

## Authorised Version

### Access to Medicinal Cannabis Act 2016

No. 20 of 2016

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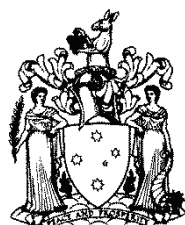
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## Authorised Version



Victoria

# Access to Medicinal Cannabis Act 2016<sup>†</sup>

No. 20 of 2016

[Assented to 26 April 2016]

The Parliament of Victoria enacts:

## Part 1—Preliminary

### 1 Purposes

The main purposes of this Act are—

- (a) to provide for medicinal use of products derived from cannabis by establishing a scheme—
  - (i) for supply to and treatment of Victorians with specified conditions with approved medicinal cannabis products of reliable quality and known composition; and

- (ii) which preserves the prohibition of unlawful trafficking, cultivation, supply and use of the drug of dependence *Cannabis L.*; and
- (b) to provide for the lawful manufacture of medicinal cannabis products; and
- (c) to consequentially amend the **Drugs, Poisons and Controlled Substances Act 1981** and make related amendments to certain other Acts.

## 2 Commencement

This Act comes into operation on a day or days to be proclaimed.

## 3 Definitions

In this Act—

***approved form*** means a form approved by the Health Secretary under section 11;

***approved medicinal cannabis product*** means a medicinal cannabis product that the Health Secretary has approved under section 40;

***approved medicinal cannabis product register*** means the register kept by the Health Secretary under section 41;

***associate*** has the meaning given in section 4;

***cannabis*** means a plant or any part of a plant of the genus *Cannabis L.*, whether fresh or dried, and includes cannabis seed;

***cannabis material*** means—

- (a) cannabis within the meaning of the Narcotic Drugs Act 1967 of the Commonwealth; and



- (b) cannabis resin within the meaning of that Act;

**Notes**

- 1 In the Narcotic Drugs Act 1967 of the Commonwealth, *cannabis* means the flowering or fruiting tops of the cannabis plant (excluding the seeds and leaves when not accompanied by the tops) from which the resin has not been extracted, by whatever name they may be designated.
- 2 In the Narcotic Drugs Act 1967 of the Commonwealth, *cannabis resin* means the separated resin, whether crude or purified, obtained from the cannabis plant.

*Commonwealth licence to manufacture* means a manufacture licence within the meaning of the Narcotic Drugs Act 1967 of the Commonwealth that authorises the manufacture of a drug that includes, or is from, cannabis;

*cultivation licence* means a cannabis licence within the meaning of the Narcotic Drugs Act 1967 of the Commonwealth and includes an approval under section 25A of that Act made in respect of an agency of the State of Victoria;

*eligible patient* means—

- (a) a patient who—
  - (i) is under 18 years of age; and
  - (ii) experiences severe seizures resulting from an epileptic condition in respect of which other treatment options have not proved effective or have generated intolerable side effects; and

(iii) meets the prescribed criteria in respect of that condition (if any);  
or

(b) a patient who—

(i) has a prescribed medical condition; and

(ii) meets the prescribed criteria in respect of that condition (if any);

***employee identification certificate*** means a certificate issued by a licensed manufacturer;

***general manufacturing licence*** means a licence referred to in section 21;

***Health Secretary*** means the Secretary to the Department of Health and Human Services;

***intermediate cannabis product*** means a substance, compound, preparation or mixture that is manufactured from cannabis but that must be further manufactured before being suitable for human use or consumption;

***label*** means a statement in writing on a container of medicinal cannabis, an approved medicinal cannabis product or other medicinal cannabis product and includes any tag, brand mark or statement in writing on, or attached to, or used in connection with, any container or package containing any medicinal cannabis, an approved medicinal cannabis product or other medicinal cannabis product and ***labelled*** has a corresponding meaning;

***licensed cultivator*** means a person who holds a cultivation licence;

***licensed manufacturer*** means a person who holds a manufacturing licence;

*licensed premises* means the premises specified in a manufacturing licence;

*manufacture* has the same meaning as it has in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981** but does not include production;

*manufacturing authorisation* means—

- (a) in relation to the Health Secretary, the authorisation under section 17; or
- (b) in relation to the Resources Secretary, the authorisation under section 14;

*manufacturing inspector* means—

- (a) a person authorised under section 80(1) to be an inspector in respect of the manufacture of medicinal cannabis products under this Act; and
- (b) a police officer;

*manufacturing licence* means—

- (a) a manufacturing research licence; or
- (b) a general manufacturing licence;

*manufacturing research licence* means a licence referred to in section 20;

*medicinal cannabis* means—

- (a) cannabis cultivated in accordance with a cultivation licence or obtained in accordance with this Act; or
- (b) cannabis material produced in accordance with a cultivation licence or obtained in accordance with this Act; or
- (c) an intermediate cannabis product manufactured or obtained in accordance with this Act; or

- (d) a medicinal cannabis product manufactured or obtained in accordance with this Act;

***medicinal cannabis product*** means a substance, compound, preparation or mixture that is manufactured from cannabis, cannabis material or an intermediate cannabis product for human use or consumption and includes an approved medicinal cannabis product;

***medicinal cannabis testing facility*** means a facility declared by the Health Secretary under section 12;

***patient medicinal cannabis access authorisation*** means an authorisation under section 56;

***pharmacist*** means a person registered under the Health Practitioner Regulation National Law to practise in the pharmacy profession (other than as a student);

***practitioner medicinal cannabis authorisation*** means the following authorisations issued by the Health Secretary under Part 7—

- (a) a practitioner medicinal cannabis authorisation—eligible patient;
- (b) a practitioner medicinal cannabis authorisation—exceptional circumstances;
- (c) a practitioner medicinal cannabis authorisation—research purposes;

***practitioner medicinal cannabis authorisation—eligible patient*** means an authorisation referred to in section 48;

***practitioner medicinal cannabis authorisation—exceptional circumstances*** means an authorisation referred to in section 50;

***practitioner medicinal cannabis authorisation—  
research purposes*** means an authorisation  
referred to in section 49;

***practitioner medicinal cannabis authorisation  
register*** means the register kept by the  
Health Secretary under section 53;

***production*** has the same meaning as it has in  
the Narcotic Drugs Act 1967 of the  
Commonwealth;

**Note**

In the Narcotic Drugs Act 1967 of the  
Commonwealth, ***production*** relevantly means the  
separation of cannabis and cannabis resin from a  
cannabis plant.

***protected information*** means any information,  
document or thing the production or  
inspection of which—

- (a) is likely to reveal the identity of a  
person and the fact that the person—
  - (i) provided information that formed  
the basis of a decision of the Chief  
Commissioner of Police to oppose  
an application for a manufacturing  
licence; or
  - (ii) provided information to a police  
officer in the course of an  
investigation; or
  - (iii) is named in any evidence given or  
information provided to a police  
officer in the course of an  
investigation; or
  - (iv) has been the subject of an  
investigation conducted by a  
police officer; or

- (b) is likely to jeopardise the safety of a person referred to in paragraph (a)(i), (ii), (iii) or (iv); or
- (c) is likely to reveal an investigation method used by police officers; or
- (d) is likely to put at risk an ongoing investigation by a police officer; or
- (e) is otherwise not in the public interest;

***Resources Secretary*** means the Secretary to the Department of Economic Development, Jobs, Transport and Resources;

***seized cannabis*** means cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product seized by a manufacturing inspector under section 85 and ***seizure of cannabis*** has a corresponding meaning;

***serious offence*** has the same meaning as it has in section 69N of the **Drugs, Poisons and Controlled Substances Act 1981**;

***specialist medical practitioner*** means a registered medical practitioner—

- (a) who is registered under the Health Practitioner Regulation National Law (Victoria) in a recognised speciality (within the meaning of that Law) that is prescribed for a prescribed medical condition for which a practitioner medicinal cannabis authorisation—eligible patient is available; or
- (b) to whom, or who is a member of a class to which, a declaration under section 7 applies;

*storage device* means—

- (a) a tape; or
- (b) a disk; or
- (c) a similar device that stores information;

*substance* has the same meaning as it has in section 4 of the **Drugs, Poisons and Controlled Substances Act 1981**;

*suitability matters* has the meaning set out in section 5.

#### **4 Meaning of *associate***

- (1) For the purposes of this Act, a person is an *associate* of a licensed manufacturer or an applicant for a licence under this Act if—
  - (a) the person is of or over the age of 18 years; and
  - (b) the person—
    - (i) holds any relevant financial interest in the business of the manufacturer or applicant (as the case requires) or is entitled to exercise any relevant power (including on behalf of anyone else) in the business and, because of that interest or power, is able to exercise significant influence over or with respect to the management or operation of the business; or
    - (ii) holds any relevant position (including on behalf of anyone else) in the business; or
    - (iii) is the manufacturer's or applicant's spouse, domestic partner, parent, step-parent, sibling, step-sibling, child, step-child or adopted child.

(2) In subsection (1)—

*domestic partner* of a person means—

- (a) a person who is in a registered domestic relationship within the meaning of the **Relationships Act 2008** with that person; or
- (b) a person to whom that person is not married but with whom that person is living as a couple on a genuine domestic basis (irrespective of gender);

*relevant financial interest in a business* means—

- (a) any share in the capital of the business; or
- (b) any entitlement to receive any income derived from the business;

*relevant position* in a business means the position (however described) of director, partner, trustee, manager or other executive position or secretary;

*relevant power* means any power, whether exercisable by voting or otherwise and whether exercisable alone or in association with others—

- (a) to participate in any directorial, managerial or executive decision; or
- (b) to elect or appoint any person to any relevant person.

(3) For the purposes of the definition of *domestic partner* in subsection (2), in determining whether persons who are not in a registered relationship are domestic partners of each other, all the circumstances of their relationship are to be taken into account, including any one or more of the matters referred to in section 35(2) of the



**Relationships Act 2008** as may be relevant in a particular case.

## 5 Suitability matters

The *suitability matters* for a person is applying for the issue or renewal of a manufacturing licence are the following—

- (a) whether the person—
  - (i) is of good repute, having regard to character, honesty and integrity; and
  - (ii) has a history of noncompliance with this Act, the regulations, the **Drugs, Poisons and Controlled Substances Act 1981**, the regulations made under that Act or a manufacturing licence; and
  - (iii) has a sound and stable financial background; and
  - (iv) is in financial circumstances that may significantly limit the applicant's capacity to meet the applicant's obligations in conducting activities under the licence;
- (b) if the person is not an individual, whether the person has a satisfactory ownership, trust or corporate structure.

## 6 References to employment by licensed manufacturer

In this Act, a reference to employment by a licensed manufacturer includes—

- (a) employment under a contract of training; and
- (b) engagement under any other contract to perform a specified task authorised under the manufacturing licence.

## **7 Health Secretary may declare registered medical practitioner or class of practitioner**

For the purposes of paragraph (b) of the definition of *specialist medical practitioner*, the Health Secretary, by notice published in the Government Gazette, may declare—

- (a) a registered medical practitioner to be able to apply for a practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—research purposes; or
- (b) a class of registered medical practitioner to be able to apply for a practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—research purposes.

## **8 Activities authorised by cultivation licence**

For the purposes of this Act, the **Drugs, Poisons and Controlled Substances Act 1981** and any other Act, if a person is authorised to undertake an activity by a cultivation licence, the person is taken to be authorised to undertake that activity by this Act.

## **9 Act binds the Crown**

This Act binds the Crown in right of the State of Victoria and, so far as the legislative power of the Parliament permits, also binds the Crown in all its other capacities.

## **Part 2—Functions of Health Secretary**

### **10 Functions of Health Secretary**

The Health Secretary has the following functions—

- (a) to oversee the scheme established by this Act for the use of medicinal products derived from cannabis for supply to, and treatment of, Victorians with specified conditions with medicinal cannabis products of reliable quality and known composition;
- (b) to review research on the medicinal use of cannabis;
- (c) to provide data to the Commonwealth, as requested, in relation to the manufacture, sale or supply of cannabis in accordance with this Act;
- (d) to prepare and disseminate educational and guidance materials in relation to medicinal cannabis products;
- (e) to generally administer the scheme established by this Act in accordance with this Act;
- (f) any other functions given to the Health Secretary by or under this Act.

### **11 Health Secretary may approve forms for authorisations**

- (1) The Health Secretary may approve the following—
  - (a) the application forms for practitioner medicinal cannabis authorisations;
  - (b) the form of practitioner medicinal cannabis authorisations;

(c) the form of patient medicinal cannabis access authorisations.

(2) The Health Secretary must ensure that a form approved under subsection (1) is published—

(a) in the Government Gazette; and

(b) on a website operated by or on behalf of the Health Secretary.

**12 Health Secretary may declare medicinal cannabis testing facility**

(1) The Health Secretary may declare a facility to be a medicinal cannabis testing facility by notice published in the Government Gazette.

(2) A declaration under subsection (1) must be published on a website operated by or on behalf of the Health Secretary.

(3) A declaration under subsection (1) may be made in respect of a facility located within Victoria or in another State or a Territory.

