

2004

THE LEGISLATIVE ASSEMBLY  
FOR THE AUSTRALIAN CAPITAL TERRITORY

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(As presented)

(Mrs Jacqui Burke)

# Hemp Fibre Industry Facilitation Bill 2004

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(As presented)

(Mrs Jacqui Burke)

# **Hemp Fibre Industry Facilitation Bill 2004**

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## **A Bill for**

An Act about the cultivation of hemp for certain commercial uses, and for other purposes

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

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2003 197B

Authorised by the ACT Parliamentary Counsel—also accessible at [www.legislation.act.gov.au](http://www.legislation.act.gov.au)

1 **Part 1 Preliminary**

2 **1 Name of Act**

3 This Act is the *Hemp Fibre Industry Facilitation Act 2004*.

4 **2 Commencement**

5 This Act commences on a day fixed by the Minister by written  
6 notice.

7 *Note 1* The naming and commencement provisions automatically commence on  
8 the notification day (see Legislation Act, s 75 (1)).

9 *Note 2* A single day or time may be fixed, or different days or times may be  
10 fixed, for the commencement of different provisions (see Legislation  
11 Act, s 77 (1)).

12 *Note 3* If a provision has not commenced within 6 months beginning on the  
13 notification day, it automatically commences on the first day after that  
14 period (see Legislation Act, s 79).

15 **3 Dictionary**

16 The dictionary at the end of this Act is part of this Act.

17 *Note 1* The dictionary at the end of this Act defines certain terms used in this  
18 Act, and includes references (*signpost definitions*) to other terms  
19 defined elsewhere in this Act.

20 For example, the signpost definition ‘*offence*, for part 3  
21 (Enforcement)—see section 43.’ means that the term ‘offence’ is  
22 defined in that section.

23 *Note 2* A definition in the dictionary applies to the entire Act unless the  
24 definition, or another provision of the Act, provides otherwise or the  
25 contrary intention otherwise appears (see Legislation Act, s 155 and  
26 s 156 (1)).

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1   **4**       **Notes**

2           A note included in this Act is explanatory and is not part of this Act.

3       *Note*     See Legislation Act, s 127 (1), (4) and (5) for the legal status of notes.

4   **5**       **Offences against Act—application of Criminal Code etc**

5           Other legislation applies in relation to offences against this Act.

6       *Note 1*   *Criminal Code*

7           The Criminal Code, ch 2 applies to all offences against this Act (see  
8           Code, pt 2.1).

9           The chapter sets out the general principles of criminal responsibility  
10          (including burdens of proof and general defences), and defines terms  
11          used for offences to which the Code applies (eg *conduct*, *intention*,  
12          *recklessness* and *strict liability*).

13       *Note 2*   *Penalty units*

14          The Legislation Act, s 133 deals with the meaning of offence penalties  
15          that are expressed in penalty units.

16   **6**       **Object of Act**

17          The object of this Act is to facilitate—

18          (a) the processing and marketing of, and trade in, industrial hemp  
19             fibre and fibre products; and

20          (b) the processing and marketing of, and trade in, industrial hemp  
21             seed and seed products, other than for the purpose, directly or  
22             indirectly, of producing anything for administration to, or  
23             consumption or smoking by, anyone.

- 1 **7 Ways of achieving Act's object**
- 2 (1) The ways of achieving this Act's object include allowing the
- 3 following activities to be carried out under controlled conditions:
- 4 (a) commercial production of industrial hemp fibre and seed;
- 5 (b) research into the use of industrial hemp as a commercial fibre
- 6 and seed crop;
- 7 (c) plant breeding programs using class A or class B research
- 8 hemp plants and seed, but only for developing new or
- 9 improved strains of hemp for use by growers for the
- 10 commercial production of industrial hemp fibre and seed.
- 11 **Example for par (b)**
- 12 field trials using fertilisers or irrigation and different planting rates
- 13 *Note* An example is part of the Act, is not exhaustive and may extend, but
- 14 does not limit, the meaning of the provision in which it appears (see
- 15 Legislation Act, s 126 and s 132).
- 16 (2) Another way of achieving this Act's object is to allow research to be
- 17 carried out into—
- 18 (a) how hemp seed may be denatured; and
- 19 (b) how processed hemp may be used.



1 **Part 2 Licences**

2 **Division 2.1 Licenses generally**

3 **8 Meaning of *close associate* for pt 2**

4 (1) In this part:

5 *close associate*—a person is a *close associate* of someone (the  
6 *related person*) if—

7 (a) the person holds or will hold an executive position (however  
8 described) in the related person’s business; or

9 (b) the chief executive is satisfied that the person is or will be able  
10 to exercise a significant influence in relation to the conduct of  
11 the related person’s business because the person holds or will  
12 hold a financial interest, or is entitled to exercise a relevant  
13 power, in the business.

14 (2) In this section:

15 *executive position*—a position (however described) in the related  
16 person’s business is an *executive position* if the holder of the  
17 position is concerned with, or takes part in, the management of the  
18 business.

19 *exercise* a power includes exercise the power on behalf of someone  
20 else.

21 *financial interest*, in a business, means—

22 (a) a share in the capital of the business; or

23 (b) an entitlement to receive income derived from the business,  
24 however the entitlement arises.

25 *hold* a position includes hold the position on behalf of someone else.

1 **power** means a power exercisable—

2 (a) by voting or otherwise; and

3 (b) alone or with others.

4 **relevant power**, in a business, means a power—

5 (a) to take part in a directorial, managerial or executive decision  
6 for the business; or

7 (b) to elect or appoint a person to an executive office in the  
8 business.

9 **9 Categories of licences**

10 The chief executive may issue the following licences:

11 (a) category 1 researcher licences;

12 (b) category 2 researcher licences;

13 (c) grower licences.

14 **10 What category 1 researcher licence authorises**

15 (1) A category 1 researcher licence authorises the licensee, in  
16 accordance with the licence—

17 (a) to possess for research purposes—

18 (i) industrial hemp plants and seed; and

19 (ii) class A and class B research hemp plants and seed; and

20 (b) to produce, for use in plant breeding programs for developing  
21 new commercial strains of industrial hemp—

22 (i) industrial hemp plants and seed; and

23 (ii) class A and class B research hemp plants and seed; and

- 1 (c) to supply—
- 2 (i) class A and class B research hemp plants and seed to a
- 3 category 1 researcher; or
- 4 (ii) class B research hemp plants and seed to a category 2
- 5 researcher; and
- 6 (d) to supply industrial hemp plants and seed to—
- 7 (i) a category 1 or category 2 researcher; or
- 8 (ii) a grower; and
- 9 (e) to supply class A and class B research hemp seed to a grower
- 10 for use, under the licensee's supervision, as part of a field trial
- 11 the licensee is conducting on land owned or leased by the
- 12 grower; and
- 13 (f) to supply class A and class B research hemp seed and
- 14 industrial hemp seed to someone in a State who is authorised
- 15 under the law of the State to possess hemp seed that, if grown,
- 16 will produce plants with a THC concentration in their leaves
- 17 and flowering heads that the person in the State may possess;
- 18 and
- 19 (g) if the licensee holds a licence under the *Customs Act 1901*
- 20 (Cwlth) authorising the licensee to export hemp—to supply
- 21 class A and class B research hemp seed and industrial hemp
- 22 seed to someone in a foreign country who is authorised under
- 23 the law of that country to possess the seed.
- 24 (2) In this section:
- 25 *State* includes an external territory.

