



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

2016–2017–2018–2019

MINUTES OF PROCEEDINGS

No 115

WEDNESDAY, 25 SEPTEMBER 2019

- 1 The Assembly met at 10 am, pursuant to adjournment. A quorum of Members not being present, the Speaker (Ms J. Burch) ordered the bells to be rung. A quorum having been formed, the Speaker took the Chair and made a formal recognition that the Assembly was meeting on the lands of the traditional custodians. The Speaker asked Members to stand in silence and pray or reflect on their responsibilities to the people of the Australian Capital Territory.

2 **DRUGS OF DEPENDENCE (PERSONAL CANNABIS USE) AMENDMENT BILL 2018**

The order of the day having been read for the resumption of the debate on the question—That this Bill be agreed to in principle—

Debate resumed.

Mr Hanson, who had already spoken, by leave, again addressed the Assembly.

Ms Le Couteur, who had already spoken, by leave, again addressed the Assembly.

Debate continued.

Question—That this Bill be agreed to in principle—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Petterson	Mr Coe	Mr Wall
Ms J. Burch	Mr Rattenbury	Mr Hanson	
Ms Cheyne	Mr Steel	Mrs Jones	
Mr Gupta	Ms Stephen-Smith	Mrs Kikkert	
Ms Le Couteur		Ms Lawder	
Ms Orr		Mr Milligan	

And so it was resolved in the affirmative.



Detail Stage

Clause 1 agreed to.

Mr Rattenbury was granted leave to move amendments that had not been considered or reported on by the Scrutiny Committee.

Paper: Mr Rattenbury, by leave, presented a supplementary explanatory statement to his amendments.

Clause 2—

On the motion of Mr Rattenbury, his amendment No 1 (see [Schedule 2](#)) was made, after debate.

Clause 2, as amended, agreed to.

Clause 3 agreed to.

Clause 4—

On the motion of Mr Barr (Chief Minister), by leave, his amendments Nos 2 and 3 (see [Schedule 1](#)) were made together, after debate.

Paper: Mr Barr presented a supplementary explanatory statement to the Government amendments.

Clause 4, as amended, agreed to.

Proposed new clause—

Mr Rattenbury moved his amendment No 2 (see [Schedule 2](#)), which would insert a new clause 4A in the Bill.

Debate continued.

Amendment negatived.

Clause 5—

On the motion of Mr Barr, his amendment No 4 (see [Schedule 1](#)) was made, after debate.

Mr Rattenbury moved his amendment No 3 (see [Schedule 2](#)).

Debate continued.

Question—put.

The Assembly voted—

AYES, 2

Ms Le Couteur
Mr Rattenbury

NOES, 15

Mr Barr	Ms Lawder
Ms J. Burch	Mr Milligan
Ms Cheyne	Ms Orr
Mr Coe	Mr Pettersson
Mr Gupta	Mr Steel
Mr Hanson	Ms Stephen-Smith
Mrs Jones	Mr Wall
Mrs Kikkert	

And so it was negatived.

Clause 5, as amended, agreed to.

Clause 6—

Debate adjourned (Ms Cheyne) and the resumption of the debate made an order of the day for a later hour this day.

3 PRESENCE OF AUSLAN INTERPRETER ON FLOOR OF THE CHAMBER

Pursuant to standing order 210, an Auslan interpreter was present on the floor of the Chamber during the consideration of notice No 1, Private Members' business.

4 DEAF AND DEAFBLIND COMMUNITY—MENTAL HEALTH SERVICES

Ms Lawder, pursuant to notice, moved—That this Assembly:

- (1) notes that:
 - (a) in the past (up to about 12 months ago), a contracted psychologist visited the ACT to work with deaf and deafblind ACT residents;
 - (b) members of the deaf and deafblind community attended this clinic primarily because the psychologist is fluent in Auslan and understands deaf and deafblind people and their mental health issues;
 - (c) the doctor had a significant client base here in Canberra and was greatly appreciated by all;
 - (d) due to some disagreement with ACT Health, the doctor no longer sees deaf and deafblind patients in Canberra and many of her patients cannot travel to Wollongong to attend her practice there;
 - (e) for over 12 months now the deaf and deafblind community have not had access to face-to-face, one-on-one mental health services;
 - (f) the lack of Auslan interpreters in the ACT, especially available at short notice for a crisis mental health incident, exacerbates the problem; and
 - (g) the general mental health of our deaf and deafblind community arguably in the ACT is at the moment at an all-time low and requires urgent investment; and
- (2) calls on the ACT Government to:
 - (a) immediately provide appropriate mental health services for deaf and deafblind ACT residents, preferably through re-instating the previous contracted psychologist with Auslan skills;
 - (b) examine how deaf and deafblind people in the ACT are provided with health and mental health services, and how their needs can and will be better addressed in the future; and
 - (c) investigate other ways to support our deaf and deafblind community in the ACT with their mental health and wellbeing.

Mr Rattenbury (Minister for Mental Health) moved the following amendment: Omit all text after “That this Assembly”, substitute:

“(1) notes that:

- (a) up until March 2018, a contracted psychologist visited the ACT to work with deaf and deafblind ACT residents;
 - (b) members of the deaf and deafblind community attended this clinic, primarily because this psychologist has Auslan skills and understands deaf and deafblind people and their mental health issues;
 - (c) ACT Health undertook a review of this psychologist’s funded program in November 2017;
 - (d) after advising ACT Health of the decision to cease the contract, this psychologist no longer sees deaf and deafblind patients in Canberra;
 - (e) all ACT Government mental health services have access to interpreter facilities, including on-site Auslan interpreters provided by the National Interpreting and Communication Services, which help the deaf and deafblind community to access face-to-face, one-on-one mental health services;
 - (f) there is a skills shortage of Auslan interpreters across Australia; and
 - (g) this may have implications for the general mental health of our deaf and deafblind community for the ACT and in Australia; and
- (2) calls on the ACT Government to consult with key stakeholders, including the Deaf Society, Office for Disability, and mental health and disability services, to ascertain any concerns held by our deaf and deafblind community in the ACT about mental health service provision or gaps that may exist, and report back to the Assembly by the last sitting week of the year.”.

Debate adjourned (Ms Cheyne) and the resumption of the debate made an order of the day for a later hour this day.

5 NOTICE NO 5—PRIVATE MEMBERS’ BUSINESS—SPEAKER’S RULING

The Speaker ruled that notice No 5, Private Members’ business, was out-of-order as it contravened standing order 136, in that it was the same in substance as previous motions that were debated in the Assembly in May and August of this year in relation to Network19 school bus and weekend bus services.

6 QUESTIONS

Questions without notice were asked.

7 LEAVE OF ABSENCE TO MEMBER

Mr Gentleman (Manager of Government Business) moved—That leave of absence be granted to Ms Cody for today due to illness.

Question—put and passed.

8 LEAVE OF ABSENCE TO MEMBER

Mr Wall moved—That leave of absence be granted to Miss C. Burch for today’s sitting due to illness.

Question—put and passed.

9 NOTICE NO 5—PRIVATE MEMBERS’ BUSINESS—SPEAKER’S RULING—DISSENT MOVED

Mr Coe (Leader of the Opposition) indicated that he wished to move dissent from the Speaker’s earlier ruling.

The Speaker advised Mr Coe that he would require leave of the Assembly to move dissent.

Mr Coe, by leave, moved—That the Speaker’s ruling be dissented from.

Debate ensued.

Question—put.

The Assembly voted—

AYES, 7		NOES, 10	
Mr Coe	Mr Wall	Mr Barr	Mr Pettersson
Mr Hanson		Ms J. Burch	Mr Rattenbury
Mrs Jones		Ms Cheyne	Mr Steel
Mrs Kikkert		Mr Gupta	Ms Stephen-Smith
Ms Lawder		Ms Le Couteur	
Mr Milligan		Ms Orr	

And so it was negatived.

10 DRUGS OF DEPENDENCE (PERSONAL CANNABIS USE) AMENDMENT BILL 2018

The Assembly, according to order, resumed consideration at the detail stage.

Detail Stage

Clause 6—

On the motion of Mr Barr, his amendment No 5 (see [Schedule 1](#)) was made, after debate.

Mr Rattenbury moved his amendment No 4 (see [Schedule 2](#)).