## **Part 3—Independent Medical Advisory Committee**

### **13 Minister may establish Committee**

- (1) The Minister, by order published in the Government Gazette—
  - (a) may establish an Independent Medical Advisory Committee; and
  - (b) may appoint members to the Committee.
- (2) An order under subsection (1) may provide for—
  - (a) the terms and conditions of the appointment of a member of the Committee; and
  - (b) matters relating to the procedure of the Committee, including—
    - (i) resignation and removal of members; and
    - (ii) vacancies; and
    - (iii) quorums; and
    - (iv) subcommittees; and
  - (c) the matters related to medicinal cannabis on which the Committee is to advise the Minister.
- (3) Without limiting anything in subsection (2), an order under subsection (1) may specify that the Committee is to advise the Health Secretary and the Minister on—
  - (a) which medicinal cannabis products should be approved medicinal cannabis products; and
  - (b) the regulations made for the purposes of the definition of *eligible patient*; and
  - (c) desirable amendments to this Act and the regulations.

## **Part 4—Manufacture of medicinal cannabis—Health Secretary and Resources Secretary**

### **Division 1—Manufacturing authorisation— Resources Secretary**

#### **14 Resources Secretary authorised to manufacture intermediate cannabis product**

For the purposes of this Act, the regulations, the **Drugs, Poisons and Controlled Substances Act 1981** and the regulations under that Act, the Resources Secretary is authorised—

- (a) to obtain or purchase cannabis and cannabis material from—
  - (i) a licensed cultivator; or
  - (ii) any other prescribed person or body; and
- (b) to use the cannabis or cannabis material (or cannabis or cannabis material that the Resources Secretary possesses by reason of being a licensed cultivator) to manufacture intermediate cannabis products for—
  - (i) the purposes of manufacture of medicinal cannabis products under the Health Secretary's manufacturing authorisation or a manufacturing licence; or
  - (ii) research purposes; or
  - (iii) both purposes referred to in subparagraphs (i) and (ii); and
- (c) to supply cannabis, cannabis material and intermediate cannabis products to the Health Secretary; and

- (d) to sell or supply cannabis, cannabis material and intermediate cannabis products to a licensed manufacturer; and
- (e) to undertake research activities in relation to the manufacture of intermediate cannabis products; and
- (f) to dispose of or destroy cannabis, cannabis material and intermediate cannabis products in a safe manner; and
- (g) to possess, store, package and transport cannabis, cannabis material and intermediate cannabis products for the purpose of the other activities set out in this section; and
- (h) to undertake any other prescribed activity in relation to the manufacture of intermediate cannabis products for medicinal purposes.

**15 Resources Secretary may enter into contract for performance of prescribed activity under manufacturing authorisation**

In the case of an activity referred to in section 14 that is prescribed for the purposes of this section, the Resources Secretary may enter into a contract under which another person is to perform that activity.

**16 Authorisation of party to section 15 contract**

A person who is a party to a contract with the Resources Secretary referred to in section 15 is authorised to perform the activity to which the contract relates.

## **Division 2—Manufacturing authorisation— Health Secretary**

### **17 Health Secretary authorised to manufacture medicinal cannabis products**

For the purposes of this Act, the regulations, the **Drugs, Poisons and Controlled Substances Act 1981** and the regulations under that Act, the Health Secretary is authorised—

- (a) to obtain cannabis, cannabis material and intermediate cannabis products from the Resources Secretary; and
- (b) to obtain or purchase cannabis and cannabis material from—
  - (i) a licensed cultivator; or
  - (ii) any other prescribed person or body; and
- (c) to obtain or purchase intermediate cannabis products from—
  - (i) a licensed manufacturer; or
  - (ii) any other prescribed person or body; and
- (d) to use the cannabis, cannabis material and intermediate cannabis products to manufacture medicinal cannabis products for use in accordance with this Act; and
- (e) to use the cannabis, cannabis material and intermediate cannabis products to manufacture medicinal cannabis products for research purposes; and
- (f) to undertake research activities in relation to the manufacture of medicinal cannabis products; and



- (g) to dispose of or destroy cannabis, cannabis material and intermediate cannabis products in a safe manner; and
- (h) to possess and store cannabis, cannabis material, intermediate cannabis products and medicinal cannabis products for the purpose of the other activities set out in this section; and
- (i) to undertake any other prescribed activity in relation to the manufacture of medicinal cannabis products.

**18 Health Secretary may enter into contract for performance of prescribed activity under manufacturing authorisation**

In the case of an activity referred to in section 17 that is prescribed for the purposes of this section, the Health Secretary may enter into a contract under which another person is to perform that activity.

**19 Authorisation of party to section 18 contract**

A person who is a party to a contract with the Health Secretary referred to in section 18 is authorised to perform the activity to which the contract relates.

## **Part 5—Manufacturing licences**

### **20 What a licensed manufacturer is authorised to do by a manufacturing research licence**

A manufacturing research licence authorises the licensed manufacturer to do all or any of the following as specified in the licence for research purposes—

- (a) to obtain or purchase intermediate cannabis products from the Resources Secretary;
- (b) to obtain or purchase cannabis (other than cannabis seed) or cannabis material from—
  - (i) a licensed cultivator; or
  - (ii) any other prescribed person or body;
- (c) to use the cannabis, cannabis material or intermediate cannabis products (or cannabis or cannabis material that the licensed manufacturer possesses by reason of also being a licensed cultivator) to manufacture intermediate cannabis products and medicinal cannabis products for use in accordance with this Act;
- (d) to undertake research activities in relation to the manufacture of medicinal cannabis products;
- (e) to possess, package, store and transport cannabis, cannabis material, intermediate cannabis products and medicinal cannabis products for the purposes of the other activities set out in the licence.

### **21 What a licensed manufacturer is authorised to do by a general manufacturing licence**

A general manufacturing licence authorises the licensed manufacturer to do all or any of the following as specified in the licence—

- (a) to obtain or purchase intermediate cannabis products from the Resources Secretary;
- (b) to obtain or purchase cannabis (other than cannabis seed) and cannabis material from—
  - (i) a licensed cultivator; or
  - (ii) any other prescribed person or body;
- (c) to use the cannabis, cannabis material and intermediate cannabis products (or cannabis and cannabis material that the manufacturer possesses by reason of also being a licensed cultivator) to manufacture intermediate cannabis products and medicinal cannabis products;
- (d) to sell or supply intermediate cannabis products and medicinal cannabis products to the Health Secretary;
- (e) to possess, package, store and transport cannabis, cannabis material, intermediate cannabis products and medicinal cannabis products for the purposes of the other activities set out in the licence.

**22 Manufacturing licence authorises activities only at licensed premises**

A manufacturing licence authorises the activities specified in the licence—

- (a) only at the licensed premises; or
- (b) as otherwise required for the transportation of cannabis, cannabis material, intermediate cannabis products and medicinal cannabis products as authorised by the licence.

**23 What a licensed manufacturer's employees are authorised to do**

- (1) Subject to subsection (2), a manufacturing licence authorises an employee of the licensed manufacturer to do what the licence authorises the licensed manufacturer to do.
- (2) A manufacturing licence does not authorise a licensed manufacturer's employee to conduct any activities referred to in this section other than as required in the course of the employee's employment.

**24 Application for manufacturing licence**

- (1) A person who holds a Commonwealth licence to manufacture may apply to the Health Secretary for a manufacturing licence.
- (2) An application must—
  - (a) be in writing; and
  - (b) be accompanied by the prescribed fee (if any); and
  - (c) specify the premises in relation to which the licence is sought; and
  - (d) specify whether the application is for—
    - (i) a manufacturing research licence; or
    - (ii) a general manufacturing licence; and
  - (e) identify each of the applicant's associates; and
  - (f) include a proposed plan for managing risks related to the conduct of activities authorised by a manufacturing licence; and
  - (g) identify the Commonwealth licence to manufacture that the person holds; and
  - (h) include the prescribed information (if any).

**25 Health Secretary may require applicant to take further steps**

- (1) The Health Secretary may require that an applicant for a manufacturing licence—
  - (a) provide further information in relation to the application; or
  - (b) facilitate an inspection by the Secretary of the premises in relation to which the licence is sought; or
  - (c) submit a recent police record check in respect of the applicant or an associate of the applicant.
- (2) The Health Secretary may require that an applicant for a manufacturing licence vary the plan, included in the application under section 24(2)(f), for managing risks related to the conduct of activities authorised by a manufacturing licence.

**26 Health Secretary must give application to Chief Commissioner of Police**

- (1) On receiving an application for a manufacturing licence, the Health Secretary must give a copy of the application to the Chief Commissioner of Police.
- (2) On receiving further information in accordance with a requirement under section 25(1), the Health Secretary must give a copy of the information to the Chief Commissioner of Police.
- (3) The Chief Commissioner of Police must—
  - (a) report to the Health Secretary on—
    - (i) any matters concerning the application that the Health Secretary asks the Chief Commissioner to inquire into; and

- (ii) any matters concerning the application that the Chief Commissioner believes it is appropriate or reasonably necessary to inquire into; and
- (b) decide whether to support or oppose the application within 28 days of the later of—
  - (i) the day on which the Chief Commissioner received the copy of the application; or
  - (ii) the last day on which the Chief Commissioner received further information under subsection (2) (if any); and
- (c) on making that decision, give the Health Secretary a written notice setting out that decision and—
  - (i) if the decision is wholly or partly based on protected information, a statement of that fact; or
  - (ii) in any other case, the reasons for the decision.
- (4) If the Chief Commissioner of Police decides to oppose the application, and that decision is wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision.
- (5) Neither the Health Secretary nor the applicant is entitled to the written record created under subsection (4).
- (6) Section 8 of the **Administrative Law Act 1978** does not apply to a decision to oppose an application if that decision is wholly or partly based on protected information.

**27 Health Secretary to determine application for manufacturing licence**

- (1) The Health Secretary must determine an application for a manufacturing licence before the day that is 60 days after—
  - (a) the day that the Secretary receives the application; or
  - (b) if the Secretary makes a requirement under section 25(1), the last day that the Secretary makes a requirement under that section.
- (2) The Health Secretary, in accordance with section 28, may—
  - (a) grant the application and issue (as the case requires)—
    - (i) a manufacturing research licence; or
    - (ii) a general manufacturing licence; or
  - (b) refuse the application.
- (3) As soon as practicable after granting or refusing the application, the Health Secretary must notify the applicant of the Secretary's decision.
- (4) If the Health Secretary refuses the application, the Secretary must include in the written notice under subsection (3)—
  - (a) if the refusal is because the Chief Commissioner of Police decided, wholly or partly on the basis of protected information, to oppose the application under section 26(3)(b), a statement that—
    - (i) the Chief Commissioner has created a written record of the reasons for the decision that relate to the protected information; and

- (ii) the reasons are not able to be disclosed to the applicant; and
  - (iii) the applicant is entitled to seek review of the Secretary's decision by VCAT; and
- (b) in any other case—
- (i) the reasons for the refusal of the application; and
  - (ii) a statement that the applicant is entitled to seek review of the Secretary's decision by VCAT.

**28 Circumstances in which Health Secretary may issue manufacturing licence**

- (1) The Health Secretary must not grant an application for a manufacturing licence unless—
- (a) the Chief Commissioner has decided to support the application under section 26(3)(b); and
  - (b) the Secretary is satisfied that—
    - (i) the applicant holds a Commonwealth licence to manufacture in relation to the premises specified in the application under section 24(2)(c); and
    - (ii) neither the applicant nor any of the applicant's associates has been found guilty of a serious offence in Victoria or elsewhere on or after the day that is 10 years before the application is made; and
    - (iii) the applicant and each of the applicant's associates is a fit and proper person to be concerned in or associated with activities conducted under a manufacturing licence; and



- (iv) the premises in relation to which the licence is sought are suitable, in relation to location, facilities and proposed security arrangements, for activities conducted under a manufacturing licence; and
  - (v) the prescribed criteria (if any) are satisfied.
- (2) For the purposes of subsection (1)(b)(iii), in determining whether a person is a fit and proper person to be concerned in or associated with the manufacture of medicinal cannabis products, the Health Secretary may consider—
- (a) the suitability matters; and
  - (b) whether the person has been found guilty of any offence on or after the day that is 10 years before the application is made; and
  - (c) any other matter the Secretary thinks is relevant to the issue of a manufacturing licence.

## **29 Form and duration of manufacturing licence**

- (1) The Health Secretary must specify the following information in a manufacturing licence—
- (a) a licence number that is unique to that manufacturing licence;
  - (b) the premises on which the licensed manufacturer may carry out the activities authorised by the licence;
  - (c) whether the licence is—
    - (i) a manufacturing research licence; or
    - (ii) a general manufacturing licence;
  - (d) the conditions imposed on the licence under section 30(1)(d);

- (e) the day on which the licence expires being not more than 3 years after the day on which it is issued;
  - (f) the prescribed information (if any).
- (2) A manufacturing licence expires on the day specified in the licence under subsection (1)(d) unless it is cancelled or renewed before that day.