- 1 **11 What category 2 researcher licence authorises**
- 2 (1) A category 2 researcher licence authorises the licensee, in
- 3 accordance with the licence—
- 4 (a) to possess for research purposes—
- 5 (i) industrial hemp plants and seed; and
- 6 (ii) class B research hemp plants and seed; and
- 7 (b) to produce, for use in plant breeding programs for developing
- 8 new commercial strains of industrial hemp—
- 9 (i) industrial hemp plants and seed; and
- 10 (ii) class B research hemp plants and seed; and
- 11 (c) to supply class B research hemp plants and seed to a category 1
- 12 or category 2 researcher; and
- 13 (d) to supply industrial hemp plants and seed to—
- 14 (i) a category 1 or category 2 researcher; or
- 15 (ii) a grower; and
- 16 (e) to supply class B research hemp seed to a grower for use,
- 17 under the licensee’s supervision, as part of a field trial the
- 18 licensee is conducting on land owned or leased by the grower;
- 19 and
- 20 (f) to supply class B research hemp seed and industrial hemp seed
- 21 to someone in a State who is authorised under the law of the
- 22 State to possess hemp seed that, if grown, will produce hemp
- 23 plants with a THC concentration in their leaves and flowering
- 24 heads the person in the State may possess; and
- 25 (g) if the licensee holds a licence under the *Customs Act 1901*
- 26 (Cwlth) authorising the licensee to export hemp—to supply
- 27 class B research hemp seed and industrial hemp seed to

1 someone in a foreign country who is authorised under the law  
2 of that country to possess the seed.

3 (2) In this section:

4 *State* includes an external territory.

## 5 **12 What grower licence authorises**

6 A grower licence authorises the licensee, in accordance with the  
7 licence—

8 (a) to possess industrial hemp plants and seed; and

9 (b) to produce industrial hemp plants and seed from certified hemp  
10 seed; and

11 *Note* While industrial hemp plants may have a THC concentration in their  
12 leaves and flowering heads of not more than 1%, certified hemp seed  
13 must be seed harvested from a plant with a THC concentration in its  
14 leaves and flowering heads of not more than 0.5%. The difference  
15 recognises that the leaves and flowering heads of plants grown using  
16 certified hemp seed may have more than 0.5% THC because of  
17 environmental conditions beyond a grower's control.

18 (c) to supply industrial hemp seed to—

19 (i) a category 1 or category 2 researcher; or

20 (ii) a grower; and

21 (d) to possess class A or class B research hemp seed for use under  
22 the supervision of a category 1 or category 2 researcher, as part  
23 of a field trial conducted on land owned or leased by the  
24 grower; and

25 (e) to produce class A or class B research hemp plants and seed  
26 under the supervision of a category 1 or category 2 researcher,  
27 as part of a field trial conducted on land owned or leased by the  
28 grower; and

- 1 (f) to supply to a category 1 or category 2 researcher class A or  
2 class B research hemp plants and seed produced on land owned  
3 or leased by the grower as part of a field trial conducted under  
4 the supervision of the category 1 or category 2 researcher; and
- 5 (g) to supply industrial hemp seed to someone in a State who is  
6 authorised under the law of the State to possess hemp seed that,  
7 if grown, will produce hemp plants with a THC concentration  
8 in their leaves and flowering heads the person in the other State  
9 may possess; and
- 10 (h) if the licensee holds a licence under the *Customs Act 1901*  
11 (Cwlth) authorising the licensee to export hemp—to supply  
12 industrial hemp seed to someone in a foreign country who is  
13 authorised under the law of that country to possess the seed.

## 14 **Division 2.2 Licence applications**

### 15 **13 Application for licence**

- 16 (1) A person may apply to the chief executive for a licence.
- 17 (2) The application must—
- 18 (a) include information establishing that the person is eligible to  
19 obtain the licence; and
- 20 (b) state the place where the applicant proposes to carry on the  
21 activity under the licence and an address where the applicant  
22 may be personally served.
- 23 *Note 1* A fee may be determined under s 60 for an application.
- 24 *Note 2* If a form is approved under s 61 for an application, the form must be  
25 used.
- 26 (3) In deciding an application, the chief executive must consider—
- 27 (a) the applicant's suitability to hold a licence; and
- 28 (b) the applicant's eligibility to hold the licence.

1     **14**            **Requirement to give information or material about**  
2                    **application**

- 3                    (1) The chief executive may ask an applicant for a licence, in writing, to  
4                    give the chief executive, within a stated reasonable time,  
5                    information or material the chief executive reasonably requires to  
6                    consider the application.
- 7                    (2) The applicant is taken to have withdrawn the application if, within  
8                    the stated time, the applicant fails to comply with the request.

9     **Division 2.3**            **Eligibility and suitability to hold**  
10                            **licence**

11    **15**            **Eligibility for researcher licence**

- 12                    (1) A person is eligible to hold a category 1 or category 2 researcher  
13                    licence only if the person satisfies the chief executive that—
- 14                    (a) the person has the necessary educational or other qualifications  
15                    and experience to engage in plant breeding or other research  
16                    involving the use of industrial hemp or class A or class B  
17                    research hemp plant or seed; or
- 18                    (b) for a corporation—someone employed by the corporation to  
19                    carry out plant breeding under the licence has the necessary  
20                    educational or other qualifications and experience to engage in  
21                    plant breeding or other research involving the use of industrial  
22                    hemp or class A or class B research hemp plant or seed.
- 23                    (2) However, an individual is not eligible to obtain a category 1 or  
24                    category 2 researcher licence if the person has been convicted or  
25                    found guilty within the previous 10 years of a serious offence.

1 **16 Eligibility for grower licence**

2 An individual is not eligible to hold a grower licence if the person—

- 3 (a) has been convicted or found guilty within the previous 10 years  
4 of a serious offence; or  
5 (b) is affected by bankruptcy action.

6 **17 Consideration of suitability of applicant or licensee**

7 The chief executive must, in deciding whether someone is a suitable  
8 person to hold a licence, consider the following:

- 9 (a) whether the person is of good repute, having regard to  
10 character, honesty and integrity;
- 11 (b) whether the person's close associates are of good repute,  
12 having regard to character, honesty and integrity;
- 13 (c) whether the person held a licence under this Act that was  
14 suspended or cancelled;
- 15 (d) for an individual—
- 16 (i) the person's criminal history; and
- 17 (ii) whether the person has been convicted or found guilty of  
18 an offence against the this Act or the Drugs of  
19 Dependence Act or an offence that, if committed in the  
20 ACT, would be an offence against this Act or the Drugs  
21 of Dependence Act; and
- 22 (iii) whether the person can satisfactorily performing the  
23 activities of a licensee;
- 24 (e) for a corporation—
- 25 (i) whether the corporation has been placed in receivership  
26 or liquidation; and



- 1 (ii) whether an executive officer of the corporation has been  
2 convicted or found guilty of an offence against this Act or  
3 the Drugs of Dependence Act or an offence that, if  
4 committed in the ACT, would be an offence against this  
5 Act or the Drugs of Dependence Act; and
- 6 (iii) whether each executive officer of the corporation is a  
7 suitable person to hold a licence.