Debate continued.

Amendment negatived.

On the motion of Mr Barr, his amendment No 6 (see [Schedule 1](#)) was made, after debate.

Clause 6, as amended, agreed to.

Clause 7—

On the motion of Mr Barr, by leave, his amendments Nos 7 and 8 (see [Schedule 1](#)) were made together.

Clause 7, as amended, agreed to.

Clause 8—

On the motion of Mr Barr, by leave, his amendments Nos 9 and 10 (see [Schedule 1](#)) were made together, after debate.

Clause 8, as amended, agreed to.

New clause—

On the motion of Mr Rattenbury, new clause 8A (his amendment No 5—see [Schedule 2](#)) was inserted in the Bill, after debate.

Proposed new clause—

Mr Rattenbury moved his amendment No 6 (see [Schedule 2](#)), which would insert a new clause 8B in the Bill.

Debate continued.

Question—put.

The Assembly voted—

AYES, 2	NOES, 15	
Ms Le Couteur	Mr Barr	Ms Lawder
Mr Rattenbury	Ms J. Burch	Mr Milligan
	Ms Cheyne	Ms Orr
	Mr Coe	Mr Pettersson
	Mr Gupta	Mr Steel
	Mr Hanson	Ms Stephen-Smith
	Mrs Jones	Mr Wall
	Mrs Kikkert	

And so it was negatived.

New clause—

On the motion of Mr Rattenbury, new clause 8C (his amendment No 7—see [Schedule 2](#)) was inserted in the Bill, after debate.

Clause 9 agreed to.

Schedule 1—

Part 1.1—

Amendment 1.1—

On the motion of Mr Barr, his amendment No 11 (see [Schedule 1](#)) was made.

Amendment 1.1, as amended, agreed to.

Amendment 1.2—

On the motion of Mr Barr, his amendment No 12 (see [Schedule 1](#)) was made.

Amendment 1.2, as amended, agreed to.

Amendment 1.3 agreed to.

Part 1.2—

Amendment 1.4—

On the motion of Mr Barr, his amendment No 13 (see [Schedule 1](#)) was made.

Amendment 1.4, as amended, agreed to.

Title agreed to, after debate.

Question—That this Bill, as amended, be agreed to—put.

The Assembly voted—

AYES, 10		NOES, 7	
Mr Barr	Mr Pettersson	Mr Coe	Mr Wall
Ms J. Burch	Mr Rattenbury	Mr Hanson	
Ms Cheyne	Mr Steel	Mrs Jones	
Mr Gupta	Ms Stephen-Smith	Mrs Kikkert	
Ms Le Couteur		Ms Lawder	
Ms Orr		Mr Milligan	

And so it was resolved in the affirmative—Bill, as amended, agreed to.

11 DEAF AND DEAFBLIND COMMUNITY—MENTAL HEALTH SERVICES

The order of the day having been read for the resumption of the debate on the motion of Ms Lawder, and on the amendment moved by Mr Rattenbury (Minister for Mental Health) (see [entry 4](#))—

Debate resumed.

Ms Lawder moved the following amendment to Mr Rattenbury's proposed amendment: In paragraph (2), after "Office for Disability", insert "deaf and deafblind consumers and their representative organisations,".

Debate continued.

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Question—That the motion, as amended, viz:

"That this Assembly:

- (1) notes that:
 - (a) up until March 2018, a contracted psychologist visited the ACT to work with deaf and deafblind ACT residents;
 - (b) members of the deaf and deafblind community attended this clinic, primarily because this psychologist has Auslan skills and understands deaf and deafblind people and their mental health issues;
 - (c) ACT Health undertook a review of this psychologist's funded program in November 2017;

- (d) after advising ACT Health of the decision to cease the contract, this psychologist no longer sees deaf and deafblind patients in Canberra;
 - (e) all ACT Government mental health services have access to interpreter facilities, including on-site Auslan interpreters provided by the National Interpreting and Communication Services, which help the deaf and deafblind community to access face-to-face, one-on-one mental health services;
 - (f) there is a skills shortage of Auslan interpreters across Australia; and
 - (g) this may have implications for the general mental health of our deaf and deafblind community for the ACT and in Australia; and
- (2) calls on the ACT Government to consult with key stakeholders, including the Deaf Society, Office for Disability, deaf and deafblind consumers and their representative organisations, and mental health and disability services, to ascertain any concerns held by our deaf and deafblind community in the ACT about mental health service provision or gaps that may exist, and report back to the Assembly by the last sitting week of the year.”—

be agreed to—put and passed.