### **30 Conditions of manufacturing licence**

- (1) A manufacturing licence is subject to—
- (a) the condition that the licensed manufacturer must not employ a person to carry out an activity under the licence unless the manufacturer is satisfied that the person is suitable to carry out that activity; and
  - (b) the condition that the licensed manufacturer must comply with the plan proposed in the application for the licence under section 24(2)(f);
  - (c) the prescribed conditions (if any); and
  - (d) any other conditions that the Health Secretary specifies in the licence.
- (2) Without limiting subsection (1), a condition may require that the licensed manufacturer must ensure that the medicinal cannabis product meets specified standards regarding quality.

### **31 Licensed manufacturer must issue employee identification certificates**

- (1) A licensed manufacturer must issue an identification certificate containing the information set out in subsection (2) to each employee who is employed to carry out activities under the manufacturing licence.

Penalty: 60 penalty units.

- (2) An employee identification certificate must contain the following information—
  - (a) the employee's name;
  - (b) a clear photograph of the employee;
  - (c) the employee's date of birth;
  - (d) the date on which the employee identification certificate expires under subsection (3);
  - (e) the licence number;
  - (f) the prescribed information (if any).
- (3) An employee identification certificate expires on the day that the manufacturing licence expires under section 29(2).
- (4) A person who is issued an employee identification certificate must return the certificate to the licensed manufacturer if the person ceases to be employed by the licensed manufacturer.

### **32 Application for renewal of manufacturing licence**

- (1) A licensed manufacturer may apply to the Health Secretary for the renewal of the manufacturing licence.
- (2) An application for renewal must not be made later than the day that is 60 days before the day on which the manufacturing licence is due to expire.
- (3) An application for renewal must—
  - (a) be in writing; and
  - (b) be accompanied by the prescribed fee (if any); and
  - (c) include the prescribed information (if any).
- (4) A manufacturing licence may be renewed more than once.

**33 Health Secretary may require applicant for renewal to take further steps**

The Health Secretary may require that the applicant for renewal of a manufacturing licence—

- (a) provide further information in relation to the application for renewal; or
- (b) facilitate an inspection by the Secretary of the licensed premises; or
- (c) submit a recent police record check in respect of the applicant or an associate of the applicant.

**34 Health Secretary must give application for renewal to Chief Commissioner of Police**

- (1) On receiving an application for renewal, the Health Secretary must give a copy of the application to the Chief Commissioner of Police.
- (2) On receiving further information in accordance with a requirement under section 33, the Health Secretary must give a copy of the information to the Chief Commissioner of Police.
- (3) The Chief Commissioner of Police must—
  - (a) report to the Health Secretary on—
    - (i) any matters concerning the application that the Health Secretary asks the Chief Commissioner to inquire into; and
    - (ii) any matters concerning the application that the Chief Commissioner believes it is appropriate or reasonably necessary to inquire into; and

- (b) decide whether to support or oppose the application within 28 days of the later of—
  - (i) the day on which the Chief Commissioner received the copy of the application; or
  - (ii) the last day on which the Chief Commissioner received further information under subsection (2) (if any); and
- (c) on making that decision, give the Health Secretary a written notice setting out that decision and—
  - (i) if the decision is wholly or partly based on protected information, a statement of that fact; or
  - (ii) in any other case, the reasons for the decision.
- (4) If the Chief Commissioner of Police decides to oppose the application, and that decision is wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision.
- (5) Neither the Health Secretary nor the applicant is entitled to the written record created under subsection (4).
- (6) Section 8 of the **Administrative Law Act 1978** does not apply to a decision to oppose an application if that decision is wholly or partly based on protected information.

### **35 Health Secretary to determine application for renewal of manufacturing licence**

- (1) The Health Secretary must determine an application for renewal of a manufacturing licence before the day that is 60 days after—

- (a) the day that the Secretary receives the application; or
  - (b) if the Secretary makes a requirement under section 33, the last day that the Secretary makes a requirement under that section.
- (2) The Health Secretary, in accordance with section 36, may—
- (a) grant the application and renew the manufacturing licence; or
  - (b) refuse the application.
- (3) As soon as practicable after granting or refusing the application for renewal, the Health Secretary must notify the applicant of the Secretary's decision.
- (4) If the Health Secretary refuses the application for renewal, the Secretary must include in the written notice under subsection (3)—
- (a) if the refusal is because the Chief Commissioner of Police decided, wholly or partly on the basis of protected information, to oppose the application under section 34(3)(b), a statement that—
    - (i) the Chief Commissioner has created a written record of the reasons for the decision that relate to the protected information; and
    - (ii) the reasons are not able to be disclosed to the applicant; and
    - (iii) the applicant is entitled to seek review of the Secretary's decision by VCAT; and
  - (b) in any other case—
    - (i) the reasons for the refusal of the application; and
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- (ii) a statement that the applicant is entitled to seek review of the Secretary's decision by VCAT.

**36 Circumstances in which Health Secretary may renew manufacturing licence**

- (1) The Health Secretary must not grant an application for renewal of a manufacturing licence unless—
  - (a) the Chief Commissioner has decided to support the application under section 34(3)(b); and
  - (b) the Secretary is satisfied that—
    - (i) neither the applicant nor any of the applicant's associates has been found guilty of a serious offence in Victoria or elsewhere on or after the day that is 3 years before the application is made; and
    - (ii) the applicant and each of the applicant's associates is a fit and proper person to be concerned in or associated with activities conducted under the manufacturing licence; and
    - (iii) the licensed premises are suitable, in relation to location, facilities and security arrangements, for activities conducted under the manufacturing licence.
- (2) For the purposes of subsection (1)(b)(ii), in determining whether a person is a fit and proper person to be concerned in or associated with activities conducted under the manufacturing licence, the Health Secretary may consider—
  - (a) the suitability matters; and

- (b) whether the person has been found guilty of any offence on or after the day that is 3 years before the application is made; and
- (c) any other matter the Secretary thinks is relevant.

### **37 Amendment of manufacturing licence**

- (1) The Health Secretary may impose a new condition on a manufacturing licence.
- (2) The Health Secretary may—
  - (a) amend or remove a condition the Secretary has imposed on a manufacturing licence under subsection (1) or section 30(1)(d); or
  - (b) amend the condition imposed on a manufacturing licence under section 30(1)(b) (including by amending the plan referred to in that provision).
- (3) The Health Secretary may exercise a power under subsection (1) or (2)—
  - (a) on the application of the licensed manufacturer; or
  - (b) in the Secretary's discretion.
- (4) An application under subsection (3)(a) must—
  - (a) be in writing; and
  - (b) be accompanied by the prescribed fee (if any); and
  - (c) include the prescribed information.
- (5) The Secretary must determine an application under subsection (3)(a) within 28 days of receiving the application.
- (6) If the Health Secretary refuses an application under subsection (3)(a), the Secretary must give the applicant reasons for the refusal.



- (7) Within 7 days of exercising a power under subsection (1) or (2), the Health Secretary must give the licensed manufacturer a written notice specifying the amendment made.

### **38 Suspension and cancellation of manufacturing licence**

- (1) The Health Secretary, by written notice to a licensed manufacturer, may suspend or cancel the manufacturing licence if—
- (a) the licensed manufacturer requests the suspension or cancellation; or
  - (b) the Secretary is satisfied that—
    - (i) the licensed manufacturer has contravened a condition of the licence; or
    - (ii) the licensed manufacturer has contravened this Act or the regulations or the **Drugs, Poisons and Controlled Substances Act 1981** or the regulations under that Act; or
    - (iii) the licensed manufacturer or an associate of the licensed manufacturer is no longer a fit and proper person to be concerned in or associated with activities conducted under the manufacturing licence; or
    - (iv) the licensed premises are no longer suitable for activities conducted under the manufacturing licence; or
    - (v) the licensed manufacturer obtained the manufacturing licence by fraud, misrepresentation or concealment of facts; or

- (c) the licensed manufacturer ceases to carry on the activity to which the manufacturing licence relates; or
  - (d) the Chief Commissioner requests the suspension or cancellation on the basis of protected information concerning the licensed manufacturer.
- (2) Within 7 days of suspending or cancelling a manufacturing licence, the Health Secretary must notify the Chief Commissioner of Police of the suspension or cancellation.
- (3) A manufacturing licence has no effect while it is suspended.
- (4) A manufacturing licence ceases to have effect when it is cancelled.

## **Part 6—Health Secretary's functions regarding obtaining, purchasing, registering, selling and supplying medicinal cannabis products**

### **39 Health Secretary may obtain or purchase medicinal cannabis product from licensed manufacturer**

The Health Secretary is authorised—

- (a) to obtain or purchase any medicinal cannabis product from—
  - (i) a person who holds a general manufacturing licence; or
  - (ii) any other prescribed person or body;  
and
- (b) to transport any medicinal cannabis product for the purpose of paragraph (a); and
- (c) to possess and store any medicinal cannabis product obtained or purchased in accordance with paragraph (a).

### **40 Health Secretary may approve medicinal cannabis products for sale to and by pharmacists**

- (1) The Health Secretary may approve a medicinal cannabis product if satisfied that the product is of sufficient standard and quality to be suitable for use by patients in accordance with this Act.
- (2) The Health Secretary must not approve under subsection (1) a medicinal cannabis product that is designed to be administered by smoking.
- (3) For the purposes of subsection (2), *smoking* does not include vaporising.

**41 Approved medicinal cannabis product register**

- (1) The Health Secretary must keep a publicly accessible register that contains an entry for each approved medicinal cannabis product.
- (2) The Health Secretary must ensure that an entry for an approved medicinal cannabis product includes sufficient information to identify the product.
- (3) The approved medicinal cannabis product register must contain any other prescribed information in respect of an approved medicinal cannabis product.
- (4) The Health Secretary must ensure that a copy of the approved medicinal cannabis product register is published on a website operated by or on behalf of the Health Secretary.

**42 Health Secretary may sell or supply approved medicinal cannabis product to pharmacist**

- (1) The Health Secretary is authorised—
  - (a) to sell or supply to a pharmacist any approved medicinal cannabis product that the Health Secretary—
    - (i) obtained or purchased in accordance with section 39(a); or
    - (ii) manufactured in accordance with a manufacturing authorisation; and
  - (b) to package and transport any approved medicinal cannabis product for the purpose of that sale or supply.
- (2) A pharmacist is authorised—
  - (a) to obtain or purchase any approved medicinal cannabis product from the Health Secretary; and

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- (b) to possess and store any approved medicinal cannabis product obtained or purchased from the Health Secretary; and
- (c) to sell or supply any approved medicinal cannabis product to a person who has a patient medicinal cannabis authorisation for that product; and
- (d) to package and transport any approved medicinal cannabis product for the purpose of paragraph (a) or (c).

**43 Health Secretary may set maximum price at which pharmacist may sell approved medicinal cannabis product**

- (1) The Health Secretary, by notice published in the Government Gazette, may set the maximum price at which a pharmacist may sell an approved medicinal cannabis product.
- (2) A pharmacist must not sell an approved medicinal cannabis product at a price which exceeds the maximum price set under subsection (1).

**44 Health Secretary may give directions to pharmacist**

- (1) The Health Secretary may give a written direction to a pharmacist to whom the Health Secretary has sold or supplied an approved medicinal cannabis product in relation to the manner of the sale or supply of the approved medicinal cannabis product by the pharmacist.
- (2) A pharmacist must comply with a direction under subsection (1).

**45 Health Secretary may sell or supply medicinal cannabis product to authorised research practitioner**

- (1) The Health Secretary is authorised—
- (a) to sell or supply to an authorised research practitioner any specified medicinal cannabis product that the Health Secretary—
    - (i) obtained or purchased in accordance with section 39(a); or
    - (ii) manufactured in accordance with a manufacturing authorisation; and
  - (b) to package and transport the medicinal cannabis product for the purposes of paragraph (a).
- (2) In this section—

***authorised research practitioner*** means a registered medical practitioner who is specified in a practitioner medicinal cannabis authorisation—research purposes as authorised to issue a patient medicinal cannabis access authorisation to a participant in research or a trial;

***specified medicinal cannabis product*** means a medicinal cannabis product that is specified, or that belongs to a class that is specified, in a practitioner medicinal cannabis authorisation—research purposes.

**Note**

Section 47 authorises the authorised research practitioner to obtain and purchase the medicinal cannabis product and supply it to the participant.

## **Part 7—Practitioner medicinal cannabis authorisations**

### **46 What is authorised by practitioner medicinal cannabis authorisation—eligible patient or exceptional circumstances**

A practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—exceptional circumstances authorises each registered medical practitioner specified in it—

- (a) to issue a patient medicinal cannabis authorisation to the patient specified in the patient medicinal cannabis authorisation for the approved medicinal cannabis product specified in the authorisation; and
- (b) to supply the specified approved medicinal product to that patient by the issue of the patient medicinal cannabis authorisation.