8 **18 Suitability of applicant or licensee—corporation**

9 A corporation is not a suitable person to hold a licence if an  
10 executive officer of the corporation—

- 11 (a) has been convicted or found guilty within the previous 10 years  
12 of a serious offence; or
- 13 (b) is affected by bankruptcy action; or
- 14 (c) is someone the chief executive decides under section 17  
15 (Consideration of suitability of applicant or licensee) is not a  
16 suitable person to hold a licence.

17 **19 Investigation about suitability of applicant or licensee**

- 18 (1) The chief executive may make investigations about any of the  
19 following people to help the chief executive decide whether an  
20 applicant or licensee is a suitable person to hold a licence:
- 21 (a) the applicant or licensee;
- 22 (b) if the applicant or licensee is a corporation—the corporation's  
23 executive officers;
- 24 (c) a person stated by the applicant or licensee to be a close  
25 associate of the applicant or licensee.
- 26 (2) Without limiting subsection (1), the chief executive may ask the  
27 chief police officer for a written report (a *criminal history report*)  
28 about the criminal history of any of the people.

- 1 (3) For subsection (2), the chief executive must give the chief police  
2 officer any particulars the chief executive tells the chief police  
3 officer are relevant for each application for a licence or renewal of a  
4 licence.
- 5 (4) On receiving particulars of the application, the chief police officer—  
6 (a) must make inquiries about the applicant's criminal history; and  
7 (b) must make any other inquiries about the applicant the chief  
8 police officer considers appropriate.
- 9 (5) As soon as practicable after considering the applicant's suitability to  
10 hold a licence, the chief executive must destroy any criminal history  
11 report given to the chief executive in relation to the application.

12 **20 Disclosure of criminal history—offence**

- 13 (1) A person commits an offence if the person, directly or indirectly,  
14 discloses to anyone else a criminal history report, or information in  
15 a criminal history report.
- 16 Maximum penalty: 100 penalty units.
- 17 (2) Subsection (1) does not apply to—  
18 (a) a disclosure authorised by the chief executive for the exercise  
19 of a function under this Act; or  
20 (b) a disclosure otherwise required or allowed by law.

21 **Division 2.4 Issue of licence**

22 **21 Chief executive may issue or refuse to issue licence**

- 23 (1) The chief executive may issue or refuse to issue a licence to an  
24 applicant.
- 25 (2) The chief executive may issue a licence to an applicant only if the  
26 chief executive is satisfied that—

- 1 (a) the applicant is eligible to hold the licence; and  
2 (b) the applicant is a suitable person to hold a licence; and  
3 (c) if the applicant is a corporation—each executive officer of the  
4 corporation is a suitable person to hold a licence; and  
5 (d) if the applicant intends performing activities under the licence  
6 in partnership or with others—each member of the partnership,  
7 or each person with whom the applicant intends performing  
8 activities under the licence, is a suitable person to hold a  
9 licence.
- 10 (3) If the chief executive decides to refuse to issue the licence, the chief  
11 executive must give the applicant written notice of the decision  
12 within 14 days after the day the decision is made.

13 **22 Conditions of licence**

- 14 (1) The chief executive may issue a licence for a period of not longer  
15 than 3 years.
- 16 (2) A licence may be issued subject to any conditions stated in the  
17 licence.
- 18 (3) Without limiting subsection (2), it is a condition of every licence—  
19 (a) that the licensee must not contravene this Act; and  
20 (b) that the licensee must tell the chief executive about any change  
21 of address or close associates as soon as practicable after the  
22 change happens (but within 7 days after the day the change  
23 happens).
- 24 (4) The regulations may prescribe additional conditions a licensee must  
25 comply with.
- 26 (5) If the chief executive decides to issue a licence subject to a  
27 condition under subsection (2), the chief executive must give the  
28 applicant written notice of the decision within 14 days after the day  
29 the decision is made.

1 **23 Offence—contravention of licence conditions**

2 A person commits an offence if the person engages in conduct that  
3 contravenes a condition of the person's licence.

4 Maximum penalty: 100 penalty units.

5 **Division 2.5 Licence renewals**

6 **24 Application for renewal**

7 (1) A licensee may apply for renewal of a licence.

8 *Note 1* A fee may be determined under s 60 for an application.

9 *Note 2* If a form is approved under s 61 for an application, the form must be  
10 used.

11 (2) The chief executive may ask the licensee, in writing, to give the  
12 chief executive, within a stated reasonable time, information or  
13 material the chief executive reasonably requires to consider the  
14 application.

15 (3) The licensee is taken to have withdrawn the application if, within  
16 the stated time, the licensee fails to comply with the request.

17 **25 Chief executive may renew or refuse to renew licence**

18 (1) The chief executive may renew or refuse to renew a licence.

19 (2) The chief executive may renew a licence only if the chief executive  
20 is satisfied that—

21 (a) the licensee is eligible to hold the licence; and

22 (b) the licensee is a suitable person to hold a licence; and

23 (c) if the licensee is a corporation—each executive officer of the  
24 corporation is a suitable person to hold a licence; and

25 (d) if the licensee carries on business in partnership or with  
26 others—each member of the partnership, or each person with

1                   whom the licensee carries on business, is a suitable person to  
2                   hold a licence.

3           (3) If the chief executive decides to refuse the application, the chief  
4           executive must give the applicant written notice of the decision  
5           within 14 days after the day the decision is made.

6   **26           Licence in force while application for renewal considered**

7           If an application is made under section 24 (Application for renewal),  
8           the licensee's licence is taken to continue in force from the day that  
9           it would, apart from this section, have ended until the licensee's  
10          application for renewal is—

11          (a) decided; or

12          (b) withdrawn by the licensee; or

13          (c) taken to have been withdrawn under section 24 (3).

14          *Note*     For what happens to hemp plants and seed in the licensee's possession  
15                   if the chief executive decides to refuse to renew a licence, see s 40 and  
16                   s 41.

17   **27           Return of licence if renewal refused**

18          A person commits an offence if—

19          (a) the person's application for renewal of a licence is refused; and

20          (b) the person fails to return the licence to the chief executive  
21               within 14 days after the day the chief executive tells the person  
22               of the refusal.

23          Maximum penalty: 100 penalty units.

1 **Division 2.6 Amendment and surrender of licence**

2 **28 Amendment of licence**

3 (1) The chief executive may amend a licence—

4 (a) on the licensee's application; or

5 (b) on the chief executive's own initiative.

6 *Note 1* A fee may be determined under s 60 for an application.

7 *Note 2* If a form is approved under s 61 for an application, the form must be  
8 used.

9 (2) Before amending a licence under subsection (1) (a), the chief  
10 executive must be satisfied that the licensee meets the eligibility  
11 requirements the chief executive tells the applicant are relevant to  
12 the amendment.