12 ALEXANDER MACONOCHIE CENTRE—ACCOMMODATION AND FACILITIES FOR WOMEN

Mrs Jones, pursuant to notice, moved—That this Assembly:

- (1) notes that the ACT Government has failed to provide appropriate accommodation and facilities for women detained at the Alexander Maconochie Centre (AMC);
- (2) further notes:
 - (a) on 29 April 2019, a female detainee escaped her compound to meet up with a male detainee in a restricted area of the prison outside of CCTV view;
 - (b) reports that at least one detainee has seen her rapist in a nearby cellblock; and
 - (c) that female detainees are frequently subjected to cat-calling, goading and whistling from the surrounding male cellblocks; and
- (3) calls on the ACT Government to appropriately house women in the AMC to resolve such issues.

Mr Rattenbury (Minister for Corrections and Justice Health) moved the following amendment: Omit all text after “That this Assembly”, substitute:

- “(1) notes:
- (a) ACT Corrective Services acknowledges that the current use of the Special Care Centre for female detainees is not a long-term solution;

- (b) that the 2017 decision to move female detainees from the women's community centre to the Special Care Centre was the most appropriate option available due to the rapid increase in the number of female detainees;
 - (c) steps have been taken to improve the availability of services and supports available to female detainees, and a Women and Children Coordinator position has been created within ACT Corrective Services;
 - (d) that a female offenders framework is currently under development to better support women's experience in the correctional system; and
 - (e) that the ACT Government is funding new programs designed to reduce offending and recidivism, including women's housing and bail support programs, utilising a Justice Reinvestment methodology;
- (2) further notes that:
- (a) on 29 April 2019, there was an incident involving a male detainee and a female detainee breaching an internal perimeter fence and entering a restricted area to coordinate unauthorised contact;
 - (b) an internal management review to establish the circumstances surrounding the security breach was undertaken by ACT Corrective Services;
 - (c) ACT Corrective Services has constructed a new internal perimeter fence for the women's compound, and undertaken further security upgrades in response to the incident;
 - (d) since 2017, the Alexander Maconochie Centre (AMC) has provided additional fencing, screening and visual barriers to reduce visibility between gendered areas; and
 - (e) ACT Corrective Services believes this approach continues to provide a more appropriate and secure accommodation than previously considered alternatives; and
- (3) calls on the ACT Government to:
- (a) continue to work with community organisations to provide female detainees in the AMC access to activities to build confidence and support while incarcerated; and
 - (b) report back to the Assembly on all policies and procedures to support women in the AMC."

Debate continued.

Mrs Jones moved the following amendment to Mr Rattenbury's proposed amendment: Omit paragraph (3)(b), substitute:

"(b) report back to the Assembly on how the Minister will resolve the issue of proximity to the men by the last sitting week this year."

Debate continued.

Amendment to amendment negated.

Mrs Jones moved the following amendment to Mr Rattenbury's proposed amendment: Add new paragraph (3)(c):

“(c) report back to the Assembly on how the Minister will resolve the issue of proximity to the men by the last sitting week this year.”.

Amendment to amendment agreed to.

Amendment, as amended, agreed to.

Question—That the motion, as amended, viz:

“That this Assembly:

- (1) notes:
 - (a) ACT Corrective Services acknowledges that the current use of the Special Care Centre for female detainees is not a long-term solution;
 - (b) that the 2017 decision to move female detainees from the women's community centre to the Special Care Centre was the most appropriate option available due to the rapid increase in the number of female detainees;
 - (c) steps have been taken to improve the availability of services and supports available to female detainees, and a Women and Children Coordinator position has been created within ACT Corrective Services;
 - (d) that a female offenders framework is currently under development to better support women's experience in the correctional system; and
 - (e) that the ACT Government is funding new programs designed to reduce offending and recidivism, including women's housing and bail support programs, utilising a Justice Reinvestment methodology;
- (2) further notes that:
 - (a) on 29 April 2019, there was an incident involving a male detainee and a female detainee breaching an internal perimeter fence and entering a restricted area to coordinate unauthorised contact;
 - (b) an internal management review to establish the circumstances surrounding the security breach was undertaken by ACT Corrective Services;
 - (c) ACT Corrective Services has constructed a new internal perimeter fence for the women's compound, and undertaken further security upgrades in response to the incident;
 - (d) since 2017, the Alexander Maconochie Centre (AMC) has provided additional fencing, screening and visual barriers to reduce visibility between gendered areas; and
 - (e) ACT Corrective Services believes this approach continues to provide a more appropriate and secure accommodation than previously considered alternatives; and

- (3) calls on the ACT Government to:
- (a) continue to work with community organisations to provide female detainees in the AMC access to activities to build confidence and support while incarcerated;
 - (b) report back to the Assembly on all policies and procedures to support women in the AMC; and
 - (c) report back to the Assembly on how the Minister will resolve the issue of proximity to the men by the last sitting week this year.”—

be agreed to—put and passed.

13 A.C.T. CLIMATE CHANGE STRATEGY 2019-25

Mr Gupta, pursuant to notice, moved—That this Assembly:

- (1) notes that the ACT Climate Change Strategy 2019-25:
- (a) is implementing measures that support all Canberra households in the ACT and is improving the liveability of our entire city in response to global climate change;
 - (b) outlines how achieving 100 percent renewable electricity, a 40 percent reduction in emissions by 2020, and zero net emissions by 2045 will assist households to save on energy costs;
 - (c) clearly outlines why it is in the long-term interests of all ACT residents to have a comprehensive strategy in place to combat and adapt to climate change, and that why simply ignoring the climate change danger is no longer tenable;
 - (d) works in conjunction with the ACT Government’s new Living Infrastructure Plan to increase the comfort and enviable lifestyle in our suburbs by keeping our streets, parks and houses cool, healthy and liveable, with measures to ensure adequate tree cover and assess local needs for managing heat;
 - (e) is implementing new approaches to increasing productivity of key transport corridors;
 - (f) helps suburban residents to access the rapid bus and light rail networks through feeder services and expanding the Park and Ride network;
 - (g) outlines measures to assist the transition to zero emissions vehicles to support those needing cars to commute or travel, by exploring and trialling financial incentives to support the uptake of zero emissions vehicles from 2021;
 - (h) introduces mandatory disclosure of energy performance for all rental properties and moves towards minimum energy performance requirements to come into force from 2022-23, which supports individuals and families to make a considered choice when choosing a rental property;
 - (i) expands the Energy Efficiency Improvement Scheme to increase support and lower day-to-day energy costs for low income households;

- (j) actively supports vulnerable and low-income individuals and households' participation in shifting to zero net emissions; and
 - (k) will provide food and garden waste collection for all households, including multi-unit dwellings from 2023; and
- (2) calls on the ACT Government to initiate a comprehensive awareness program and actively promote the measures outlined in the ACT Climate Strategy 2019-25 that support Canberra households to take full advantage of its cost saving and energy efficiency measures.

Debate ensued.

Mr Coe (Leader of the Opposition) moved the following amendment: Add new paragraph (3):

“(3) the comprehensive awareness program must be undertaken before 31 December 2019 and the Government must provide a report to the Assembly in February 2020 about the activities undertaken.”.

Debate continued.

Mr Rattenbury (Minister for Climate Change and Sustainability) addressing the Assembly—

Debate interrupted in accordance with standing order 34 and the resumption of the debate made an order of the day for the next sitting.

14 ADJOURNMENT

It being 6.30 pm—The question was proposed—That the Assembly do now adjourn.

Mr Barr (Chief Minister) requiring the question to be put forthwith without debate—

Question—put and passed.

And then the Assembly, at 6.30 pm, adjourned until tomorrow at 10 am.

MEMBERS' ATTENDANCE: All Members were present at some time during the sitting, except Miss C. Burch*, Ms Cody*, Mrs Dunne*, Ms Lee* and Mr Parton*.