### **47 What is authorised by practitioner medicinal cannabis authorisation—research purposes**

A practitioner medicinal cannabis authorisation—research purposes authorises each registered medical practitioner specified in it—

- (a) to issue a patient medicinal cannabis authorisation to a participant specified in the patient medicinal cannabis authorisation for the medicinal cannabis product specified in the authorisation; and
- (b) to obtain or purchase the medicinal cannabis product specified in the authorisation from the Health Secretary; and
- (c) to possess and store that medicinal cannabis product; and

- (d) to supply that medicinal cannabis product to a person who holds a patient medicinal cannabis access authorisation for that product; and
- (e) to package and transport a medicinal cannabis product for the purposes of paragraphs (b) and (d).

**48 Specialist medical practitioner may apply for practitioner medicinal cannabis authorisation—eligible patient**

- (1) Subject to subsection (3), a specialist medical practitioner may apply to the Health Secretary for a practitioner medicinal cannabis authorisation—eligible patient in respect of a patient.
- (2) An application for a practitioner medicinal cannabis authorisation—eligible patient must—
  - (a) be in the form approved by the Health Secretary; and
  - (b) identify the patient in respect of whom the practitioner medicinal cannabis authorisation is sought; and
  - (c) specify the medical condition in relation to which the practitioner medicinal cannabis authorisation is sought; and
  - (d) specify the approved medicinal cannabis product or class of product the applicant seeks to use to treat the patient; and
  - (e) include a statement that the applicant is satisfied as to the matters set out in subsection (3); and
  - (f) identify each registered medical practitioner (other than the applicant) whom the applicant requests be authorised to issue a patient medicinal cannabis access authorisation to the eligible patient; and



- (g) specify the recognised speciality (within the meaning of the Health Practitioner Regulation National Law (Victoria)) that is prescribed in respect of the medical condition for which the practitioner medicinal cannabis authorisation—eligible patient is sought.
- (3) A specialist medical practitioner must not apply for a practitioner medicinal cannabis authorisation—eligible patient unless the practitioner is satisfied that—
- (a) the patient is an eligible patient; and
  - (b) it is appropriate in all the circumstances that the patient should be treated with an approved medicinal cannabis product; and
  - (c) the prescribed additional criteria (if any) are met.

**49 Specialist medical practitioner may apply for practitioner medicinal cannabis authorisation—research purposes**

- (1) Subject to subsection (3), a specialist medical practitioner may apply to the Health Secretary for a practitioner medicinal cannabis authorisation—research purposes in respect of a person or class of persons who are to participate in research or a trial.
- (2) An application for a practitioner medicinal cannabis authorisation—research purposes must—
  - (a) be in the form approved by the Health Secretary; and
  - (b) specify the prescribed details for each participant in the research or trial in respect of which the practitioner medicinal cannabis authorisation—research purposes is sought; and

- (c) specify the medical condition or symptoms in relation to which the practitioner medicinal cannabis authorisation—research purposes is sought; and
  - (d) specify the medicinal cannabis product or class of product the applicant seeks to use during the research or trial; and
  - (e) include a statement that the applicant is satisfied as to the matters set out in subsection (3); and
  - (f) specify the prescribed details regarding the research or trial; and
  - (g) identify each registered medical practitioner (other than the applicant) whom the applicant requests be authorised to issue a patient medicinal cannabis access authorisation to a participant.
- (3) A specialist medical practitioner must not apply for a practitioner medicinal cannabis authorisation—research purposes unless the practitioner is satisfied that—
- (a) it is appropriate in all the circumstances that a participant should be treated with a medicinal cannabis product for research purposes; and
  - (b) the prescribed additional criteria (if any) are met.

**50 Registered medical practitioner may apply for practitioner medicinal cannabis authorisation—exceptional circumstances**

- (1) Subject to subsection (3), a registered medical practitioner may apply to the Health Secretary for a practitioner medicinal cannabis authorisation—exceptional circumstances in respect of a patient who is not an eligible patient.

- (2) An application for a practitioner medicinal cannabis authorisation—exceptional circumstances must—
- (a) be in the form approved by the Health Secretary; and
  - (b) identify the patient in respect of whom the practitioner medicinal cannabis authorisation is sought; and
  - (c) set out the exceptional circumstances that justify the patient being treated with an approved medicinal cannabis product; and
  - (d) specify the medical condition in relation to which the practitioner medicinal cannabis authorisation is sought; and
  - (e) specify the approved medicinal cannabis product or class of product the applicant seeks to use to treat the patient; and
  - (f) include a statement that the applicant is satisfied as to the matters set out in subsection (3); and
  - (g) identify each registered medical practitioner (other than the applicant) whom the applicant requests be authorised to issue a patient medicinal cannabis access authorisation to the patient.
- (3) A registered medical practitioner must not apply for a practitioner medicinal cannabis authorisation—exceptional circumstances patient unless the practitioner is satisfied that—
- (a) the patient is not an eligible patient but exceptional circumstances exist to justify the patient being treated with an approved medicinal cannabis product; and
  - (b) the prescribed additional criteria (if any) are met.

**51 Health Secretary to determine application for practitioner medicinal cannabis authorisation**

- (1) The Health Secretary must determine an application for a practitioner medicinal cannabis authorisation made under section 48, 49 or 50 within the prescribed time period of receiving it.
- (2) The Health Secretary—
  - (a) may grant the application and issue a practitioner medicinal cannabis authorisation if the Secretary is satisfied that—
    - (i) it is appropriate in all the circumstances to issue the authorisation, having regard to the type of authorisation for which the application was made; and
    - (ii) the patient or each participant in respect of whom the application was made ordinarily resides in Victoria; and
    - (iii) the prescribed criteria (if any) are met; or
  - (b) must refuse the application if not so satisfied.
- (3) In issuing a practitioner medicinal cannabis authorisation, the Health Secretary may determine the registered medical practitioners (other than the applicant) who are to be authorised under the practitioner medicinal cannabis authorisation to issue a patient medicinal cannabis access authorisation to the patient or each participant specified in the practitioner medicinal cannabis authorisation.

- (4) As soon as practicable after granting or refusing the application, the Health Secretary must notify the applicant of the Secretary's decision.
- (5) If the Health Secretary refuses the application, the Secretary must provide reasons for the refusal when notifying the applicant in accordance with subsection (4).

## **52 Form of practitioner medicinal cannabis authorisation**

- (1) The Health Secretary must specify the following matters in a practitioner medicinal cannabis authorisation—
  - (a) in the case of a practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—exceptional circumstances, the patient in respect of whom the authorisation is issued;
  - (b) in the case of a practitioner medicinal cannabis authorisation—research purposes, each participant in the research or trial in respect of whom the authorisation is issued;
  - (c) in the case of a practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—research purposes, the specialist medical practitioner to whom the authorisation is issued;
  - (d) in the case of a practitioner medicinal cannabis authorisation—exceptional circumstances, the registered medical practitioner to whom the authorisation is issued;

- (e) the other registered medical practitioners authorised under the practitioner medicinal cannabis authorisation to issue a patient medicinal cannabis access authorisation to the patient or participant;
  - (f) the medicinal cannabis product or class of product in respect of which the practitioner medicinal cannabis authorisation is issued;
  - (g) the date on which the practitioner medicinal cannabis authorisation expires, which must not be more than 1 year after the date on which the authorisation is issued;
  - (h) the prescribed matters (if any).
- (2) A practitioner medicinal cannabis authorisation expires on the date specified in the authorisation unless it is cancelled before that date.

**53 Health Secretary must keep practitioner medicinal cannabis authorisations register**

- (1) The Health Secretary must keep a register that contains an entry for—
- (a) each practitioner medicinal cannabis authorisation issued; and
  - (b) each registered medical practitioner who is specified in a practitioner medicinal cannabis authorisation as authorised to issue a patient medicinal cannabis access authorisation.
- (2) The Health Secretary must ensure that each entry includes the prescribed information.

**54 Health Secretary may amend practitioner medicinal cannabis authorisation**

- (1) The Health Secretary may amend a practitioner medicinal cannabis authorisation if satisfied that it is appropriate to do so in all the circumstances.

- (2) The Health Secretary may exercise a power under subsection (1)—
  - (a) on the application of the holder of the practitioner medicinal cannabis authorisation; or
  - (b) in the Secretary's discretion.
- (3) The Secretary must determine an application made under subsection (2)(a) as soon as practicable after receiving the application.
- (4) The Secretary must notify the holder of the practitioner medicinal cannabis authorisation, in writing as soon as practicable, if an amendment is made under subsection (1).

**55 Health Secretary may suspend or cancel practitioner medicinal cannabis authorisation**

- (1) The Health Secretary may suspend or cancel a practitioner medicinal cannabis authorisation at any time if satisfied that it is appropriate to do so in all the circumstances.
- (2) As soon as practicable after suspending or cancelling a practitioner medicinal cannabis authorisation, the Health Secretary must notify each registered medical practitioner who is specified in the authorisation as authorised to issue a patient medicinal cannabis access authorisation.
- (3) A practitioner medicinal cannabis authorisation has no effect while it is suspended.
- (4) A practitioner medicinal cannabis authorisation ceases to have effect when it is cancelled.

## **Part 8—Patient medicinal cannabis access authorisations**

### **56 What a patient medicinal cannabis access authorisation authorises**

A patient medicinal cannabis access authorisation authorises the patient or participant specified in the authorisation—

- (a) to obtain the medicinal cannabis product specified in the authorisation; and
- (b) to possess and store the specified medicinal cannabis product; and
- (c) to use the specified medicinal cannabis product.

### **57 Registered medical practitioner may issue patient medicinal cannabis access authorisation**

- (1) A registered medical practitioner specified in a practitioner medicinal cannabis authorisation may issue a patient medicinal cannabis access authorisation to the patient or participant specified in that practitioner medicinal cannabis authorisation.
- (2) The registered medical practitioner must specify the following matters in a patient medicinal cannabis access authorisation—
  - (a) the identity of the patient or participant to whom the authorisation is issued; and
  - (b) the medicinal cannabis product for that patient or participant; and
  - (c) the prescribed information (if any).

#### **Note**

Sections 77 and 78 of the **Drugs, Poisons and Controlled Substances Act 1981** provide offences that relate to patient medicinal cannabis access authorisations.



**58 Pharmacist may sell or supply on patient medicinal cannabis access authorisation**

A pharmacist is authorised—

- (a) to sell or supply an approved medicinal cannabis product specified in a patient medicinal cannabis access authorisation to the patient specified in the authorisation, or a person acting on the patient's behalf, in accordance with the authorisation; and
- (b) to package and transport the specified approved medicinal cannabis product for the purposes of paragraph (a).

**Note**

See also section 13(1) of the **Drugs, Poisons and Controlled Substances Act 1981**.

**59 Registered medical practitioner may supply for research purposes on patient medicinal cannabis access authorisation**

A registered medical practitioner specified in a practitioner medicinal cannabis authorisation—research purposes under which a patient medicinal cannabis access authorisation is issued is authorised—

- (a) to supply a medicinal cannabis product specified in the patient medicinal cannabis access authorisation to the participant specified in the authorisation in accordance with the authorisation; and
- (b) to package and transport the specified medicinal cannabis product for the purposes of paragraph (a).

**60 Other authority to possess, use and administer**

- (1) The following persons are authorised to administer a medicinal cannabis product supplied under a patient medicinal cannabis access authorisation to the patient or participant specified in that authorisation—
  - (a) each registered medical practitioner specified in the practitioner medicinal cannabis authorisation under which the patient medicinal cannabis access authorisation was issued;
  - (b) the treating registered medical practitioner of the patient or participant, if not a registered medical practitioner referred to in paragraph (a);
  - (c) the following persons in accordance with the written instructions of a registered medical practitioner referred to in paragraph (a) or (b)—
    - (i) a person who has responsibility for the immediate care and safety of the patient or participant;
    - (ii) the carer, parent or guardian of the patient or participant;
  - (d) a person belonging to a prescribed class of persons.
- (2) A person referred to in subsection (1) is authorised to possess and use the medicinal cannabis product for the purposes of that subsection.

## **Part 9—Review of decisions relating to licences**

### **Division 1—Decisions that may be reviewed**

#### **61 Review by VCAT**

- (1) A person may apply to VCAT for review of a decision of the Health Secretary—
  - (a) to refuse to issue a manufacturing licence to the person; or
  - (b) to refuse to renew a manufacturing licence held by the person; or
  - (c) to suspend a manufacturing licence held by the person; or
  - (d) to cancel a manufacturing licence held by the person.
- (2) An application for review under subsection (1) must be made within 28 days after the later of—
  - (a) the day on which the decision is made; or
  - (b) if, under the **Victorian Civil and Administrative Tribunal Act 1998**, the person requests a statement of reasons for the decision, the day on which the statement of reasons is given to the person or the person is informed under section 46(5) of that Act that a statement of reasons will not be given.

### **Division 2—Protected information**

#### **62 VCAT to inquire on grounds for refusal**

- (1) This section applies if VCAT receives an application for review of—
  - (a) a decision to refuse an application for the issue or renewal of a manufacturing licence; or

- (b) a decision to suspend or cancel a manufacturing licence.
- (2) VCAT must request the Health Secretary to inform VCAT whether the decision was made because the Chief Commissioner of Police opposed the application wholly or partly on the basis of protected information.
- (3) On receiving a request under subsection (2), the Health Secretary must provide the requested information to VCAT in a written notice.