13 (3) Before amending a licence under subsection (1) (b), the chief  
14 executive must—

15 (a) give written notice to the licensee—

16 (i) of the particulars of the proposed amendment; and

17 (ii) that the licensee may make written submissions to the  
18 chief executive about the proposed amendment before a  
19 stated day, not later than 14 days after the day the notice  
20 is given to the licensee; and

21 (b) have regard to submissions made to the chief executive by the  
22 licensee before the stated day.

23 (4) Subsection (3) does not apply if the chief executive decides that the  
24 amendment must be made urgently to ensure compliance with this  
25 Act.

- 1 (5) If the chief executive decides to amend a licence under  
2 subsection (1) (b), the chief executive must give the licensee written  
3 notice of the decision within 14 days after the day the decision is  
4 made.
- 5 (6) The amendment takes effect—
- 6 (a) on the day the written notice of the amendment is given to the  
7 licensee; or
- 8 (b) if a later day is stated in the notice—on that day.
- 9 (7) If the chief executive decides to refuse to make an amendment  
10 applied for under subsection (1) (a), the chief executive must give  
11 the applicant written notice of the decision within 14 days after the  
12 day the decision is made.

13 **29 Return of licence for amendment**

- 14 (1) If the chief executive amends a licence under section 28, the chief  
15 executive may ask the licensee to produce the licence for  
16 amendment within a stated period of not less than 14 days.
- 17 (2) A licensee commits an offence if the licensee fails to comply with a  
18 request under subsection (1).
- 19 Maximum penalty: 100 penalty units.

20 **30 Surrender of licence**

- 21 (1) A licensee may surrender the licensee's licence by returning the  
22 licence to the chief executive.
- 23 (2) Before the licensee surrenders the licence, the licensee must destroy  
24 or otherwise lawfully dispose of all hemp plants and seed the  
25 licensee possesses.
- 26 (3) A licence surrendered under this section ends at the end of the day it  
27 is surrendered.

1 **Division 2.7** **Suspension and cancellation of**  
2 **licence**

3 **31** **Grounds for suspension action or cancellation**

- 4 (1) A ground for suspending or cancelling a licence exists if the  
5 licensee—  
6 (a) is not a suitable person to hold the licence; or  
7 (b) the licensee is no longer eligible to hold the licence for  
8 contravening a provision of this Act or a condition of the  
9 licence.  
10 (2) Also, a ground for suspending or cancelling a licence exists if the  
11 licence was issued because of a materially false or misleading  
12 representation or declaration.

13 **32** **Show cause notice**

- 14 (1) This section applies if the chief executive considers a ground exists  
15 to suspend or cancel a licence.  
16 (2) The chief executive must give the licensee a written notice (a *show*  
17 *cause notice*) stating the following:  
18 (a) the action (the *proposed action*) the chief executive proposes  
19 taking under this division;  
20 (b) the grounds for the proposed action;  
21 (c) an outline of the facts and circumstances forming the basis for  
22 the grounds;  
23 (d) if the proposed action is suspension of the licence—the  
24 proposed suspension period;  
25 (e) an invitation to the licensee to show cause within a stated  
26 period (the *show cause period*) why the proposed action  
27 should not be taken.



1 (3) The show cause period must end at least 21 days after the show  
2 cause notice is given to the licensee.

3 (4) The licensee may make written representations about the proposed  
4 action to the chief executive in the show cause period.

5 **33 Consideration of representations**

6 The chief executive must consider all written representations (the  
7 *accepted representations*) made in the show cause period by the  
8 licensee.

9 **34 Ending show cause process without further action**

10 (1) This section applies if, after considering the accepted  
11 representations for the show cause period, the chief executive no  
12 longer believes a ground exists to suspend or cancel a licence.

13 (2) The chief executive must not take further action about the show  
14 cause notice.

15 (3) The chief executive must, immediately after making the decision,  
16 give the licensee written notice that no further action about the show  
17 cause notice is to be taken.

18 **35 Suspension and cancellation of licence**

19 (1) This section applies if, after considering the accepted  
20 representations for the show cause notice, the chief executive—

21 (a) still believes a ground exists to suspend or cancel a licence;  
22 and

23 (b) believes suspension or cancellation of the licence is justified.

24 (2) This section also applies if there are no accepted representations for  
25 the show cause notice.

- 1 (3) The chief executive may—  
2 (a) if the proposed action stated in the show cause notice was to  
3 suspend the licence for a stated period—suspend the licence  
4 for not longer than the stated period; or  
5 (b) if the proposed action stated in the show cause notice was to  
6 cancel the licence—cancel the licence or suspend it for a  
7 period.
- 8 (4) The chief executive must immediately give written notice of the  
9 decision to the licensee.
- 10 (5) The decision takes effect—  
11 (a) on the day notice of the decision is given to the licensee; or  
12 (b) if a later day is stated in the notice—on that day.

13 **36 Immediate suspension**

- 14 (1) This section applies if the chief executive considers that a  
15 licensee—  
16 (a) has contravened or is contravening this Act; or  
17 (b) is likely, or is proposing, to engage in conduct that would  
18 contravene this Act.
- 19 (2) The chief executive may suspend the licensee's licence with  
20 immediate effect.
- 21 (3) The licence may be suspended for the period (not more than  
22 28 days) and on the conditions the chief executive decides.
- 23 (4) The chief executive must give the licensee written notice of the  
24 decision to suspend the licensee's licence within 3 days after the day  
25 the decision is made.

1 **37 Immediate cancellation**

2 A licensee's licence is cancelled immediately on the happening of  
3 any of the following events:

- 4 (a) the licensee is convicted or found guilty of a serious offence;  
5 (b) if the licensee is an individual—the licensee is affected by  
6 bankruptcy action;  
7 (c) if the licensee is a corporation—the licensee goes into  
8 liquidation.

9 **38 Return of licence if suspended or cancelled**

10 A person commits an offence if—

- 11 (a) the person's licence is suspended or cancelled; and  
12 (b) the person fails to return the licence to the chief executive  
13 within 14 days after the day the chief executive tells the person  
14 of the suspension or cancellation.

15 Maximum penalty: 100 penalty units.

16 **Division 2.8 Action after suspension or**  
17 **cancellation of licence**

18 **39 What happens to hemp plants and seed if licence**  
19 **suspended**

- 20 (1) This section applies if the chief executive suspends a licensee's  
21 licence under section 35 (Suspension and cancellation of licences)  
22 or section 36 (Immediate suspension).  
23 (2) While the licence is suspended, the licensee may, despite the  
24 suspension—  
25 (a) continue to possess the hemp plants and seed in the person's  
26 possession on the day the licence is suspended (the *suspension*  
27 *day*); and

- 1 (b) for hemp plants in the licensee's possession on the suspension  
2 day—
- 3 (i) do anything reasonably necessary to help the plants  
4 continue to grow; and
- 5 (ii) harvest the plants and any seed on the plants; and
- 6 (c) supply harvested hemp seed to a person lawfully entitled to  
7 possess the seed.
- 8 (3) Subsection (2) does not authorise the doing of anything not  
9 mentioned in that subsection in relation to hemp plants and seed in  
10 the licensee's possession on the suspension day.
- 11 (4) No compensation is payable by the Territory because of the  
12 suspension.

