

**THE LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN
CAPITAL TERRITORY**

**Drugs Of Dependence (Cannabis For Medical
Conditions) Amendment Bill 2004**

EXPLANATORY STATEMENT

**Circulated by authority of
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Outline

The Bill would permit people suffering from chronic pain and a range of illnesses to self medicate, legally, with cannabis. It would also permit them (or nominated care givers) to grow cannabis plants for that purpose. They would require the support of their GP and a permit from the Chief Health Officer.

This bill does not establish a system to supply the drug in any particular form nor to guarantee any particular quality. The object of the Bill is consistent with requests from many community groups around Australia – ranging from the Tasmanian branch of the CWA to the multi-party Australian Parliamentary Group for Drug Law Reform – which is simply to lift the stigma from those people using cannabis for medicinal purposes, on compassionate grounds.

Clause 1

This section provides that the name of the Act is Drugs of Dependent (Cannabis for Medical Conditions) Amendment Act 2004.

Clause 2

This section provides that the Act commences on the day after its notification day.

Clause 3

This section provides that this Act amends the Drugs of Dependence Act 1989.

Clause 4

This Clause establishes four new Divisions (9A.1 to 9A.4).

Division 9A.1 Definitions for pt 9A

Section 159A

This section inserts a new part 9A that adds the relevant definitions for the Act

Division 9A.2 Approval of cannabis for medical conditions

Section 159B

This section explains how a person can apply to the Chief Medical Officer for approval to possess and use cannabis.

It describes three categories of application. Category 1 is for use for the mitigation of a symptom of a terminal illness or its treatment. Category 2 application is for the mitigation of symptoms of serious diseases or conditions. Category 3 applications can be for the mitigation of other medical conditions or its treatment.

It specifies other details that must be provided as part of the application and that a medical declaration from the applicant's doctor must be provided. It provides that Category 3 applications require an additional medical declaration.

Section 159C

This section identifies what must be included in a medical declaration. It specifies such requirements as the applicant's medical condition and the doctor's recommendation for the dosage of cannabis.

There are also special requirements for each of the categories of application. For a category 2 or 3 application, more detailed information is required regarding previous treatments.

Section 159D

This section provides that a second medical declaration is required for a category 3 application. It outlines what information the declaration must include.

Section 159E

This section provides that the Chief Health Officer (CHO) must approve an application if it is in accordance with section 159B. It provides the reasons that an application must be refused, and that the CHO must contact the applicant to allow an opportunity for representations. It also provides that any approval must be given in writing and should include the date of issue and expiry.

Section 159F

This section establishes that an approval is subject to conditions. These may be specific to an approval or prescribed under the regulations.

Section 159G

This section outlines that the CHO must give written notice of a decision on an approval to the applicant and the doctors who have given approval under section 159C and/or 159D.

Section 159H

This section provides that the approval is effective for the period stated in the approval (no longer than 1 year).

Section 159I

This section provides that a person may assist the holder of the approval and that this person may possess cannabis to administer to the holder of the approval.

Section 159J

This section provides that the CHO may cancel an approval if they believe that the holder or nominated person has contravened a condition of approval.

Division 9A.3 Licence to cultivate cannabis for medical conditions

Section 159K 0

This section provides that person may apply to the CHO for a licence to permit them, or a nominated person, to cultivate cannabis in accordance with an approval. Such an application may only be made by a person who holds an approval under division 9A.2 or is in the process of applying for an approval. It provides what information must be included in an application, including a street address where the cannabis is to be grown and to be kept. It also provides that a nominated person must also make a declaration.

Section 159L

This section provides the information required in a declaration from a nominated person.

Section 159M

This section provided that the CHO must approve the application for a cannabis cultivation licence if the application is in accordance with section 159J. However if the application is not in accordance with section 159J, the CHO must refuse the application. It provides the reasons that an application must be refused, and that the CHO must contact the applicant to allow an opportunity for representations. It also provided that any approval must be given in writing and should include the date of issue and expiry.

Section 159N

This section establishes that a licence is subject to conditions. These may be specific to an approval or prescribed under the regulations. It provides that the conditions must include conditions about the number of plants that may be cultivated at any one time and the amount of cannabis that may be kept at any time.

Section 159O

This section provides that the CHO must give written notice of the decision on the licence to the applicant and, if applicable, a nominated person.

Section 159P

This section provides that a licence would be effective for no longer that a year.

Section 159Q

This section describes that activity authorised under a cannabis cultivation licence.

Section 159R

This section provides that the CHO may cancel a cultivation licence if they believe that the holder or nominated person has contravened a condition of the licence. A cancellation would have effect on the day the notice of cancellation is given.

Division 9A.4 Other Matters

Section 159S

This section provides that the CHO must keep a register of approvals and licences issued. The register must contain the information prescribed in the regulations.

Section 159T

This section provides that the Minister must review the operation of pt 9A of the new Act as soon as practicable after 2 years of its operation. It provides that this report must be presented to the Legislative Assembly with 6 months of the commencement of the review.

Clause 5

New section 162(6)

This section provides that section 162 of the current Act, cultivation of prohibited plants (cannabis), does not apply to the cultivation of cannabis with a licence issued under division 9A.3.

Clause 6

New section 165 (2A)

This section provides that the penalties for possession of cannabis do not apply to a person with an approval under division 9A.2 or a licence under division 9A.3.

Clause 7

New section 171 (4) (da)

This section establishes that penalties for people in possession of a prohibited substance do not apply for a person who possesses cannabis with an approval under division 9A.2 or a licence under Division 9A.3.

Clause 9

This is a technical clause to renumber sections.

Clause 10

New section 171 (6)

This section establishes that penalties under subsection (2) and (3), that a person shall not administer a prohibited substance to themselves or to another person, do not apply to a person with an approval under division 9A.2.