### **63 Appointment of special counsel**

- (1) VCAT must appoint a special counsel to represent the interests of the applicant if the Health Secretary gives VCAT a written notice stating that a decision was based on protected information.
- (2) A special counsel must be a barrister within the meaning of the Legal Profession Uniform Law (Victoria) who, in the opinion of VCAT, has the appropriate skills and ability to represent the interests of the party at the hearing.
- (3) At any time before the special counsel attends the hearing or obtains any confidential affidavit in relation to the application for the purpose of obtaining information or instructions from the party or representative in relation to the proceeding, the special counsel may communicate with—
  - (a) the party whose interests the special counsel is representing; or
  - (b) any representative of that party.
- (4) Subject to section 65(3), at any time after the special counsel commences to attend the hearing or obtains any confidential affidavit in relation to the application, the special counsel—

- (a) must not take instructions from the party whose interests the special counsel is representing, or from any representative of that party; and
  - (b) must not communicate any other information in relation to the hearing to that party or a representative of that party without leave of VCAT except to communicate any order made by VCAT at or in relation to the hearing.
- (5) A special counsel may be required to sign a confidentiality undertaking to VCAT.

**64 Procedure for hearing—protected information**

- (1) If, in response to a request under section 62(2), the Health Secretary informs VCAT in writing that the decision was based on protected information, VCAT must, at the hearing of the application, first determine whether or not the information is protected information.
- (2) For the purposes of making a determination under subsection (1), VCAT may hold a hearing or any part of it in private.
- (3) If VCAT determines to hold a hearing or part of a hearing in private under subsection (2)—
  - (a) only the Chief Commissioner of Police and the special counsel are entitled to be present; and
  - (b) each party that is entitled to be present has a right to make submissions as to—
    - (i) whether evidence supporting the grounds for the decision under review amounts to protected information; and
    - (ii) the weight that should be given to that evidence; and

- (iii) the character of the applicant and the applicant's associates, being evidence indicating whether each of those persons is a fit and proper person to be concerned in or associated with activities conducted under a manufacturing licence; and
  - (iv) whether, in all the circumstances, the manufacturing licence should be issued, renewed, suspended or cancelled (as the case requires).
- (4) After hearing the evidence of the Chief Commissioner of Police and the special counsel under subsection (3), VCAT must decide whether or not any of the evidence adduced amounts to protected information.
- (5) If VCAT decides that none of the evidence adduced under subsection (3) amounts to protected information, VCAT must admit the applicant to the proceeding and subsection (3) ceases to apply to the hearing.

**65 Decision of VCAT where protected information exists**

- (1) Without limiting any other power of VCAT conferred by or under this Part or any other Act, if VCAT decides that any of the evidence adduced under section 64(3) is protected information, that subsection continues to apply to the hearing of the proceeding to the extent that it relates to that protected information.
- (2) In making a determination in a proceeding to which subsection (1) applies, VCAT must decide—
- (a) what weight to give the protected information and any other evidence adduced; and

- (b) whether, in all the circumstances, the manufacturing licence should be issued, renewed, suspended or cancelled (as the case requires).
- (3) If VCAT decides that any of the evidence adduced under section 64(3) is protected information—
  - (a) VCAT must take all steps and precautions to prevent release of that information; and
  - (b) if the special counsel wishes to seek further instructions from the applicant on one or more occasions in relation to that protected information, the special counsel may do so only by submitting written questions for the approval of VCAT after hearing any submissions from the Chief Commissioner of Police on their content.
- (4) Despite section 117 of the **Victorian Civil and Administrative Tribunal Act 1998**, any order issued by VCAT in relation to a decision under this section must only state—
  - (a) whether the decision of the Health Secretary is upheld or overturned; and
  - (b) if the manufacturing licence is not issued or renewed, or if the licence is suspended or cancelled, that the applicant and each of the applicant's associates has failed to meet the fit and proper person requirements.
- (5) For the avoidance of doubt, VCAT may publish reasons for its decision to the extent that those reasons do not relate to protected information.

## **66 General provisions for hearing matters involving protected information**

- (1) For the purposes of a hearing to which section 64 or 65 applies, VCAT must be constituted by a presidential member.

- (2) At any time before a final determination has been made by VCAT on a matter to which section 64 applies—
  - (a) the Health Secretary may change the decision under review and issue or renew or reinstate the manufacturing licence; and
  - (b) if the decision is changed as referred to in paragraph (a), the proceeding terminates immediately.
- (3) The following provisions do not apply to a proceeding for as long as section 64 or 65 applies—
  - (a) Subdivision 1 of Division 3 of Part 3 and section 49 of the **Victorian Civil and Administrative Tribunal Act 1998**;
  - (b) section 8 of the **Administrative Law Act 1978**.
- (4) Subsection (3) does not apply to the extent that the proceeding does not involve protected information.



## **Part 10—Offences**

### **67 Licensed manufacturer must report amendment or cancellation of Commonwealth licence**

A licensed manufacturer must inform the Health Secretary within 10 days if the Commonwealth licence to manufacture held by the licensed manufacturer is amended or cancelled.

Penalty: 100 penalty units.

### **68 Licensed manufacturer must report certain events**

(1) A licensed manufacturer must report an event specified in subsection (2) to the Health Secretary within 7 days.

Penalty: 100 penalty units.

(2) For the purposes of subsection (1), the following events are specified—

- (a) a change in the details specified in the licence;
- (b) the signing of a personal insolvency agreement or any declaration of bankruptcy that applies to the licensed manufacturer;
- (c) an event that means that any information included in the application for the licence is no longer accurate;
- (d) if the licensed manufacturer is not an individual, the manufacturer entering into voluntary administration, liquidation or receivership;
- (e) any of the following events that happens after the licensed manufacturer made the application for the licence—
  - (i) a person becoming an associate of the licensee;

- (ii) the licensee being found guilty of an offence in Victoria or another jurisdiction, including a jurisdiction outside Australia;
- (iii) an associate of the licensee being found guilty of a serious offence in Victoria or another jurisdiction, including a jurisdiction outside Australia.

**69 Licensed manufacturer must report prescribed events**

A licensed manufacturer must report a prescribed event to the Health Secretary within 7 days.

Penalty: 100 penalty units.

**70 Licensed manufacturer must surrender suspended or cancelled licence**

Within 14 days of the suspension or cancellation of a manufacturing licence, the holder of the licence must surrender to the Health Secretary—

- (a) the manufacturing licence; and
- (b) each notice given in relation to the licence under section 37(7).

Penalty: 20 penalty units.

**71 Licensed manufacturer must not contravene licence**

- (1) A licensed manufacturer must not contravene a condition of the license that is prescribed to be a minor condition.

Penalty: 20 penalty units.

- (2) A licensed manufacturer must not contravene a condition of the licence that is not referred to in subsection (1).

Penalty: 100 penalty units or 12 months imprisonment or both.

**72 Licensed manufacturer must prohibit access to licensed premises**

A licensed manufacturer must not, without reasonable excuse, permit a person to enter licensed premises unless the person is—

- (a) an employee of the licensee who is employed—
  - (i) to undertake an activity authorised by the licence; or
  - (ii) to carry out an activity in the business conducted by the licensee; or
- (b) a manufacturing inspector; or
- (c) accompanied at all times by a person referred to in paragraph (a) or (b).

Penalty: 100 penalty units.

**73 Employee must carry employee identification certificate**

- (1) A person who is employed by a licensed manufacturer and who has been issued an employee identification certificate must carry the certificate during the performance of any activity authorised by the licence.

Penalty: 60 penalty units.

- (2) A person who is employed by a licensed manufacturer and who has been issued an employee identification certificate must produce the certificate on the request of a manufacturing inspector.

Penalty: 60 penalty units.

**74 Licensed manufacturer must not employ disqualified person**

A licensed manufacturer must not employ a person in the business conducted under the licence if the person—

- (a) is under the age of 17 and is not an apprentice or trainee undertaking an approved training scheme within the meaning of the **Education and Training Reform Act 2006**; or
- (b) has been found guilty of a serious offence in Victoria or another jurisdiction, including a jurisdiction outside Australia, in the last 10 years; or
- (c) has been found guilty of an offence against this Act in the last 5 years; or
- (d) has been found guilty of an offence against a corresponding law (within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**) in the last 5 years; or
- (e) belongs to a prescribed class of persons.

Penalty: 60 penalty units.

**75 Disqualified person must not accept employment by licensed manufacturer**

A person must not accept employment to carry out activities in the business conducted by a licensed manufacturer if the person—

- (a) is under the age of 17 and is not an apprentice or trainee undertaking an approved training scheme within the meaning of the **Education and Training Reform Act 2006**; or

- (b) has been found guilty of a serious offence in Victoria or another jurisdiction, including a jurisdiction outside Australia, in the last 10 years; or
- (c) has been found guilty of an offence against this Act in the last 5 years; or
- (d) has been found guilty of an offence against a corresponding law within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981** in the last 5 years; or
- (e) belongs to a prescribed class of persons.

Penalty: 60 penalty units.

**76 Licensed manufacturer must ensure employees do not contravene licence or provisions of this Act**

- (1) A licensed manufacturer must take reasonable steps to prevent an employee of the manufacturer from contravening any of the following laws in carrying out an activity authorised by the licence—
  - (a) this Act;
  - (b) the regulations;
  - (c) the **Drugs, Poisons and Controlled Substances Act 1981**;
  - (d) the regulations under the **Drugs, Poisons and Controlled Substances Act 1981**.

Penalty: 60 penalty units.

- (2) A licensed manufacturer must take reasonable steps to provide each employee of the manufacturer who carries out an activity authorised by the licence with sufficient and appropriate information, instruction, training and

supervision to enable the employee to carry out that activity in accordance with the licence.

Penalty: 60 penalty units.

- (3) An employee of a licensed manufacturer must cooperate with the manufacturer in relation to any direction given, or action taken, by the manufacturer, or by a person authorised by the manufacturer for that purpose, in order to comply with subsection (1) or (2).

Penalty: 60 penalty units.

**77 Criminal liability of licensed manufacturer for a failure to exercise due diligence**

- (1) If an employee of a licensed manufacturer commits an offence against this Act, the manufacturer also commits an offence against this Act if the manufacturer failed to exercise due diligence to prevent the commission of the offence by the employee.
- (2) A licensed manufacturer referred to in subsection (1) is liable to a penalty not exceeding the maximum penalty that applies to the offence against this Act committed by the employee.
- (3) In determining whether a licensed manufacturer failed to exercise due diligence, a court may have regard to—
- (a) whether or not the licensee permitted or authorised the act or omission of the employee that constituted the offence against this Act; and
  - (b) what steps the licensee took, or could reasonably have taken, to prevent the commission of the offence by the employee.

- (4) Without limiting any other defence available to a licensed manufacturer, the manufacturer may rely on a defence that would be available to the employee if the employee were charged with the offence with which the manufacturer is charged.
- (5) In relying on a defence referred to in subsection (4), the licensed manufacturer bears the same burden of proof that the employee would bear.
- (6) A licensed manufacturer may commit an offence against this Act whether or not the employee of the manufacturer has been prosecuted for, or found guilty of, an offence against this Part.

**78 Manufacturing inspector not to be hindered or obstructed**

- (1) A person must not, without reasonable excuse, hinder or obstruct a manufacturing inspector in the exercise of a power under this Act.

Penalty: 100 penalty units.

- (2) A person must not, without reasonable excuse, fail to comply with any direction, requirement or order of a manufacturing inspector under this Act.

Penalty: 100 penalty units.

**79 Offences concerning labelling, packaging, containers and advertising**

- (1) A person must not sell or supply an approved medicinal cannabis product or any other medicinal cannabis product with a label that does not comply with the prescribed labelling requirements (if any).

Penalty: 20 penalty units.

- (2) A person must not sell or supply an approved medicinal cannabis product or any other medicinal cannabis product in a container that does not comply with the prescribed container requirements (if any).

Penalty: 20 penalty units.

- (3) A person must not sell or supply an approved medicinal cannabis product or any other medicinal cannabis product—

(a) which the person has stored or packaged otherwise than in accordance with the prescribed requirements (if any); or

(b) which the person knows to have been stored or packaged otherwise than in accordance with the prescribed requirements (if any).

Penalty: 20 penalty units.

- (4) A person must not advertise for sale or supply an approved medicinal cannabis product or any other medicinal cannabis product otherwise than in accordance with the prescribed advertising requirements (if any).

Penalty: 20 penalty units.



## **Part 11—Manufacturing inspectors and enforcement powers**

### **Division 1—Authorisation and general powers of manufacturing inspectors**

#### **80 Manufacturing inspectors**

- (1) The Health Secretary, by instrument, may authorise the following persons to be inspectors in respect of the manufacture of medicinal cannabis products under this Act—
  - (a) any person employed under Part 3 of the **Public Administration Act 2004**;
  - (b) any other appropriately qualified person.
- (2) The authorisation is subject to—
  - (a) the conditions determined by the Health Secretary (if any); and
  - (b) the prescribed conditions (if any).
- (3) The Health Secretary may include, as a condition of the authorisation, general directions as to how the manufacturing inspector's powers are to be exercised.