13 **40 What happens to hemp plants if licence cancelled**

- 14 (1) This section applies if—
- 15 (a) the chief executive cancels a licensee's licence under  
16 section 35 (Suspension and cancellation of licence) or  
17 section 37 (Immediate cancellation); and
- 18 (b) the licensee possesses hemp plants.
- 19 (2) If the hemp plants cannot be harvested, the chief executive may  
20 destroy the plants in the way the chief executive considers  
21 appropriate.

22 **Examples**

- 23 1 ploughing or burning plants that are too small to harvest  
24 2 burning plants that cannot be harvested because of flooding

25 *Note* An example is part of the Act, is not exhaustive and may extend, but  
26 does not limit, the meaning of the provision in which it appears (see  
27 Legislation Act, s 126 and s 132).

- 1 (3) However, if the hemp plants can be harvested, the chief executive  
2 may—
- 3 (a) harvest the plants and any seed on the plants; and
- 4 (b) for industrial hemp seed—
- 5 (i) denature the seed; or
- 6 (ii) supply processed hemp to a person who may lawfully  
7 possess it; and
- 8 (c) for class A or class B research hemp plant or seed—supply the  
9 harvested material to a person who may lawfully possess it.
- 10 (4) For this section, the chief executive may—
- 11 (a) enter and re-enter the place stated in the cancelled licence as  
12 often as is reasonable and necessary; and
- 13 (b) bring onto the place help, machinery and other equipment that  
14 is reasonable and necessary.
- 15 (5) For subsections (2) to (4)—
- 16 (a) the chief executive is taken to hold a licence identical to the  
17 cancelled licensee for the place stated in the cancelled licence;  
18 and
- 19 (b) hemp plants in the possession of the former licensee  
20 immediately before the cancellation are taken to be in the chief  
21 executive's possession and not the possession of the former  
22 licensee; and
- 23 (c) if—
- 24 (i) the cancelled licence was a category 1 or category 2  
25 researcher licence; and
- 26 (ii) under the cancelled licence, class A or class B research  
27 hemp plants are growing on land owned or leased by a

- 1 grower as part of a field trial conducted under the  
2 supervision of the grower or former licensee;
- 3 the class A or class B research hemp plants are taken to be in  
4 the chief executive's possession and not in the possession of  
5 the grower or former licensee.
- 6 (6) However, section 10 (1) (b) (What category 1 researcher licence  
7 authorises), section 11 (1) (b) (What category 2 researcher licence  
8 authorises) and section 12 (b) and (e) (What grower licence  
9 authorises) do not apply to the chief executive, other than to the  
10 extent necessary to allow the following plants to continue to grow  
11 until they can be destroyed or harvested:
- 12 (a) hemp plants already growing on land to which the cancelled  
13 licence relates;
- 14 (b) for land owned or leased by a grower for a former licensee—  
15 hemp plants growing on that land.
- 16 (7) No compensation is payable by the Territory because of the  
17 cancellation or because of the destruction of hemp plants or seed  
18 under this section.

19 **41 What happens to hemp seed if licence cancelled or**  
20 **renewal refused**

- 21 (1) This section applies if—
- 22 (a) the chief executive refuses to renew a licence under section 25  
23 (Chief executive may renew or refuse to renew licence) and the  
24 licensee possesses hemp seed, other than harvested material  
25 under section 40; or
- 26 (b) the chief executive cancels a licensee's licence under  
27 section 35 or section 37.
- 28 (2) The chief executive may—
- 29 (a) for industrial hemp seed—

- 
- 1 (i) denature the hemp seed; or  
2 (ii) supply the seed to a prescribed person to denature the  
3 seed at another place; or  
4 (iii) supply the seed to a category 1 or category 2 researcher or  
5 a grower; or  
6 (b) for class A research hemp seed—supply the seed to a  
7 category 1 researcher; or  
8 (c) for class B research hemp seed—supply the seed to a  
9 category 1 or category 2 researcher or a prescribed person; or  
10 (d) destroy the seed.  
11 (3) For subsection (2)—  
12 (a) the chief executive is taken to hold a licence identical to the  
13 cancelled licence for the place stated in the cancelled licence;  
14 and  
15 (b) hemp seed in the possession of the former licensee  
16 immediately before the cancellation are taken to be in the chief  
17 executive's possession and not the possession of the licensee;  
18 and  
19 (c) if—  
20 (i) the cancelled licence was a category 1 or category 2  
21 researcher licence; and  
22 (ii) under the cancelled licence, class A or class B research  
23 hemp seed is in the possession of a grower for use for  
24 growing class A or class B research hemp plants on land  
25 owned or leased by the grower as part of a field trial  
26 conducted under the supervision of a category 1 or  
27 category 2 researcher;

- 1 the class A or class B hemp seed is taken to be in the chief  
2 executive's possession and not in the possession of the grower  
3 or former licensee.
- 4 (4) For subsections (2) and (3), the chief executive may—
- 5 (a) enter and re-enter the place stated in the cancelled licence as  
6 often as is reasonable and necessary; and
- 7 (b) bring onto the place help, machinery and other equipment that  
8 is reasonable and necessary; and
- 9 (c) open anything in which the chief executive suspects, on  
10 reasonable grounds, hemp seed may be kept; and
- 11 (d) inspect anything opened under paragraph (c) and seize any  
12 hemp seed found.
- 13 (5) For subsection (4), the chief executive is taken to have the powers of  
14 an inspector who enters a place.
- 15 (6) No compensation is payable by the Territory because of the  
16 destruction of the seed.

17 **42 Cost recovery**

- 18 (1) The chief executive may recover the cost incurred by the chief  
19 executive under section 40 or section 41 as a debt payable to the  
20 Territory by the former licensee.
- 21 (2) For subsection (1), the chief executive may recover the costs from  
22 the proceeds of the sale of harvested material under section 40 or  
23 hemp seed under section 41.
- 24 (3) However, if the proceeds are more than the costs, the chief  
25 executive must pay any balance to the former licensee.
- 26 (4) Despite subsection (3), if before the proceeds are paid, the chief  
27 executive becomes aware that the proceeds may be subject to an  
28 application for forfeiture of tainted property under the *Confiscation*  
29 *of Criminal Assets Act 2003*, the chief executive must not pay the



1           proceeds to the former licensee unless no order for forfeiture is  
2           made under that Act.

3           (5) Also, if the chief executive becomes aware that the harvested  
4           material is subject to a lien under the *Instruments Act 1933* that has  
5           not been satisfied, the chief executive must pay any balance—

6           (a) first, in satisfaction of the lien; and

7           (b) then, to the former licensee.

1 **Part 3 Enforcement**

2 **Division 3.1 Definitions for pt 3**

3 **43 Definitions for pt 3**

4 In this part:

5 ***connected***—a thing is ***connected*** with a particular offence if—

- 6 (a) the offence has been committed in relation to it; or  
7 (b) it will provide evidence of the commission of the offence; or  
8 (c) it was used, is being used, or is intended to be used, to commit  
9 the offence.