*on leave

J Agostino
Acting Clerk of the Legislative Assembly

SCHEDULES OF AMENDMENTS

Schedule 1

DRUGS OF DEPENDENCE (PERSONAL CANNABIS USE) AMENDMENT BILL 2018

Amendments circulated by the Chief Minister

1

Clause 2

Page 2, line 4—

omit clause 2, substitute

2

Commencement

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

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

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

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

2

Clause 4

Proposed section 4, note 1, dot point

Page 2, line 17—

omit the dot point, substitute

- s 162 (Cultivation of 1 or 2 cannabis plants)

3

Clause 4

Proposed section 4, note 1, new dot points

Page 2, line 19—

insert

- s 171AAA (Cultivation of more than 4 cannabis plants at premises)
- s 171AAB (Cannabis plant cultivation—other offences)
- s 171AAC (Storage of cannabis)

4**Clause 5****Page 3, line 1—***omit clause 5, substitute***5 Cultivation of 1 or 2 cannabis plants****New section 162 (1A)***insert*

(1A) This section does not apply if the person—

- (a) is 18 years old or older; and
- (b) cultivates the plants in the ACT.

Note The defendant has an evidential burden in relation to the matters mentioned in s (1A) (see Criminal Code, s 58).

5**Clause 6****Proposed new section 171AA****Page 4, line 3—***omit proposed new section 171AA, substitute***171AA Possessing cannabis**

- (1) A person commits an offence if the person possesses—
 - (a) 50g or less of dried cannabis; or
 - (b) 150g or less of cannabis that has been harvested and—
 - (i) is not dried cannabis; or
 - (ii) is a mixture of dried cannabis and cannabis that is not dried cannabis.

Maximum penalty: 1 penalty unit.

- (2) A person commits an offence if the person possesses—
 - (a) more than 50g of dried cannabis; or
 - (b) more than 150g of cannabis that has been harvested and—
 - (i) is not dried cannabis; or
 - (ii) is a mixture of dried cannabis and cannabis that is not dried cannabis.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

- (3) Subsection (1) does not apply if the person—
 - (a) is 18 years old or older; and
 - (b) possesses the cannabis in the ACT.

- (4) Subsections (1) and (2) do not apply if the person is authorised under the *Medicines, Poisons and Therapeutic Goods Act 2008*, or another territory law, to possess the cannabis.

Note The defendant has an evidential burden in relation to the matters mentioned in s (3) and s (4) (see Criminal Code, s 58).

- (5) In this section:

dried cannabis means cannabis that has been subjected to a drying process.

6

Clause 6

Proposed new sections 171AAA to 171AAC

Page 4, line 14—

insert

171AAA Cultivation of more than 4 cannabis plants at premises

- (1) A person commits an offence if—
- (a) the person cultivates a cannabis plant at premises; and
 - (b) more than 4 cannabis plants are being cultivated at the premises.
- Maximum penalty: 50 penalty units, imprisonment for 2 years or both.
- (2) Strict liability applies to subsection (1) (b).
- (3) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant—
- (a) lived at the premises when cultivating the cannabis; and
 - (b) was not aware, and could not reasonably have been expected to be aware, that more than 4 cannabis plants were being cultivated at the premises.

Note The defendant has a legal burden in relation to the matters mentioned in s (3) (see Criminal Code, s 59).

171AAB Cannabis plant cultivation—other offences

- (1) A person commits an offence if—
- (a) the person cultivates a cannabis plant; and
 - (b) the cannabis plant is cultivated at a place other than where the person lives.
- Maximum penalty: 50 penalty units, imprisonment for 2 years or both.
- (2) A person commits an offence if—
- (a) the person cultivates a cannabis plant; and

- (b) the cannabis plant is cultivated in an area lawfully accessible to a member of the public.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

171AAC Storage of cannabis

- (1) A person commits an offence if the person—

- (a) possesses harvested cannabis; and
 (b) does not store the cannabis out of reach of children.

Maximum penalty: 50 penalty units, imprisonment for 2 years or both.

- (2) It is a defence to a prosecution for an offence against this section if the defendant proves that the defendant took all reasonable steps to ensure that a child could not access the cannabis.