#### **81 Manufacturing inspector's identification certificate**

- (1) The Health Secretary must issue an identification certificate to each manufacturing inspector who is not a police officer.
- (2) A manufacturing inspector (other than a police officer) who is performing the functions of a manufacturing inspector must produce the identification certificate to any person who requests it.

- (3) A police officer who is performing the functions of a manufacturing inspector must produce written evidence of the officer's status as a member of Victoria Police to any person who requests it.

## **82 Function and general powers of manufacturing inspector**

- (1) The function of a manufacturing inspector is to determine whether activities referred to in sections 20 and 21 are undertaken in compliance with—
- (a) a manufacturing licence; and
  - (b) this Act; and
  - (c) the regulations.
- (2) For the purposes of determining that compliance, a manufacturing inspector, with any assistance the inspector thinks necessary, may do any of the following things at any reasonable time—
- (a) enter and inspect any place, other than premises used as a residence, occupied by a person who holds or held a manufacturing licence;
  - (b) inspect, count, examine or mark for identification any cannabis, cannabis material, intermediate cannabis products or medicinal cannabis products in the place;
  - (c) intercept, inspect and examine any vehicle or machine which a manufacturing inspector reasonably believes is being used in connection with the manufacture of cannabis;
  - (d) require a person to produce any document that the inspector reasonably requires for determining compliance as referred to in subsection (1);

- (e) do any of the following things to a document produced under paragraph (d)—
    - (i) examine the document;
    - (ii) make copies of the document;
    - (iii) take extracts from the document;
    - (iv) seize the document for as long as is reasonably necessary to make copies or take extracts;
  - (f) take samples of cannabis or cannabis material to determine whether the cannabis or cannabis material is possessed in accordance with a manufacturing licence;
  - (g) take samples of intermediate cannabis products and medicinal cannabis products to determine whether the products are being manufactured or possessed in accordance with a manufacturing licence.
- (3) A manufacturing inspector must not exercise any powers under this Act if the inspector fails to produce the identification certificate for inspection on request by—
- (a) in the case of a power exercised in relation to a vehicle—
    - (i) the person in charge, or apparently in charge, of the vehicle; or
    - (ii) the occupier of the place where that vehicle is located; or
    - (iii) the person in charge or apparently in charge of that place; or

- (b) in any other case—
  - (i) the occupier of the place at which the power is exercised; or
  - (ii) the person in charge, or apparently in charge, of that place.
- (4) If a manufacturing inspector takes a sample under subsection (1)(f) or (g), the inspector must—
  - (a) divide the sample into 3 parts; and
  - (b) give one part to the person referred to in subsection (2)(a); and
  - (c) retain one part untouched; and
  - (d) submit one part for examination to a medicinal cannabis testing facility.

## **Division 2—Further powers and procedures for manufacturing inspectors**

### **83 Manufacturing inspector must give receipt if thing taken or seized**

- (1) This section applies if a manufacturing inspector—
  - (a) seizes a document under section 82(2)(e)(iv); or
  - (b) takes a sample under section 82(2)(f) or (g); or
  - (c) seizes or secures cannabis under section 85(1).
- (2) In this section, a reference to a manufacturing inspector *seizing a thing* is a reference to the inspector seizing, taking, removing or securing that thing as referred to in subsection (1).

- (3) The manufacturing inspector must give a receipt to the person who—
  - (a) occupies the premises at which the inspector seized the thing; or
  - (b) uses a vehicle from which the inspector seized the thing.
- (4) If the manufacturing inspector is unable to give a receipt to the person, the inspector must—
  - (a) post it to the person; or
  - (b) leave it at premises occupied by the person; or
  - (c) if the receipt is to be issued in respect of a document, leave a copy of the document with, or post a copy of the document to, the person.
- (5) A receipt must—
  - (a) identify the thing seized; and
  - (b) state the name of the inspector who seized the thing; and
  - (c) state the reason why the thing was seized.

#### **84 Manufacturing inspector's powers in relation to storage devices**

- (1) This section applies if—
  - (a) having entered a place under section 82(2)(a), a manufacturing inspector finds a thing that is or contains a storage device; and
  - (b) the inspector believes on reasonable grounds that information stored in the storage device may be relevant to determining whether there has been a contravention of—
    - (i) this Act; or

- (ii) the regulations; or
  - (iii) a manufacturing licence.
- (2) If there is at the place equipment that may be used with the storage device, the manufacturing inspector may—
- (a) operate the equipment to access the information; or
  - (b) require the licensed manufacturer, or one of the manufacturer's employees, to operate the equipment to access the information.
- (3) The manufacturing inspector may—
- (a) put the information in a documentary form and seize the documents so produced; or
  - (b) copy the information to another storage device and remove that other storage device from the place; or
  - (c) require a licensed manufacturer, or an employee of a licensed manufacturer, to do or facilitate a thing referred to in paragraph (a) or (b).
- (4) A manufacturing inspector must not operate equipment for a purpose set out in this section unless the inspector believes on reasonable grounds that the operation can be carried out without damage to the equipment.

**85 Manufacturing inspector may seize or secure cannabis on belief of contravention**

- (1) A manufacturing inspector may seize or secure cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product if the inspector believes on reasonable grounds that the thing to be seized—

- (a) is possessed or was manufactured in contravention of—
    - (i) this Act; or
    - (ii) the regulations; or
    - (iii) the **Drugs, Poisons and Controlled Substances Act 1981**; or
    - (iv) the regulations under the **Drugs, Poisons and Controlled Substances Act 1981**; or
    - (v) a manufacturing licence; or
  - (b) is possessed or manufactured by a person who holds a manufacturing licence that has been suspended or cancelled under this Act.
- (2) The manufacturing inspector must give a copy of the receipt that is given under section 83 in respect of the seized cannabis to the Health Secretary.
  - (3) If the manufacturing inspector is a police officer, the inspector must also give a copy of the detention or seizure receipt to the Chief Commissioner of Police.
  - (4) The manufacturing inspector may, with any necessary assistance, supply seized cannabis to the Health Secretary.
  - (5) This section does not limit or prevent the exercise of any power by a police officer to commence a proceeding in respect of compliance with this Act in relation to any seized cannabis.

#### **86 Manufacturing inspector may access ratepayer information**

- (1) For the purposes of exercising a power under this Act, a manufacturing inspector may require a person who has custody of any records relating to

a ratepayer (within the meaning of the **Local Government Act 1989**) to provide the inspector with—

- (a) the name and address or other contact details of a ratepayer who is—
    - (i) a licensed manufacturer; or
    - (ii) an applicant for a manufacturing licence; or
  - (b) the address or description of any land in respect of which a ratepayer is liable to pay rates and charges under Part 8 of the **Local Government Act 1989** if the ratepayer is—
    - (i) a licensed manufacturer; or
    - (ii) an applicant for a manufacturing licence.
- (2) A manufacturing inspector may make a record of any information provided to the inspector under subsection (1).
  - (3) A manufacturing inspector must not be charged a fee for anything done, or required to be done, under this section.

### **87 Manufacturing inspector may issue infringement notice**

- (1) A manufacturing inspector may serve an infringement notice on a person who the inspector has reason to believe has committed a prescribed offence.
- (2) An offence referred to in subsection (1) for which an infringement notice may be served is an infringement offence within the meaning of the **Infringements Act 2006**.
- (3) The infringement penalty for an offence against this Act is the prescribed infringement penalty in respect of that offence.



### **88 Manufacturing inspector's authorisations regarding cannabis**

For the purposes of this Act, a manufacturing inspector is authorised to possess cannabis, cannabis material, intermediate cannabis products and medicinal cannabis products in the exercise or performance of any power, function or duty conferred or imposed on the inspector by this Act or the regulations.

## **Division 3—Powers of Health Secretary regarding seized cannabis**

### **89 How Health Secretary must deal with seized cannabis**

- (1) If a manufacturing inspector seizes cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product, the Health Secretary may—
  - (a) deal with the seized cannabis in accordance with subsection (3) if—
    - (i) the Secretary is satisfied on reasonable grounds that, in relation to the seized cannabis, there has been a contravention of this Act, the regulations, the **Drugs, Poisons and Controlled Substances Act 1981**, the regulations made under that Act or a manufacturing licence; and
    - (ii) the person from whom the cannabis was seized surrenders the seized cannabis to the Secretary; and
    - (iii) that person consents to the Secretary dealing with the seized cannabis in accordance with subsection (3); or

- (b) if the seized cannabis is required for evidence in a proceeding, retain the cannabis in accordance with section 90.
- (2) Unless subsection (1) applies, the Health Secretary must take reasonable steps to return the seized cannabis—
  - (a) to the person from whom it was seized; or
  - (b) to its lawful owner.
- (3) In the circumstances set out in subsection (1)(a), the Health Secretary may do any of the following—
  - (a) dispose of the seized cannabis;
  - (b) direct the person from whom the cannabis was seized to dispose of the seized cannabis;
  - (c) in the case of seized cannabis plants, harvest the cannabis plants and—
    - (i) destroy the harvest; or
    - (ii) otherwise deal with the harvest as appropriate;
  - (d) enter into an agreement with the person from whom the cannabis was seized, or any other person, to deal with the seized cannabis as required in all of the circumstances;
  - (e) anything reasonably required to ensure the security of the seized cannabis.
- (4) Section 94(1) applies to seized cannabis retained by the Health Secretary under this Division.

**Note**

Section 94(1) authorises the Health Secretary to have the seized cannabis tested at a medicinal cannabis testing facility.

## **90 Retention of seized cannabis for proceeding**

- (1) This section applies if the Health Secretary is retaining seized cannabis for evidence in a proceeding under section 89(1)(b).
- (2) The seized cannabis may be retained—
  - (a) for a period of 3 months or such longer period as specified in an order under section 91; and
  - (b) for a subsequent period that ends on the completion of the proceeding (including any appeal) for which the seized cannabis is retained.
- (3) If a proceeding is not commenced by the end of the period referred to in subsection (2)(a), the seized cannabis must be returned in accordance with section 89(2).
- (4) The seized cannabis may be retained at a place approved by the Health Secretary.

## **91 Magistrates' Court may extend 3 month period**

- (1) This section applies if the Health Secretary is retaining seized cannabis for evidence in a proceeding under section 89(1)(b).
- (2) The Health Secretary may apply to the Magistrates' Court for an extension (not exceeding 3 months) of the period during which the seized cannabis may be retained.
- (3) An application under subsection (2) must not be made after—
  - (a) the day that is 3 months after the cannabis is seized; or
  - (b) if an extension has been granted under this section, the end of the period of the extension.

- (4) The Magistrates' Court may make an order extending the period that the seized cannabis is to be retained if satisfied that—
- (a) the making of the order is in the interests of justice; and
  - (b) the total period of retention does not exceed 12 months; and
  - (c) retention of the seized cannabis is necessary for the purpose of an investigation into whether a contravention of this Act has occurred.
- (5) At least 7 days before the hearing of an application under subsection (1), the applicant must give notice to—
- (a) the person from whom the cannabis was seized; and
  - (b) the lawful owner of the seized cannabis.

## **92 Forfeiture and destruction of seized cannabis**

- (1) This section applies the Health Secretary is retaining seized cannabis for evidence in a proceeding under section 89(1)(b).
- (2) The Health Secretary may apply to the Magistrates' Court for a forfeiture and destruction order if the Secretary—
- (a) is satisfied on reasonable grounds that, in relation to the seized cannabis, there has been a contravention of this Act, the regulations, the **Drugs, Poisons and Controlled Substances Act 1981**, the regulations made under that Act or a manufacturing licence (as the case requires); and

- (b) has cancelled the manufacturing licence held by the person from whom the cannabis was seized.
- (3) On an application under subsection (2), the Magistrates' Court may order that the seized cannabis is forfeited to the Crown.
- (4) The Magistrates' Court may specify, in an order under subsection (3), that the seized cannabis is to be destroyed.
- (5) The Magistrates' Court may only make an order under subsection (4) if satisfied that—
  - (a) the seized cannabis poses a risk to public health and safety; and
  - (b) it is appropriate to make the order in all the circumstances.
- (6) The Magistrates' Court may—
  - (a) give any direction to enable the Health Secretary to carry out an order under subsection (3); and
  - (b) authorise the Health Secretary to give any appropriate direction to destroy the seized cannabis in accordance with the order.

### **93 Recovery of costs of forfeiture and destruction order**

If the Health Secretary incurs any costs in carrying out an order under section 92(3) or (4), the Secretary may recover those costs in any court of competent jurisdiction as a debt due to the Crown.