10 ***occupier***, of premises, includes—

- 11 (a) a person believed, on reasonable grounds, to be an occupier of  
12 the premises; and  
13 (b) a person apparently in charge of the premises.

14 ***offence*** includes an offence that there are reasonable grounds for  
15 believing has been, is being, or will be, committed.

16 **Division 3.2 Inspectors**

17 **44 Appointment of inspectors**

18 The chief executive may appoint a public servant to be an inspector  
19 for this Act.

20 *Note 1* For the making of appointments (including acting appointments), see  
21 Legislation Act, pt 19.3.

22 *Note 2* In particular, a person may be appointed for a particular provision of a  
23 law (see Legislation Act, s 7 (3)) and an appointment may be made by  
24 naming a person or nominating the occupant of a position (see s 207).

- 1     **45           Identity cards**
- 2           (1) The chief executive must issue an inspector with an identity card
- 3           that states the person's name and appointment as an inspector, and
- 4           shows—
- 5               (a) a recent photograph of the person; and
- 6               (b) the date of issue of the card; and
- 7               (c) the date of expiry for the card; and
- 8               (d) anything else prescribed under the regulations.
- 9           (2) A person commits an offence if the person—
- 10               (a) ceases to be an inspector; and
- 11               (b) does not return the person's identity card to the chief executive
- 12               within 7 days after the day the person ceases to be an inspector.
- 13           Maximum penalty: 1 penalty unit.
- 14           (3) An offence against this section is a strict liability offence.

15     **Division 3.3           Powers of inspectors**

- 16     **46           Power to enter premises**
- 17           (1) For this Act, an inspector may—
- 18               (a) at any reasonable time, enter premises that the public is entitled
- 19               to use or that are open to the public (whether or not on
- 20               payment of money); or
- 21               (b) at any time, enter premises with the consent of a person in
- 22               charge of the premises; or
- 23               (c) enter premises under a search warrant; or
- 24               (d) at any time, enter premises if the inspector believes, on
- 25               reasonable grounds, that the circumstances are so serious and

1 urgency that immediate entry to the premises without the  
2 authority of a search warrant is necessary.

3 *Note* **Premises** includes any land, structure or vehicle and any part of an area  
4 of land, a structure or vehicle (see dict).

5 (2) An inspector may, without the occupier's consent, enter the land  
6 around premises to ask for consent to enter the premises.

7 (3) For subsection (1) (d), the inspector may enter the premises with  
8 any necessary assistance and force.

9 **47 Production of identity card**

10 An inspector must not remain on premises entered under this part if,  
11 when asked by the occupier, the inspector does not produce his or  
12 her identity card for inspection by the occupier.

13 **48 Consent to entry**

14 (1) When seeking the consent of an occupier to enter premises under  
15 this part, an inspector must—

16 (a) produce his or her identity card; and

17 (b) tell the occupier—

18 (i) the purpose of the entry; and

19 (ii) that anything found and seized under this part may be  
20 used in evidence in court; and

21 (iii) that consent may be refused.

22 (2) If the occupier consents, the inspector must ask the occupier to sign  
23 a written acknowledgment—

24 (a) that the occupier was told—

25 (i) the purpose of the entry; and

26 (ii) that anything found and seized under this part may be  
27 used in evidence in court; and

- 1                   (iii) that consent may be refused; and  
2                   (b) that the occupier consented to the entry; and  
3                   (c) stating the time, and date, when consent was given.  
4           (3) If the occupier signs an acknowledgment of consent, the inspector  
5           must immediately give a copy to the occupier.  
6           (4) A court must assume that an occupier of premises did not consent to  
7           an entry to the premises by an inspector under this part if—  
8           (a) the question whether the occupier consented to the entry arises  
9           in a proceeding in the court; and  
10           (b) an acknowledgment under this section is not produced in  
11           evidence for the entry; and  
12           (c) it is not proved that the occupier consented to the entry.

13   **49        Warrants**

- 14           (1) An inspector may apply to a magistrate for a warrant to enter  
15           premises.  
16           (2) The application must be sworn and state the grounds on which the  
17           warrant is sought.  
18           (3) The magistrate may refuse to consider the application until the  
19           inspector gives the magistrate the information the magistrate  
20           requires about the application in the way the magistrate requires.  
21           (4) The magistrate may issue a warrant only if satisfied there are  
22           reasonable grounds for suspecting—  
23           (a) there is a particular thing or activity connected with an offence  
24           against this Act or the Drugs of Dependence Act; and  
25           (b) the thing or activity is at the premises, or may be at the  
26           premises within the next 14 days.

- 1 (5) The warrant must state—  
2 (a) that an inspector may, with any necessary assistance and force,  
3 enter the premises and exercise the inspector's powers under  
4 this part; and  
5 (b) the offence for which the warrant is sought; and  
6 (c) the evidence that may be seized under the warrant; and  
7 (d) the hours when the premises may be entered; and  
8 (e) the date, within 14 days after the day of the warrant's issue, the  
9 warrant ends.

10 **50 Warrants—application made other than in person**

- 11 (1) An inspector may apply for a warrant by phone, fax, radio or other  
12 form of communication if the inspector considers it necessary  
13 because of—  
14 (a) urgent circumstances; or  
15 (b) other special circumstances.  
16 (2) Before applying for the warrant, the inspector must prepare an  
17 application stating the grounds on which the warrant is sought.  
18 (3) The inspector may apply for the warrant before the application is  
19 sworn.  
20 (4) After issuing the warrant, the magistrate must immediately fax a  
21 copy to the inspector if it is practicable to do so.  
22 (5) If it is not practicable to fax a copy to the inspector—  
23 (a) the magistrate must—  
24 (i) tell the inspector the terms of the warrant; and  
25 (ii) tell the inspector the date and time the warrant was  
26 issued; and

- 1 (b) the inspector must complete a form of warrant (the *warrant*  
2 *form*) and write on it—
- 3 (i) the magistrate's name; and
- 4 (ii) the date and time the magistrate issued the warrant; and
- 5 (iii) the warrant's terms.
- 6 (6) The faxed copy of the warrant, or the warrant form properly  
7 completed by the inspector, authorises the entry and the exercise of  
8 the inspector's powers under this part.
- 9 (7) The inspector must, at the first reasonable opportunity, send to the  
10 magistrate—
- 11 (a) the sworn application; and
- 12 (b) if the inspector completed a warrant form—the completed  
13 warrant form.
- 14 (8) On receiving the documents, the magistrate must attach them to the  
15 warrant.
- 16 (9) A court must assume that a power exercised by an inspector was not  
17 authorised by a warrant under this section if—
- 18 (a) the question arises in a proceeding before the court whether the  
19 exercise of power was authorised by a warrant; and
- 20 (b) the warrant is not produced in evidence; and
- 21 (c) it is not proved that the exercise of power was authorised by a  
22 warrant under this section.

