

## Submission to Inquiry

### Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023

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1. I make this submission in my personal capacity, as a lawyer of 31 years' experience and partner at Reparation Legal, and as an expert in public policy and research, but not as an employee of my university.
2. A recent report by the Penington Institute found that:<sup>1</sup>
  - a. The size of the illegal retail cannabis market in Australia is around \$5BN. Victoria has just under 26% of Australia's population. This means that the size of the illegal cannabis market in Australia is likely to be over \$1BN annually.
  - b. A substantial share of the revenue in this illegal market is being made by organised crime.
  - c. The Australian Institute of Criminology has found that about 22% of organised crime groups are involved in the illegal cannabis market.
  - d. More than \$2BN is spent on law enforcement against cannabis each year. Again, assuming population percentages are relevant, this represents about \$500M for Victoria.
  - e. Nearly half the drug-related arrests in Australia are for cannabis.
  - f. In Victoria, use and possession charges account for almost 85% of the 8942 cannabis-related drug offences in the last annual reporting period. Arrests take place in low SES areas.
3. The Penington Institute has found that data from the National Drug Strategy Household Survey indicates that the criminalised cannabis model is seen as neither effective nor appropriate.<sup>2</sup>
4. The *Drugs, Poisons and Controlled Substances Amendment (Regulation of Personal Adult Use of Cannabis) Bill 2023* (hence, "the Bill") purports to decriminalise:
  - a. Growing of six cannabis plants per household, for personal use by adults;
  - b. Refining, mixing, processing, treating or preparing cannabis, for personal use by adults;
  - c. Possession of small quantities of cannabis and THC, including seeds, for personal use by adults;
  - d. Personal use of cannabis and THC by adults in places that are not public places;
  - e. Supply but not sale of small quantities of cannabis by adults to other adults, for their personal use;

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<sup>1</sup> Penington Institute, *Cannabis in Australia 2024*, p 3.

<sup>2</sup> John Ryan, Penington Institute, *Cannabis in Australia 2024*, p 3.

- f. Possession of substances, materials or information relating to the preparation, cultivation or manufacture, but not trafficking, of cannabis or THC, for personal use by adults;
  - g. Publication of documents relating to the activities listed in the previous sub-paragraph;
  - h. Allowing people to use your land or premises to grow cannabis plants, for personal use by adults.
5. The Bill is similar to the legislation that applies in the Australian Capital Territory which decriminalises home growing and adult personal use of cannabis. The ACT legislation seems to have operated very well, and without adverse impacts.
6. The Bill advances reforms that will reduce the size of the illegal market<sup>3</sup> for cannabis:
- a. By raising the number of plants from four (as in the ACT) to six plants, once home growers source varieties that are suitable for their needs, they will have enough plants to be able to supply their needs. Home growing and use will certainly reduce and may well eliminate the illegal market for cannabis. It will also ensure product quality, which cannot be guaranteed in the current, illegal market.
  - b. By enabling people to have access to seeds and to be able to share seeds, people will be able to ensure product quality. This addresses a shortcoming of the ACT law (seeds remain illegal there, which is silly, given that you cannot grow a plant without a seed).
  - c. Cannabis use in the home by adults should not be a criminal offence, but a choice available to adults.
  - d. Decriminalising giving of small quantities of cannabis between home growers and is very likely to reduce the size of the *illegal* market for cannabis. Why would people *buy* cannabis when they do not have to? Sale is still illegal.
  - e. People use substances, materials, information and documents when they use cannabis at home. Allowing people to have these things is a sensible reform that does not affect the criminal law applying to trafficking.
  - f. Some people may have no interest in growing cannabis, but would not mind if a friend or a family member want to grow cannabis in their home. The Bill allows this activity and is a sensible reform. It also decriminalises local, home use or supply of cannabis, placing downward pressure on the size of the illegal market.

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<sup>3</sup> “NDSHS data also show that millions of Australians continue to use cannabis, and at least 42 percent of adults have used it in their lifetime. The billions of dollars spent on law enforcement are not deterring people from using – and certainly not the criminals who reap the gains of the \$5 billion illicit market. Cannabis is widely available, cheap, and viewed as relatively benign”, *ibid.* See also the material at pages 21-22 of that Report.

7. Cannabis is readily available in Victoria. Prohibition, the current policy setting, has plainly been ineffective as a deterrent.
8. Even though prohibition has not stopped people from trying or using cannabis, cannabis possession is a common first step for many people into the criminal justice system.
9. A significant percentage of people in prison are there for cannabis use, possession and growing offences. Decriminalisation of use, possession and home growing will place downward pressure on prison numbers.
10. Before people arrive in prison, they have been arrested, charged, processed by the courts and sentenced. These are time-consuming and costly activities. The money applied to this task would be better spent on other matters, such as protecting women from family violence.
11. Many studies have confirmed that decriminalisation of cannabis use does not increase cannabis consumption. On the other hand, the significant public savings associated with removal of the need for cannabis policing, cannabis-related court activity, and cannabis-related corrections, frees up significant funds for other purposes including, if deemed appropriate, harm minimisation efforts that are currently unfunded or underfunded.
12. The Bill in its current form is a 12-month trial. Assuming passage of the Bill, steps should be taken to advise citizens of the State that this trial may end (if further legislation is not passed to extend the trial).