## **Part 12—General**

### **94 Provision of cannabis to medicinal cannabis testing facility**

- (1) The Health Secretary is authorised—
  - (a) to transport and provide cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product to a medicinal cannabis testing facility for testing or examination; and
  - (b) to receive the cannabis, cannabis material, an intermediate cannabis product or medicinal cannabis product (or the remainder of it) from the medicinal cannabis testing facility after the testing or examination is complete.
- (2) A person who operates a medicinal cannabis testing facility is authorised—
  - (a) to receive cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product for the purpose of testing or examination; and
  - (b) to use the cannabis, cannabis material, intermediate cannabis product or medicinal cannabis product (or any part of it) for that testing or examination; and
  - (c) to return the cannabis, cannabis material, intermediate cannabis product or medicinal cannabis product (or the remainder of it) after the testing or examination; and
  - (d) to possess and store cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product for the purpose of the other activities set out in this subsection.

## 95 Authorisation of couriers

- (1) If, under this Act, a person (the *supplier*) is authorised to transport cannabis, cannabis material, an intermediate cannabis product or a medicinal cannabis product to another person (the *recipient*), the supplier or the recipient may engage a courier to carry out the transportation.
- (2) The supplier is authorised to give the cannabis, cannabis material, intermediate cannabis product or medicinal cannabis product to the courier for the purpose of transporting it to the recipient.
- (3) The courier is authorised—
  - (a) to transport the cannabis, cannabis material, intermediate cannabis product or medicinal cannabis product to the recipient; and
  - (b) to possess and store the cannabis, cannabis material, intermediate cannabis product or medicinal cannabis product for the purpose of that transportation.
- (4) Subject to subsection (5), a person who is employed by the courier is authorised to do what the courier is authorised to do.
- (5) Subsection (4) does not authorise a person employed by the courier to conduct any activities referred to in subsection (3) other than an activity required in the course of the employee's employment.

## 96 Delegation by Health Secretary

The Health Secretary, by instrument, may delegate any powers or functions of the Health Secretary under this Act and the regulations, other than this power of delegation, to a person or class of persons employed under Part 3 of the **Public Administration Act 2004**.

### **97 Immunity of officials**

- (1) A person specified in subsection (2) is not in any way liable to any penalty in respect of anything done by the person in the exercise or performance of any power, function or duty conferred or imposed on the person by this Act or the regulations.
- (2) For the purposes of subsection (1), the following persons are specified—
  - (a) the Health Secretary;
  - (b) a manufacturing inspector.

### **98 Competition and Consumer Act and Competition Code**

- (1) For the purposes of the Competition and Consumer Act 2010 of the Commonwealth and the Consumer Code, the following things are authorised by this Act—
  - (a) issuing or renewing a manufacturing licence;
  - (b) refusing an application for the issue or renewal of a manufacturing licence;
  - (c) imposing a condition on a manufacturing licence that limits the amount of a medicinal cannabis product that may be manufactured under the licence;
  - (d) entering into, amending or giving effect to a Health Secretary agreement.
- (2) In this section—

***giving effect to***, in relation to an agreement or contract, includes—
  - (a) complying with any obligation under the agreement or contract; and
  - (b) exercising or enforcing any right or power under the agreement or contract;



***Health Secretary agreement*** means an agreement or contract under which the Health Secretary—

- (a) obtains cannabis, cannabis material or intermediate cannabis products as authorised by section 17(a); or
- (b) obtains or purchases cannabis or cannabis material as authorised by section 17(b); or
- (c) obtains or purchases a medicinal cannabis product as authorised by section 39(a); or
- (d) sells or supplies an approved medicinal cannabis product as authorised by section 42(1)(a); or
- (e) sells or supplies a medicinal cannabis product as authorised by section 45(1)(a).

## **99 Review of operation of Act**

Before the fourth anniversary of the commencement of this section, the Minister must cause an independent review to be conducted into the operation of this Act.

## **100 Regulations**

- (1) The Governor in Council may make regulations for or with respect to—
  - (a) prescribing quality standards for—
    - (i) manufacture of intermediate cannabis products and medicinal cannabis products;
    - (ii) approved medicinal cannabis products;

- (b) prescribing conditions on manufacturing licences, including standards as conditions on licences;
- (c) prescribing fees;
- (d) without limiting paragraph (c), prescribing fees or levies to recover any compliance or administrative costs;
- (e) prescribing forms;
- (f) prescribing particulars or information to be included in any application for the issue, renewal or amendment of a manufacturing licence;
- (g) regulating, restricting or prohibiting premises, vehicles or machines used or intended to be used for or in connection with the manufacture and destruction of medicinal cannabis products;
- (h) regulating or prohibiting the transport of medicinal cannabis products, including in relation to specific geographical areas or regions in Victoria;
- (i) the distance required to separate medicinal cannabis products at premises from any other place;
- (j) matters to be considered by the Health Secretary in relation to the suitability of premises for the manufacture of medicinal cannabis products;
- (k) standards or requirements as to security of access to premises and in relation to separating medicinal cannabis products from a public place or any other premises;
- (l) requirements of signage at licensed premises and information to be displayed at those premises, or on equipment or vehicles used

- for or in connection with the manufacture of medicinal cannabis products;
- (m) the manner in which inspections, searches, detentions and seizures under this Act are to be carried out;
  - (n) records to be kept in relation to medicinal cannabis products;
  - (o) the sale, supply and safe custody, storage and security of medicinal cannabis products, including approved medicinal cannabis products;
  - (p) prescribing a penalty of not more than 20 penalty units for any contravention of the regulations;
  - (q) generally any other matter or thing that is authorised or required to be prescribed or necessary to be prescribed to carry out this Act.
- (2) Without limiting subsection (1), the Governor in Council may make regulations for or with respect to—
- (a) prohibiting, regulating or controlling the manufacture, sale, possession, administration, use, supply, distribution, safe custody and storage of medicinal cannabis products;
  - (b) preventing the improper use of medicinal cannabis products;
  - (c) prohibiting or regulating the issue by registered medical practitioners of patient medicinal cannabis access authorisations for medicinal cannabis products;

- (d) prohibiting or regulating the dispensing of approved medicinal cannabis products by pharmacists on patient medicinal cannabis access authorisations or classes of patient medicinal cannabis access authorisations;
- (e) requiring persons engaged in the manufacture, sale, supply, dispensing, administration, authorisation and distribution of medicinal cannabis products to keep records and provide information in writing or otherwise;
- (f) the custody, accumulation, destruction, administration, use, supply and storage of any medicinal cannabis products, including, but not limited to—
  - (i) the specifications of cupboards and other receptacles; and
  - (ii) the manner of storage of any medicinal cannabis products
- (g) regulating or prohibiting the sale, supply, dispensing or administration of any medicinal cannabis products;
- (h) regulating the supply of any medicinal cannabis products to drug-dependent persons;
- (i) regulating and controlling advertising by any person in relation to medicinal cannabis products, including the form and content of advertisements;
- (j) the colouring of any medicinal cannabis products;
- (k) prohibiting or regulating the sale or supply of any medicinal cannabis products, whether by wholesale or by retail, or any class of products, unless the product or class of

- product is packaged in accordance with regulations and contains no more than a specified concentration of cannabinoids;
- (l) the minimum size of packages or containers in which medicinal cannabis products or any class of medicinal cannabis products may be sold or supplied or offered for sale or supply;
  - (m) specifying the containers in which any medicinal cannabis products may be sold or supplied and prohibiting the use of those containers for other substances;
  - (n) prescribing the approved medicinal cannabis products and other medicinal cannabis products that the following are authorised to possess, use, administer or supply—
    - (i) a nurse practitioner or category of nurse practitioner;
    - (ii) a registered nurse or class of registered nurse;
    - (iii) a registered midwife or class of registered midwife;
  - (o) labelling and specifying the particulars to be included in labels attached to containers of approved medicinal cannabis products and other medicinal cannabis products;
  - (p) the inspection of premises (other than residential premises), mobile facilities, stocks, records and any other documents relating to medicinal cannabis products;
  - (q) specifying the persons or classes of persons authorised or entitled to purchase, obtain, possess, use or administer any medicinal cannabis products;

- (r) the administration and use of approved medicinal cannabis products or other medicinal cannabis products.
- (3) Regulations made under this Act may—
- (a) be of general or limited application;
  - (b) differ according to differences in time, place or circumstances;
  - (c) apply to different classes of person, licences or product;
  - (d) provide for different fees for different activities or classes of activity or different cases or classes of cases;
  - (e) provide for waiver or reduction of fees;
  - (f) in the case of applications for the issue or renewal of licences, specify fees that reflect the cost of administration of, and the provision of, inspection services in connection with this Act;
  - (g) confer powers or discretions or impose duties on the Health Secretary, a manufacturing inspector or any other specified person;
  - (h) exempt specified persons or things or classes of person or classes of thing from complying with all or any of the regulations—
    - (i) whether unconditionally or on specified conditions; and
    - (ii) either wholly or to such an extent as is specified;
  - (i) leave any matter to be required to be undertaken in a manner approved by the Health Secretary;

- (j) apply, adopt or incorporate any matter contained in any document whether—
  - (i) wholly or partially or as amended by the regulations; or
  - (ii) as in force at a particular time; or
  - (iii) as in force from time to time.
- (4) Regulations made under this Act may provide that any specified contravention of the regulations is to be regarded—
  - (a) as infamous conduct in a professional respect within the meaning and for the purposes of any Act; or
  - (b) as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.

## **Part 13—Amendment of the Drugs, Poisons and Controlled Substances Act 1981**

### **101 Definitions**

- (1) In section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981** insert the following definitions—

*"approved medicinal cannabis product* has the same meaning as it has in the **Access to Medicinal Cannabis Act 2016**;

*medicinal cannabis* has the same meaning as it has in the **Access to Medicinal Cannabis Act 2016**;

*medicinal cannabis product* has the same meaning as it has in the **Access to Medicinal Cannabis Act 2016**;

*medicinal cannabis cultivation licence* means a *cultivation licence* within the meaning of the **Access to Medicinal Cannabis Act 2016**;

*medicinal cannabis manufacturing licence* means a *manufacturing licence* within the meaning of the **Access to Medicinal Cannabis Act 2016**;

*patient medicinal cannabis access authorisation* has the same meaning as it has in the **Access to Medicinal Cannabis Act 2016**;

*practitioner medicinal cannabis authorisation* has the same meaning as it has in the **Access to Medicinal Cannabis Act 2016**;"

- (2) In section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981**—
- (a) in the definition of *poison or controlled substance*, in paragraph (j), for "poison;" substitute "poison; or"



- (b) in the definition of *poison or controlled substance*, after paragraph (j) **insert—**  
"(k) medicinal cannabis;"
- (c) in the definition of *Schedule 8 poison*, after "Standard" **insert** "other than medicinal cannabis";
- (d) in the definition of *Schedule 9 poison*, after "Standard" **insert** "other than medicinal cannabis".

**102 Act not to derogate from provisions of certain other Acts**

In section 7 of the **Drugs, Poisons and Controlled Substances Act 1981** after "National Law," **insert** "the **Access to Medicinal Cannabis Act 2016**, the".

**103 Persons authorized to have possession etc. of poisons or controlled substances**

In section 13(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "and the regulations" **insert** "and, in relation to medicinal cannabis, the **Access to Medicinal Cannabis Act 2016** and the regulations under that Act".

**104 What a licence, permit or warrant can authorise**

In section 20(3) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "substances" **insert** ", other than medicinal cannabis,".

**105 Manufacture, sale or supply of poisons or controlled substances by wholesale**

- (1) In section 23(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "this Act" **insert** "or by or under the **Access to Medicinal Cannabis Act 2016**".

- (2) In section 23(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "this Act" insert "or by or under the **Access to Medicinal Cannabis Act 2016**".

**106 Wholesaling of certain poisons**

In section 24 of the **Drugs, Poisons and Controlled Substances Act 1981** after "under this Act" insert "or by or under the **Access to Medicinal Cannabis Act 2016**".

**107 Retailing of poisons or controlled substances**

- (1) In section 26(1) of the **Drugs, Poisons and Controlled Substances Act 1981** after "this Act" insert "or by or under the **Access to Medicinal Cannabis Act 2016**".
- (2) In section 26(2) of the **Drugs, Poisons and Controlled Substances Act 1981** after "this Act" insert "or by or under the **Access to Medicinal Cannabis Act 2016**".

**108 Sale of poisons or controlled substances by persons other than manufacturers etc.**

In section 27 of the **Drugs, Poisons and Controlled Substances Act 1981** after "under this Act" insert "or by or under the **Access to Medicinal Cannabis Act 2016**".

**109 Offences concerning labelling and other matters**

After section 27A(4) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(5) This section does not apply in relation to medicinal cannabis, approved medicinal cannabis products or other medicinal cannabis products."

**110 Sale of substances in unauthorised containers**

After section 29(2) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"(3) Nothing in this section affects any other requirements of this Act or the regulations or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act with respect to the containers in which approved medicinal cannabis products which are, or contain, poisons or controlled substances may be sold."

**111 Vending machines for poisons or controlled substances**

In section 30 of the **Drugs, Poisons and Controlled Substances Act 1981**, for "his" (wherever occurring) substitute "the person's".