- 1     **51           General powers on entry to premises**
- 2           (1) An inspector who enters premises under this part may, for this Act,  
3           do any of the following in relation to the premises or anything on  
4           the premises:
- 5               (a) inspect or examine;
- 6               (b) take measurements or conduct tests;
- 7               (c) take samples of or from anything on the premises;
- 8               (d) take photographs, films, or audio, video or other recordings;
- 9               (e) subject to section 53 (Power to seize things), seize a thing;
- 10              (f) require the occupier, or a person on the premises, to give the  
11              inspector reasonable help to exercise a power under this part.
- 12           (2) A person commits an offence if the person engages in conduct that  
13           contravenes a requirement under subsection (1) (f).
- 14           Maximum penalty: 50 penalty units.
- 15           *Note*     The Legislation Act, s 170 and s 171 deal with the application of the  
16           privilege against selfincrimination and client legal privilege.
- 17     **52           Power to require name and address**
- 18           (1) An inspector may require a person to state the person's name and  
19           address if the inspector—
- 20               (a) finds the person committing an offence against this Act or the  
21               Drugs of Dependence Act; or
- 22               (b) has reasonable grounds for believing that the person has just  
23               committed an offence against this Act or the Drugs of  
24               Dependence Act.
- 25           (2) If an inspector makes a requirement of a person under  
26           subsection (1), the inspector must—
- 27               (a) tell the person the reasons for the requirement; and



- 1 (b) as soon as practicable, record those reasons.
- 2 (3) A person commits an offence if the person contravenes a  
3 requirement under subsection (1).
- 4 Maximum penalty: 5 penalty units.
- 5 (4) However, a person is not required to comply with a requirement  
6 under subsection (1) if, when asked by the person, the inspector  
7 does not produce his or her identity card for inspection by the  
8 person.
- 9 (5) An offence against this section is a strict liability offence.

10 **53 Power to seize things**

- 11 (1) An inspector who enters premises under a warrant under this part  
12 may seize the evidence for which the warrant was issued.
- 13 (2) An inspector who enters premises under this part with the occupier's  
14 consent may seize a thing on the premises if—
- 15 (a) the inspector is satisfied, on reasonable grounds, that the thing  
16 is connected with an offence against this Act; and
- 17 (b) seizure of the thing is consistent with the purpose of the entry  
18 as told to the occupier when seeking the occupier's consent.
- 19 (3) An inspector may also seize anything on premises entered under this  
20 part if satisfied on reasonable grounds that—
- 21 (a) the thing is connected with an offence against this Act; and  
22 (b) the seizure is necessary to prevent the thing from being—
- 23 (i) concealed, lost or destroyed; or  
24 (ii) used to commit, continue or repeat the offence.
- 25 (4) Having seized a thing, an inspector may—
- 26 (a) remove the thing from the premises where it was seized; or

1 (b) leave the thing at the premises where it was seized but restrict  
2 access to it.

3 (5) A person commits an offence if the person intentionally interferes  
4 with a thing to which access has been restricted under  
5 subsection (4) (b).

6 Maximum penalty: 50 penalty units.

7 (6) Subsection (5) does not apply if the Minister approved the  
8 interference.

9 **54 Receipt for things seized**

10 (1) As soon as practicable after a thing is seized by an inspector under  
11 this part, the inspector must give a receipt for it to the occupier of  
12 the premises where it was seized.

13 (2) If, for any reason, it is not practicable to comply with subsection (1),  
14 the inspector must leave the receipt, secured conspicuously at the  
15 place of seizure.

16 **55 Access to things seized**

17 A person who would, apart from the seizure of a thing under this  
18 part, be entitled to the thing may—

19 (a) inspect it; and

20 (b) if it is a document—take extracts from it or make copies of it.

21 **56 Return of things seized**

22 (1) A thing seized under this part must be returned to its owner, or  
23 reasonable compensation must be paid to the owner by the Territory  
24 for the loss of the thing, if—

25 (a) a prosecution for an offence relating to the thing is not begun  
26 within 90 days after the day of the seizure; or

- 1 (b) if a prosecution is begun within the 90 days—the court does  
2 not find the offence proved.
- 3 (2) A thing seized under this part is forfeited to the Territory if a  
4 court—
- 5 (a) finds an offence relating to the thing to be proved; and  
6 (b) orders the forfeiture.
- 7 (3) If subsection (2) (a) applies, but the court does not order the  
8 forfeiture of the thing seized, the chief executive must return the  
9 thing to its owner or the Territory must pay reasonable  
10 compensation to the owner for the loss of the thing.
- 11 (4) For subsections (1) and (3), if the thing seized was a fruit, vegetable  
12 or other plant that has deteriorated or perished since it was seized,  
13 the owner is entitled to reasonable compensation for the  
14 deterioration or loss.

1 **Part 4 Review of decisions**

2 **57 Notice of reviewable decisions**

- 3 (1) If the chief executive makes a reviewable decision, the chief  
4 executive must give written notice of the decision to each person  
5 entitled to apply for review of the decision.
- 6 (2) The notice must comply with the requirements of the code of  
7 practice in force under the *Administrative Appeals Tribunal Act*  
8 *1989*, section 25B (1).
- 9 (3) In particular, the notice must tell the person—
- 10 (a) that the person may apply to the administrative appeals tribunal  
11 for review of the decision, and how the application must be  
12 made; and
- 13 (b) about the options available under other Territory laws to have  
14 the decision reviewed by a court or the ombudsman.

15 **58 Review of decisions by AAT**

- 16 (1) Application may be made to the administrative appeals tribunal for  
17 review of the following decisions (a *reviewable decision*) of the  
18 chief executive:
- 19 (a) to refuse to issue a licence under section 21 (1);
- 20 (b) to refuse to renew a licence under section 25 (1);
- 21 (c) to amend or refuse to amend a licence on application by the  
22 licensee under section 28 (1) (a);
- 23 (d) to suspend or cancel a licence under section 35 (1);
- 24 (e) to immediately suspend a licence under section 36 (2);
- 25 (f) to immediately cancel a licence under section 37.

- 1           (2) Application for review of a decision mentioned in subsection (1) (a),  
2           (b) or (c) may be made by the applicant for the licence, renewal or  
3           amendment.
- 4           (3) Application for review of a decision mentioned in subsection (1) (d),  
5           (e) or (f) may be made by the licensee whose licence is suspended or  
6           cancelled.

1 **Part 5** **Miscellaneous**

2 *Note* Regulations about infringement notices may be made under the  
3 *Magistrates Court Act 1930* for offences against this Act.

4 **59 Evidentiary certificates**

5 (1) In a proceeding under this Act, a certificate signed by the chief  
6 executive stating any of the following matters is evidence of that  
7 matter:

8 (a) that, on a stated day or during a stated period, a person was, or  
9 was not, the holder of a stated licence;

10 (b) that, on a stated day or during a stated period, a person's  
11 licence was, or was not, suspended.

12 (2) A document purporting to be a certificate under subsection (1) is  
13 taken, unless the contrary is proved, to be such a certificate and to  
14 be evidence of the matters it states.

15 **60 Determination of fees**

16 (1) The Minister may, in writing, determine fees for this Act.

17 *Note* The Legislation Act contains provisions about the making of  
18 determinations and regulations relating to fees (see pt 6.3).

19 (2) A determination is a disallowable instrument.