Note The defendant has a legal burden in relation to the matters mentioned in s (2) (see Criminal Code, s 59).

7

Clause 7

Proposed new section 171A (7), definition of *simple cannabis offence*, paragraph (a)

Page 4, line 19—

omit

of 1 to 4

substitute

of 1 or 2

8

Clause 7

Proposed new section 171A (7), definition of *simple cannabis offence*, paragraph (b)

Page 4, line 23—

omit paragraph (b), substitute

- (b) an offence against section 171AA (1).

9

Clause 8

Proposed new section 171AB (2) (b)

Page 5, line 9—

omit proposed new section 171AB (2) (b), substitute

- (b) a child is exposed to smoke or vapour from the cannabis the person is smoking.

10
Clause 8
Proposed new section 171AB (2A)
Page 5, line 10—

insert

- (2A) It is a defence to a prosecution for an offence against subsection (2) if the defendant proves that the defendant—
- (a) took all reasonable steps to ensure that the child was not exposed to the smoke or vapour; or
 - (b) believed on reasonable grounds that the child was 18 years old or older.

Note The defendant has a legal burden in relation to the matters mentioned in s (2A) (see Criminal Code, s 59).

11
Schedule 1, part 1.1
Amendment 1.1
Page 7, line 7—

omit

ss 169, 171 and 171AA

substitute

pt 10

12
Schedule 1, part 1.1
Amendment 1.2
Page 7, line 9—

omit the amendment

13
Schedule 1, part 1.2
Amendment 1.4, proposed new section 9A
Page 8, line 5—

omit proposed new section 9A, substitute

9A **Application of Act to certain cannabis use not prohibited under Drugs of Dependence Act 1989**

- (1) The defined provisions of this Act do not apply to an adult to the extent that the substance is an amount of cannabis that the adult is not prohibited from cultivating or possessing under the *Drugs of Dependence Act 1989*.
- (2) In this section:
defined provisions of this Act means the following:
 - (a) section 26 (2) (Supplying declared substances);
 - (b) section 33 (Manufacturing regulated substances);

- (c) section 35 (1) (Obtaining certain declared substances);
 - (d) section 36 (Possessing certain declared substances);
 - (e) section 37 (2) (Administering certain declared substances).
-

Schedule 2**DRUGS OF DEPENDENCE (PERSONAL CANNABIS USE) AMENDMENT BILL 2018**

Amendments circulated by Mr Rattenbury

1
Clause 2
Page 2, line 4—*omit clause 2, substitute***2 Commencement**

- (1) This Act commences on a day fixed by the Minister by written notice.

Note 1 The naming and commencement provisions automatically commence on the notification day (see Legislation Act, s 75 (1)).*Note 2* A single day or time may be fixed, or different days or times may be fixed, for the commencement of different provisions (see Legislation Act, s 77 (1)).

- (2) However, the Minister must not fix a commencement day that is before the notification day of the guidance material required to be published under section 171BA.
-
- (3) The Legislation Act, section 79 (Automatic commencement of postponed law) does not apply to this Act.

2
Proposed new clause 4A
Page 2, line 24—*insert***4A New section 4A***in part 1, insert***4A Objects of Act**

The objects of this Act include the following:

- (a) to minimise harm resulting from the use of drugs of dependence;
-
- (b) to promote a balanced approach across the three pillars of harm minimisation—
-
- (i) demand reduction; and
-
- (ii) supply reduction; and
-
- (iii) harm reduction;
-
- (c) to reflect an evidence-based approach to drug policy, which puts the health and safety of the ACT community ahead of all other policy objectives.

3**Clause 5****Proposed new section 162 (2)****Page 3, line 8—**

omit proposed new section 162 (2), substitute

(2) In this section:

cultivates—see the Criminal Code, section 615.

4**Clause 6****Proposed new section 171AA (4) and (5)****Page 4, line 14—**

insert

(4) Subsection (2) does not apply to a person if the person—

(a) possesses not more than 150g of cannabis; and

(b) either—

(i) has a relevant diagnosis; or

(ii) is acting on behalf of a person who has a relevant diagnosis.

Note The defendant has an evidential burden in relation to the matters mentioned in s (4) (see Criminal Code, s 58).

