



another adult. This submission will explore the provisions of the Bill as well as examples of cannabis decriminalisation models in other jurisdictions, particularly the Australian Capital Territory (ACT).

In summary, the ADF makes the following recommendations:

1. The Bill is amended to include provisions regarding safety and storage to ensure that cannabis products are not accessible to people under 18, in line with the ACT legislation.
2. The Bill is amended to remove criminal penalties for personal cannabis use and possession by people who are under 18.

### **Cannabis regulation in Victoria**

In the last few decades there have been global shifts away from criminalisation towards alternative approaches to regulating cannabis. In Australia, the ACT, South Australia, and the Northern Territory have all decriminalised the personal possession of cannabis (up to a certain threshold), meaning that individuals generally face a fine or a health referral when detected in possession, rather than a criminal sanction. Additionally, in the ACT an individual or household are able to grow two or four cannabis plants for personal use respectively, though use of cannabis in public was made a criminal offence.<sup>4</sup> Some international jurisdictions have gone further, with many US states, Canada, Uruguay, Germany and Spain introducing legal, regulated cannabis markets.

Conclusive evidence concerning the outcomes of specific models of cannabis regulation is still emerging. Many jurisdictions have adopted commercialised models, where for-profit businesses are involved in the production, distribution, and retail of cannabis products. As a result, much of the research that directly examines the health outcomes of the legalisation of cannabis concerns these models. Commercialised models may put public health outcomes in conflict with profit incentives for businesses.<sup>5</sup> Commercial models tend to see greater variation in product types available, many of which are associated with increased harms due to higher potency (e.g. dabs, shatter, concentrates, oils etc.), or accidental poisonings when in the form of edibles (e.g. lollies with THC content).<sup>5-7</sup> Additionally, commercialised models tend to see prices decrease as markets mature, something that is also associated with further harm.<sup>8,9</sup>

International evidence suggests that allowing home growing of cannabis can assist in the transition away from an illicit market by offering a low-cost option to access cannabis and providing supply while a regulated supply develops.<sup>10</sup> The ADF supports the Bill's removal of criminal penalties of personal use and possession of cannabis and supports the introduction of the home-growing and gifting model of cannabis regulation for people who are over 18 in Victoria. While there is a lack of conclusive evidence to determine which model of cannabis regulation is most likely to promote positive public health outcomes, the ADF does not support a highly commercialised model of cannabis regulation and notes the need for regulation to limit evidence-based commercial drivers of harm.

### **Response to provisions in the Bill**

The ADF notes that the production, sale, possession and use of cannabis for non-medical purposes is prohibited by Commonwealth law. While the enforcement of cannabis-related offences are the responsibility of States and Territories, this raises concerns that a person in Victoria under this proposed framework could still be charged with cannabis offences under the Commonwealth laws. This issue was also raised in the context of the ACT legislation, with media reports suggesting that the federal government would seek to override the territory legislation through police enforcement.<sup>11</sup>

Similarly, the ADF is supportive of the Bill including cannabis seeds in its definition of cannabis and having specific provisions that enable possession of tools and materials for home growing of cannabis. However, regulation of cannabis seeds falls under federal jurisdiction, which prohibits sale and possession of cannabis seeds without a medicinal cannabis licence. Individuals wishing to grow cannabis would therefore be required to already be in possession of cannabis seeds or obtain them from someone *gratis*. These issues highlight the need for a nationally consistent approach to cannabis regulation, to avoid confusion and ensure that the purpose of such legislative change (i.e. to reduce engagement with the criminal justice system and disrupt the black market) is upheld.

The ADF is concerned that section 69ZE, which authorises an owner or occupier of land or premises to permit another person to use that land or premises to cultivate cannabis plants, may cause barriers for people who wish to grow cannabis but are not the owner of their principal place of residence. Given the significant stigma associated with drug use, including cannabis, tenants of residential rental properties may be reluctant to seek permission from landlords to grow cannabis on the premises. Moreover, this requirement is likely to be difficult to enforce given the low likelihood of detection.

The Bill could be improved by including provisions regarding safety and storage, in line with the ACT legislation. As mentioned above, requirements which are unenforceable will lead to a situation where regulations are ignored. However, a sensible set of restrictions on home growing practices that are clearly identifiable with their stated public health purpose are encouraged. For example, this could include provisions that ensure that plants are not accessible to the public or to minors.

Finally, the ADF does not support the criminalisation of cannabis possession and use by people who are under 18. Criminalisation is associated with significant negative impacts on mental health as well as social and environmental conditions of people who use drugs.<sup>12-16</sup> While the ADF is supportive of the home growing and gifting model of cannabis regulation being limited to people who are over 18 years old, we recommend that the Bill includes amendments which removes criminal penalties for the personal use and possession of cannabis for all community members, including people under 18.

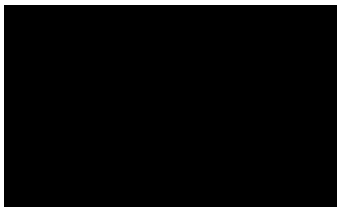
### **Cannabis regulation in the ACT**

Legislative changes introduced in 2020 in the ACT allow an individual or household to grow two or four cannabis plants respectively for personal use, though use of cannabis in public was made a criminal offence.<sup>4</sup> Under the ACT legislation, growing cannabis plants through artificial cultivation is prohibited, and people who possess cannabis are required to ensure that people under 18 years are not able to access it.

A recent review of the ACT legislation found that there has been no significant change in cannabis use prevalence, with people from Canberra continuing to be less likely to have recently used cannabis compared to the national average (8.7% in the ACT compared to 11.5% nationally).<sup>1</sup> Ambulance or hospital admissions related to cannabis have remained stable since the introduction of the legislation, and evidence also suggests that the price and availability of cannabis has also remained the same.<sup>17</sup> Importantly, charges for cannabis offences have also declined and there has been no increase in charges for trafficking offences.<sup>17</sup> This is a core outcome of decriminalisation, as interactions with the justice system incurs a significant cost to governments and the community, impacting on police, courts, and correctional services. This allows for police time and resources to be allocated to other issues.

The ADF is grateful for the opportunity to contribute to the inquiry into this Bill. Please do not hesitate to contact us about any aspect of this submission.

Sincerely,



**Skye Mackay**  
State Manager VIC/TAS

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