinion that such a penalty should not be imposed.

“(7) Nothing in subsection (6) shall be construed as preventing a court from imposing a fine in addition to a term of imprisonment.

15 “(8) Where a court imposes a term of imprisonment under subsection (6) (in this subsection called the “new term”) on a person already serving a term of imprisonment (in this subsection called the “current term”), the new term shall be served consecutively to the current term.

“(9) In this section—

‘licensed premises’ has the same meaning as in the *Liquor Act 1975*;

20 ‘playground’ means an outdoor facility intended for recreational purposes which—

- (a) the public have or are permitted to have access to (whether for payment or otherwise); and
- 25 (b) contains apparatus intended for the recreation of children, including but not limited to slides, swings and see-saws;

and includes any car park adjoining the facility (whether or not it is part of the land on which the facility is situated);

‘public swimming pool’—

- 30 (a) means a swimming pool to which the public have or are permitted to have access (whether for payment or otherwise); and
- (b) includes a car park adjacent to the swimming pool, (whether or not it is part of the land on which the swimming pool is situated);

'school'—

- (a) means a school or institution at which courses of instruction in primary or secondary education are provided or offered; and
- (b) includes the grounds of the school or institution and any car park adjoining the school, institution or grounds (whether or not it is part of the land on which the school, institution or grounds are situated);

'video facility' means a facility legally accessible to persons under the age of 18 years intended primarily for use in playing pinball or video machines for amusement;

'youth centre'—

- (a) means an indoor or outdoor recreation facility which—
 - (i) regularly provides athletic, sporting, civic or cultural activities intended primarily for use by persons under the age of 18 years; or
 - (ii) was used primarily for such activities by such persons at the time the offence was committed;
- (b) includes a gymnasium, roller skating rink, bicycle track and discotheque; and
- (c) includes a car park adjoining the facility (whether or not it is part of the land on which the facility is situated)."

Insertion

4. After section 171 of the Principal Act the following section is inserted:

Offence notices

"171A. (1) Where a police officer, a drug inspector or the Medical Officer of Health reasonably believes that a person (other than a child) has committed a simple cannabis offence, he or she may serve an offence notice on that person.

"(2) An offence notice—

- (a) shall specify the nature of the alleged simple cannabis offence;
- (b) shall specify the day on which and the time and place at which the simple cannabis offence is alleged to have been committed;
- (c) shall contain a statement to the effect that if the alleged offender pays the scheduled penalty for the alleged offence within 60 days

after the date of service of the notice, no further action will be taken in respect of that offence;

- (d) shall specify the amount of the scheduled penalty;
- (e) shall specify the place at which, and the manner in which, the scheduled penalty may be paid; and
- (f) may contain such other particulars (if any) as are prescribed.

"(3) If the scheduled penalty is paid in accordance with the offence notice—

- (a) any liability of the person in respect of the alleged simple cannabis offence shall be deemed to be discharged;
- (b) no further proceedings shall be taken in respect of the alleged simple cannabis offence; and
- (c) the person shall not be regarded as having been convicted of the alleged simple cannabis offence.

"(4) Any substance, equipment or object seized under any Act in connection with the alleged simple cannabis offence that would have been liable to forfeiture in the event of a conviction shall, on payment of the scheduled penalty in accordance with the offence notice, be forfeited to the Territory.

"(5) Nothing in this section shall be construed as affecting the institution or prosecution of proceedings for a simple cannabis offence.

"(6) In this section—

'child' means a person under the age of 18 years on the date of the alleged offence;

'scheduled penalty', in relation to a simple cannabis offence, means the penalty specified in Column 2 of Schedule 6 which corresponds with that offence;

'simple cannabis offence' means an offence specified in Column 1 of Schedule 6."

30 Addition

5. The Principal Act is amended by adding at the end the following the Schedule:

SCHEDULE 6

Section 171A

SIMPLE CANNABIS OFFENCES AND PENALTIES

Column 1 Offence	Column 2 Penalty
An offence arising out of the possession of less than 25 grams of cannabis	\$50
An offence arising out of the possession of less than 5 grams of cannabis resin	\$50
An offence arising out of the possession of an amount of cannabis of not less 25 grams but not exceeding 100 grams	\$150
An offence arising out of the possession of an amount of cannabis resin of not less than 5 grams but not exceeding 20 grams	\$150
An offence arising out of the smoking or consumption of cannabis or cannabis resin other than in a public place or prescribed place	\$50
An offence arising out of the possession of equipment for use in connection with—	
(a) the smoking or consumption of cannabis or cannabis resin; or	
(b) the preparation of cannabis or cannabis resin for smoking or consumption;	
(other than an offence involving the possession of such equipment for commercial purposes) where a connected simple cannabis offence is also alleged	\$10
An offence arising out of the possession of equipment for use in connection with—	
(a) the smoking or consumption of cannabis or cannabis resin; or	
(b) the preparation of cannabis or cannabis resin for smoking or consumption;	
(other than an offence involving the possession of such equipment for commercial purposes) where a connected simple cannabis offence is not alleged	\$50
An offence arising out of the cultivation of cannabis plants by the offender for his or her personal use	\$150

NOTE

1. Ordinance No. 11, 1989 as amended by Nos. 21 and 38, 1989; Act No. 63, 1990; No. 5, 1991.