**112 New section 31A inserted**

After section 31 of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

**"31A Division does not apply to medicinal cannabis**

This Division does not apply to medicinal cannabis."

**113 Effect of this Division**

In section 36C of the **Drugs, Poisons and Controlled Substances Act 1981**, after "Schedule 4 poison" insert "or, in relation to medicinal cannabis, this Act, the Regulations, the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**114 Administration of drugs of dependence, Schedule 9 poisons, Schedule 8 poisons and Schedule 4 poisons in aged care services**

- (1) In section 36E of the **Drugs, Poisons and Controlled Substances Act 1981**, after "dependence" **insert** "(including any medicinal cannabis product)".
- (2) In section 36E(b) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "prescription" **insert** "or, in the case of a medicinal cannabis product, supplied under a patient medicinal cannabis access authorisation for that resident".

**115 Inspections**

- (1) In section 42(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "this Act and the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** and the regulations under that Act (other than any provision that relates to a medicinal cannabis cultivation licence or a medicinal cannabis manufacturing licence)".
- (2) After section 42(1)(a) of the **Drugs, Poisons and Controlled Substances Act 1981** **insert**—
  - "(ab) enter upon any premises (other than residential premises) occupied by any person authorised by or under the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act (other than any provision that relates to a medicinal cannabis manufacturing licence) to have in that person's possession medicinal cannabis, or any medicinal cannabis product;"

- (3) In section 42(1)(e) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "this Act" insert "or the **Access to Medicinal Cannabis Act 2016** (other than any provision that relates to a medicinal cannabis cultivation licence or a medicinal cannabis manufacturing licence)".

**116 Duties of officers in relation to seized substances**

After section 43(4) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(5) This section applies to medicinal cannabis unless the medicinal cannabis is seized under Part 11 of the **Access to Medicinal Cannabis Act 2016**".

**117 Persons who are liable for contravention of Act**

After section 44(5) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

- "(6) This section does not apply to medicinal cannabis."

**118 New section 61A inserted**

After section 61 of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

**"61A Part does not apply to medicinal cannabis**

This Part does not apply to medicinal cannabis."

**119 Trafficking in a drug or drugs of dependence—large commercial quantity**

In section 71(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**120 Trafficking in a drug or drugs of dependence—  
commercial quantity**

In section 71AA of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**121 Trafficking in a drug of dependence to a child**

In section 71AB of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" (where twice occurring) insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**122 Trafficking in a drug of dependence**

In section 71AC of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" (where twice occurring) insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**123 Possession of substance, material, documents or  
equipment for trafficking in a drug of dependence**

In section 71A(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**124 Supply of drug of dependence to a child**

- (1) In section 71B(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

- (2) In section 71B(1A) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**125 Possession of tablet press**

In section 71C of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations (if any)" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act (if any)".

**126 Possession of precursor chemicals**

In section 71D of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations (if any)" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act (if any)".

**127 Possession of document containing information about trafficking or cultivating a drug of dependence**

In section 71E(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**128 Publication of document containing instructions**

In section 71F(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**129 Cultivation of narcotic plants—large commercial quantity**

In section 72 of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**130 Cultivation of narcotic plants—commercial quantity**

In section 72A of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**131 Cultivation of narcotic plants**

In section 72B of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**132 Permitting use of premises for trafficking or cultivation of drug of dependence**

In section 72D of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" (where twice occurring) insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**133 Possession of drug of dependence**

- (1) In section 73(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" insert "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".



(2) In section 73(2) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**134 Introduction of drug of dependence into the body of another person**

In section 74 of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**135 Use of drug of dependence**

In section 75 of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**136 Forging prescriptions and orders for drugs of dependence**

At the end of section 77 of the **Drugs, Poisons and Controlled Substances Act 1981** **insert**—

"(2) For the purposes of subsection (1), a patient medicinal cannabis access authorisation is an order for a drug of dependence."

**137 Obtaining drugs of dependence etc. by false representation**

In section 78(a), (b) and (d) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "or the regulations" (wherever occurring) **insert** "or the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act".

**138 Definitions—Part VC**

In section 80T of the **Drugs, Poisons and Controlled Substances Act 1981** insert the following definition—

*"medicinal cannabis vaporiser* means a device capable of being used or intended to be used for the purposes of introducing into the body of a person a medicinal cannabis product by the drawing of vapour resulting from heating the product, whether through water or another liquid in the device or otherwise;"

**139 New section 80TA inserted**

After section 80T of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

**"80TA Part not to apply in relation to pharmacist dealing with medicinal cannabis vaporiser**

Nothing in this Part applies in relation to a pharmacist displaying, selling or supplying a medicinal cannabis vaporiser to a person authorised to possess, use or administer a medicinal cannabis product by the **Access to Medicinal Cannabis Act 2016** or the regulations under that Act."

**140 List of licences and permits**

After section 118(6) of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

"(7) This section does not apply to medicinal cannabis manufacturing licences, practitioner medicinal cannabis authorisations, patient medicinal cannabis access authorisations or any other authorisation under the **Access to Medicinal Cannabis Act 2016**."

**141 Proof that a substance is poison etc.**

In section 122(b) of the **Drugs, Poisons and Controlled Substances Act 1981**, after "Schedule 9" insert 'or "medicinal cannabis product"'.

**142 New section 129A inserted**

After section 129 of the **Drugs, Poisons and Controlled Substances Act 1981** insert—

**"129A Regulations—medicinal cannabis**

- (1) Without limiting section 129 or 132 and in addition to the powers provided in those sections, the Governor in Council may make regulations for or with respect to—
  - (a) prohibiting, regulating or controlling the manufacture, sale, possession, administration, use, supply, distribution, safe custody and storage of intermediate cannabis products and medicinal cannabis products;
  - (b) preventing the improper use of intermediate cannabis products and medicinal cannabis products;
  - (c) prohibiting or regulating the issue by registered medical practitioners of patient medicinal cannabis access authorisations for any approved medicinal cannabis products and other medicinal cannabis products and the dispensing of those authorisations;
  - (d) prohibiting or regulating the dispensing by pharmacists of patient medicinal cannabis access authorisations or classes of authorisations for approved medicinal cannabis products and other medicinal cannabis products;

- (e) requiring persons engaged in the manufacture, sale, supply, dispensing, administration, authorisation and distribution of intermediate cannabis products and medicinal cannabis products to keep records and provide information in writing or otherwise;
- (f) regulating, for the purposes of Division 10A of Part II, the administration of medicinal cannabis products to residents of aged care services;
- (g) the custody, accumulation, destruction, administration, use, supply and storage of any intermediate cannabis products and medicinal cannabis products, including, but not limited to—
  - (i) the specifications of cupboards and other receptacles; and
  - (ii) the manner of storage of any intermediate cannabis products and medicinal cannabis products;
- (h) prohibiting or regulating the sale, supply, dispensing or administration of any approved medicinal cannabis products and other medicinal cannabis products;
- (i) regulating the transfer, conveyance or transportation of intermediate cannabis products and medicinal cannabis products;
- (j) regulating the supply of any medicinal cannabis products to drug-dependent persons;

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- (k) regulating and controlling advertising by any person in relation to any intermediate cannabis products and medicinal cannabis products, including the form and content of advertisements;
  - (l) prescribing a penalty of not more than 20 penalty units for any contravention of the regulations made under this section.
- (2) Regulations made under this section may provide that any specified contravention of the regulations is to be regarded—
- (a) as infamous conduct in a professional respect within the meaning and for the purposes of any Act; or
  - (b) as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.
- (3) Nothing in this section limits any power to make regulations under the **Access to Medicinal Cannabis Act 2016**."

## **Part 14—Consequential amendments to other Acts and repeal of amending Parts**

### **Division 1—Amendment of other Acts**

#### **143 Crimes Act 1958—Definitions**

In section 2A(1) of the **Crimes Act 1958** insert the following definitions—

*"medicinal cannabis product* has the same meaning as in the **Access to Medicinal Cannabis Act 2016**;

*patient medicinal cannabis access authorisation* has the same meaning as in the **Access to Medicinal Cannabis Act 2016**;"

#### **144 Crimes Act 1958—Effect of intoxication on reasonable belief**

(1) In section 37H(2) of the **Crimes Act 1958**—

(a) after paragraph (c) **insert**—

"(ca) from the use of a medicinal cannabis product in accordance with a patient medicinal cannabis access authorisation; or";

(b) in paragraph (d), after "not required" **insert** "(other than a medicinal cannabis product)".

(2) In section 37H(3) of the **Crimes Act 1958**, for "(2)(c) or (d)" **substitute** "(2)(c), (ca) or (d)".

#### **145 Crimes Act 1958—Intoxication**

(1) In section 322T(5) of the **Crimes Act 1958**—

(a) after paragraph (c) **insert**—

"(ca) from the use of a medicinal cannabis product in accordance with a patient medicinal cannabis access authorisation; or";

(b) in paragraph (d), after "required" **insert**  
"(other than a medicinal cannabis product)".

(2) In section 322T(6) of the **Crimes Act 1958**, for  
"(5)(c) or (d)" **substitute** "(5)(c), (ca) or (d)".

#### **146 Guardianship and Administration Act 1986— Definitions**

(1) In section 3(1) of the **Guardianship and  
Administration Act 1986** **insert** the following  
definition—

*"approved medicinal cannabis product* has the  
same meaning as in the **Access to Medicinal  
Cannabis Act 2016**;"

(2) In section 3(1) of the **Guardianship and  
Administration Act 1986**, in the definition of  
*medical or dental treatment*—

(a) in paragraph (g), after "pharmaceutical drug"  
**insert** "(other than an approved medicinal  
cannabis product)";

(b) after paragraph (g) **insert**—

"(ga) the administration of an approved  
medicinal cannabis product in  
accordance with a patient medicinal  
cannabis access authorisation  
(within the meaning of the **Access to  
Medicinal Cannabis Act 2016**); or".

#### **147 Health Records Act 2001—Definitions**

In section 3(1) of the **Health Records Act 2001**,  
in the definition of *health service*—

(a) after paragraph (c) **insert**—

"(ca) the sale or supply of an approved  
medicinal cannabis product within the  
meaning of the **Access to Medicinal  
Cannabis Act 2016** in accordance with  
that Act by a pharmacist registered

under the Health Practitioner  
Regulation National Law; or";

- (b) in paragraph (d), for "(b) or (c)" **substitute**  
"(b), (c) or (ca)".

**148 Mental Health Act 2014—What is *medical treatment*?**

In section 7 of the **Mental Health Act 2014**—

- (a) after paragraph (c) **insert**—

"(ca) the administration of an approved  
medicinal cannabis product within the  
meaning of the **Access to Medicinal  
Cannabis Act 2016**; or";

- (b) in paragraph (d) for "(b) or (c)" **substitute**  
"(b), (c) or (ca)".

**149 Pharmacy Regulation Act 2010—Definitions**

In section 3(1) of the **Pharmacy Regulation  
Act 2010** **insert** the following definitions—

*"medicine* includes an approved medicinal  
cannabis product within the meaning of the  
**Access to Medicinal Cannabis Act 2016**;

*prescription* includes a patient medicinal cannabis  
access authorisation within the meaning of  
the **Access to Medicinal Cannabis  
Act 2016**;"

**150 Pharmacy Regulation Act 2010—Disclosure of  
information to other agencies**

For section 107(1)(c) of the **Pharmacy  
Regulation Act 2010** **substitute**—

- "(c) the Secretary, in relation to the  
administration of—
- (i) the **Drugs, Poisons and Controlled  
Substances Act 1981** and the  
regulations made under that Act; and



Access to Medicinal Cannabis Act 2016  
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Part 14—Consequential amendments to other Acts and repeal of amending  
Parts

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- (ii) the **Access to Medicinal Cannabis Act 2016** and the regulations made under that Act;"

**151 Prevention of Cruelty to Animals Act 1986—Cruelty**

In section 9(1)(j) of the **Prevention of Cruelty to Animals Act 1986**, after "1975" insert  
", the **Access to Medicinal Cannabis Act 2016**".

**Division 2—Repeal of amending Parts**

**152 Repeal of amending Parts**

Part 13 and this Part are **repealed** on the first anniversary of the first day on which all of the provisions of this Act are in operation.

**Note**

The repeal of these Parts does not affect the continuing operation of the amendments made by them (see section 15(1) of the **Interpretation of Legislation Act 1984**).

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## Endnotes

### 1 General information

See [www.legislation.vic.gov.au](http://www.legislation.vic.gov.au) for Victorian Bills, Acts and current authorised versions of legislation and up-to-date legislative information.

<sup>†</sup> *Minister's second reading speech—*

*Legislative Assembly: 10 December 2015*

*Legislative Council: 11 February 2016*

The long title for the Bill for this Act was "A Bill for an Act to provide for medicinal use of products derived from cannabis by establishing a scheme for the lawful manufacture of those products and the lawful use of those products by a limited class of Victorians, to consequentially amend the **Drugs, Poisons and Controlled Substances Act 1981** and to make related amendments to certain other Acts and for other purposes."