20 *Note* A disallowable instrument must be notified, and presented to the  
21 Legislative Assembly, under the Legislation Act.

1   **61**       **Approved forms**

- 2           (1) The Minister may, in writing, approve forms for this Act.
- 3           (2) If the Minister approves a form for a particular purpose, the
- 4           approved form must be used for that purpose.

5           *Note*     For other provisions about forms, see Legislation Act, s 255.

- 6           (3) An approved form is a notifiable instrument.

7           *Note*     A notifiable instrument must be notified under the Legislation Act.

8   **62**       **Regulation-making power**

- 9           (1) The Executive may make regulations for this Act.
- 10          *Note*     Regulations must be notified, and presented to the Legislative
- 11          Assembly, under the Legislation Act.
- 12          (2) The regulations may make provision in relation to—
- 13           (a) applications for licences; and
- 14           (b) renewals of licences; and
- 15           (c) the surrender of licences; and
- 16           (d) the keeping of accounts and other records by licensees.
- 17          (3) The regulations may prescribe offences for contraventions of the
- 18          regulations and prescribe maximum penalties of not more than
- 19          20 penalty units for offences against the regulations.

1 **Part 6** **Consequential amendments—**  
2 **Drugs of Dependence Act 1989**

3 **63 New section 162 (6)**

4 insert

- 5 (6) This section does not apply to the cultivation of cannabis in  
6 accordance with a researcher licence or grower licence under the  
7 *Hemp Fibre Industry Facilitation Act 2004*.

8 **64 New section 165 (2A)**

9 *insert*

- 10 (2A) Subsection (1) also does not apply to the sale, supply or possession  
11 of cannabis in accordance with a researcher licence or grower  
12 licence under the *Hemp Fibre Industry Facilitation Act 2004*.

13 **65 Section 165**

14 *renumber subsections when Act next republished under Legislation*  
15 *Act*

16 **66 New section 171 (4) (da)**

17 *insert*

- 18 (da) a person who possesses cannabis in accordance with a  
19 researcher licence or grower licence under the *Hemp Fibre*  
20 *Industry Facilitation Act 2004*.

21 **67 Section 171 (4)**

22 *renumber paragraphs when Act next republished under Legislation*  
23 *Act*



# Dictionary

(see s 3)

*Note 1* The Legislation Act contains definitions and other provisions relevant to this Act.

*Note 2* In particular, the Legislation Act, dict, pt 1, defines the following terms:

- appoint
- exercise
- function.

***accepted representation***—see section 33.

***affected by bankruptcy action***—an individual is ***affected by bankruptcy action*** if the person—

- (a) is bankrupt; or
- (b) has compounded with creditors; or
- (c) has otherwise taken, or applied to take, advantage of any law about bankruptcy.

***business*** includes—

- (a) a business not carried on for profit; and
- (b) a trade or profession.

***category 1 researcher*** means a person who holds a category 1 researcher licence that is in force.

***category 2 researcher*** means a person who holds a category 2 researcher licence that is in force.

***certified hemp seed*** means seed certified, in the way prescribed under the regulations, by any of the following as seed that will produce hemp plants with a THC concentration in their leaves and flowering heads of not more than 0.5%:

- (a) a grower;

- 1 (b) a category 1 or category 2 researcher.
- 2 ***class A research hemp plant*** means a hemp plant that has a THC  
3 concentration in its leaves and flowering heads of 3% or more.
- 4 ***class A research hemp seed*** means—
- 5 (a) seed harvested from a class A research hemp plant; or  
6 (b) seed that, if grown, will produce a class A research hemp plant.
- 7 ***class B research hemp plant*** means a hemp plant that has a THC  
8 concentration in its leaves and flowering heads of more than 1% but  
9 less than 3%.
- 10 ***class B research hemp seed*** means—
- 11 (a) seed harvested from a class B research hemp plant; or  
12 (b) seed that, if grown, will produce a class B research hemp plant.
- 13 ***close associate***, for part 2 (Licences)—see section 8.
- 14 ***connected***, for part 3 (Enforcement)—see section 43.
- 15 ***criminal history report***—see section 19 (2).
- 16 ***denatured***, for seed harvested from industrial hemp plants, means  
17 that the seed will not grow because it has been cracked, de-hulled,  
18 heated, or treated in another way that prevents growth.
- 19 ***Drugs of Dependence Act*** means the *Drugs of Dependence*  
20 *Act 1989*.
- 21 ***engage in conduct*** means—
- 22 (a) do an act; or  
23 (b) omit to do an act.
- 24 ***executive officer***, of a corporation, means anyone, by whatever  
25 name called and whether or not the person is a director of the  
26 corporation, who is concerned with, or takes part in, the  
27 corporation's management.

- 1           **grower** means a person who holds a grower licence that is in force.
- 2           **hemp** means cannabis sativa.
- 3           **industrial hemp fibre** means fibre from industrial hemp plants.
- 4           **industrial hemp plant** means a hemp plant with a THC  
5 concentration in its leaves and flowering heads of not more than 1%.
- 6           **industrial hemp seed** means—
- 7           (a) hemp seed harvested from an industrial hemp plant; or
- 8           (b) certified hemp seed.
- 9           **inspector** means a person appointed under this Act as an inspector.
- 10          **licence** means a licence issued under this Act.
- 11          **licensee** means the holder of a licence that is in force.
- 12          **occupier**, of premises, for part 3 (Enforcement)—see section 43.
- 13          **offence**, for part 3 (Enforcement)—see section 43.
- 14          **premises** includes land or a structure or vehicle and any part of an  
15 area of land or a structure or vehicle.
- 16          **processed hemp** means—
- 17          (a) industrial hemp plants that—
- 18               (i) have been harvested or chemically or mechanically  
19               treated or artificially treated in another way; and
- 20               (ii) have no leaf, flowers or seed; or
- 21          (b) seed from industrial hemp plants grown by a holder of a  
22 grower licence and denatured at the place stated in the growers  
23 licence.
- 24          **proposed action**—see section 32 (2) (a).
- 25          **reviewable decision**, for part 4 (Review of decisions)—see  
26 section 58 (1).

- 1            ***serious offence*** means—
- 2            (a) any of the following offences, whether or not prosecuted on
- 3            indictment:
- 4            (i) an offence involving fraud or dishonesty punishable by
- 5            imprisonment for 3 years or longer;
- 6            (ii) a prescribed offence;
- 7            (iii) an offence involving the use or threatened use of violence
- 8            punishable imprisonment for 3 years or longer; or
- 9            (b) extortion; or
- 10           (c) an offence that, if committed in the ACT, would be a serious
- 11           offence under paragraph (a), (b) or (c).
- 12           ***show cause notice***—see section 32 (2).
- 13           ***show cause period***—see section 32 (2).
- 14           ***THC*** means tetrahydrocannabinol.

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## Endnotes

- 1        Presentation speech**  
Presentation speech made in the Legislative Assembly on        2004.
- 2        Notification**  
Notified under the Legislation Act on                                2004.
- 3        Republications of amended laws**  
For the latest republication of amended laws, see [www.legislation.act.gov.au](http://www.legislation.act.gov.au).
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