(5) In this section:

relevant diagnosis means a diagnosis by a doctor of any of the following:

(a) spasticity related to multiple sclerosis;

(b) nausea and vomiting related to chemotherapy treatment for cancer;

(c) pain or anxiety related to the active malignancy of a life limiting disease with a life expectancy that is reasonably expected to be 12 months or less;

(d) any other condition the chief health officer approves, in writing, for the prescribing of medicinal cannabis.

5**Proposed new clause 8A****Page 6, line 6—**

insert

8A New section 171BA

in part 10, insert

171BA Guidance material

- (1) The Minister must prepare and publish guidance material to inform the community about the legal and health implications of the amendments of this part made by the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019*.
- (2) The guidance material is a notifiable instrument.

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

6**Proposed new clause 8B**

Page 6, line 6—

insert

8B**New part 12**

insert

Part 12 Cannabis advisory council**198 Establishment of cannabis advisory council**

The cannabis advisory council is established.

199 Functions of cannabis advisory council

The council has the following functions:

- (a) advising the Minister about—
 - (i) issues arising from the exceptions created for people 18 years old and older from offences relating to cultivating and possessing cannabis in the ACT; and
 - (ii) emerging or urgent cannabis issues; and
 - (iii) cannabis reforms and policy; and
 - (iv) further cannabis legislative change; and
 - (v) anything else in relation to cannabis requested by the Minister;
- (b) any other function given to the council under this Act or another territory law.

200 Membership of cannabis advisory council

- (1) The council is made up of at least 5, and not more than 7, members appointed by the Minister.

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

Note 2 In particular, an appointment may be made by naming a person or nominating the occupant of a position (see Legislation Act, s 207).

Note 3 Certain Ministerial appointments require consultation with an Assembly committee and are disallowable (see Legislation Act, div 19.3.3).

- (2) In appointing members to the council, the Minister must, unless it is not reasonably practicable, ensure that the council includes—
- (a) at least 1 member who—
 - (i) is a representative of the community of drug users in the ACT; or
 - (ii) is or has been a personal user of a drug of dependence; and
 - (b) up to 6 members with experience or expertise in at least 1 of the following fields:
 - (i) drug and alcohol treatment and support;
 - (ii) scientific, evidence-based cannabis research;
 - (iii) drug and alcohol policy and legislation;
 - (iv) law enforcement;
 - (v) mental health treatment, care and support.
- (3) A person must be appointed to the council for not longer than 3 years.

Note A person may be reappointed to a position if the person is eligible to be appointed to the position (see Legislation Act, s 208 and dict, pt 1, def *appoint*).

200A Procedures of cannabis advisory council

- (1) The council must meet at least once each quarter.
- (2) The council may conduct its proceedings (including its meetings) as it considers appropriate.
- (3) The council must give a report to the Minister at least once each year.
- (4) Within 6 sitting days of receiving a report mentioned in subsection (3), the Minister must table the report in the Legislative Assembly.
- (5) The council may, as it considers appropriate—
 - (a) publish its considerations; and
 - (b) give confidential advice to the Minister.

200B Information for council

- (1) The council may ask the Minister, in writing, to give the council stated information that it considers relevant to the exercise of its functions.
 - (2) The Minister must comply with a request under subsection (1) if it is reasonable and practicable to do so.
-

 7
Proposed new clause 8C

Page 6, line 6—

*insert***8C New section 205A***insert***205A Review of certain amendments related to cannabis**

- (1) The Minister must review the operation of the amendments of this Act made by the *Drugs of Dependence (Personal Cannabis Use) Amendment Act 2019* as soon as practicable after the end of their 3rd year of operation.
- (2) The Minister must present a report of the review to the Legislative Assembly within 6 months after the day the review is started.
- (3) This section expires 5 years after the day it commences.

 8
Schedule 1, part 1.1**Amendment 1.2**

Page 7, line 9—

*omit amendment 1.2, substitute***[1.2] Section 618 (2) (a)***omit*

(artificially or otherwise)

[1.2A] Section 618 (2) (b)*omit***[1.2B] Section 618 (2), note***omit***[1.2C] Section 618 (3)***omit*
