



New South Wales

# Hemp Industry Bill 2008

## Explanatory note

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

## Overview of Bill

The object of this Bill is to enable low-THC hemp to be cultivated and supplied for commercial production and other legitimate purposes in accordance with a licensing scheme to be administered by the Director-General of the Department of Primary Industries. The proposed Act defines *low-THC hemp* as cannabis that has a concentration of tetrahydrocannabinol of no more than 1%.

The Bill also provides that the possession, cultivation or supply of low-THC hemp in accordance with a licence under the proposed Act will not constitute an offence under the *Drug Misuse and Trafficking Act 1985*.

## Outline of provisions

### Part 1 Preliminary

Part 1 (**clauses 1–4**) contains provisions relating to the name and commencement of the proposed Act and its interpretation.

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## **Part 2 Licensing scheme**

Part 2 (**clauses 5–16**) contains provisions for the licensing scheme for cultivating or supplying low-THC hemp. The licensing scheme will operate essentially as an exemption from the *Drug Misuse and Trafficking Act 1985* as that Act would otherwise prohibit the cultivation or supply of low-THC hemp. The proposed Act makes it an offence if the licensee cultivates or supplies low-THC hemp otherwise than for the purpose for which the licence is granted or if the licensee contravenes the conditions of the licence.

An application for a licence must be accompanied by a fee approved by the Director-General and the information and particulars required by the regulations. The Director-General will have the power to investigate an application and will be required to conduct a criminal record check of the applicant and the applicant's close associates. The Director-General must be satisfied that the applicant and each close associate is a suitable person to be concerned in (or associated with) the cultivation or supply of low-THC hemp. A licence must not be granted if the applicant or a close associate has been found guilty of a drug related offence. The Director-General may also refuse to grant a licence on certain other grounds.

The Director-General's decision in relation to a licence application is final and not subject to review. If a licence is issued, it continues in force for 5 years (although a shorter period may be specified in the licence). Conditions may be imposed by the Director-General on a licence (in addition to any conditions imposed by the proposed Act or by the regulations). Licences may, on application, be renewed or transferred and these applications will be treated as if they were initial licence applications. The Part also contains provisions relating to the suspension and revocation of licences.

## **Part 3 Investigation and enforcement powers**

Part 3 (**clauses 17–34**) contains provisions relating to the powers of inspectors (who are appointed by the Director-General) and police officers to carry out investigations, and to enter and search premises, for such purposes as determining whether there has been a contravention of the proposed Act or whether a licensee is cultivating or supplying any cannabis that is not low-THC hemp. The Part contains standard provisions relating to the identification of inspectors and the issuing of search warrants. Inspectors and police officers will have the power to require the giving of information or records, and may give directions, regardless of whether they are exercising their powers of entry under the proposed Act.

## **Part 4 Miscellaneous**

Part 4 (**clauses 35–50**) contains miscellaneous provisions that are mainly of an administrative nature (including the general regulation-making power and providing for a review of the Act in 5 years). Provision is also included for the forfeiture to the Crown of low-THC hemp that is connected with an offence under the proposed Act. The Director-General will be able to order the destruction of any forfeited low-THC

hemp, but may also authorise any person to continue to cultivate or supply any forfeited hemp.

The Director-General will be able to enter into arrangements with other agencies for the supply of information to assist in the administration of the proposed Act. Provision is also made for certain decisions of the Director-General to be reviewable by the ADT. The Director-General will also be able to delegate his or her functions under the proposed Act.

**Schedule 1** contains savings and transitional provisions consequent on the enactment of the proposed Act. In particular, existing authorities granted by the Director-General of the Department of Health under the *Drug Misuse and Trafficking Act 1985* in relation to the cultivation or supply of industrial hemp will be carried over as licences under the proposed Act.

**Schedule 2** amends the Acts specified in the Schedule. In particular, the *Drug Misuse and Trafficking Act 1985* is amended so that it will not be an offence under that Act to possess, cultivate, manufacture, produce or supply low-THC hemp under the authority conferred by the proposed Act.