



ANNO TRICESIMO NONO

ELIZABETHAE II REGINAE

A.D. 1990

No. 29 of 1990

An Act to amend the Controlled Substances Act, 1984.

[Assented to 26 April 1990]

The Parliament of South Australia enacts as follows:

Short title

- 1. (1) This Act may be cited as the Controlled Substances Act Amendment Act (No. 2), 1990.
(2) The Controlled Substances Act, 1984, is referred to in this Act as "the principal Act".

Commencement

- 2. This Act will come into operation on a day to be fixed by proclamation.

Interpretation

3. Section 4 of the principal Act is amended—

(a) by striking out from subsection (1) the definitions of "cannabis", "cannabis oil" and "cannabis resin" and substituting the following definitions:

"cannabis" means a plant, or any part (including the seed) of a plant, of the genus cannabis, but does not include cannabis resin or cannabis oil:

"cannabis oil" means a substance that contains chemicals of any one or more of the following classes:

- (a) cannabinoids;
(b) tetrahydrocannabinols;
(c) alkyl homologues of tetrahydrocannabinols,

where the amount of soluble material in any quantity of the substance, when dissolved in the solvent known as hexane, constitutes more than 85 per cent of the weight of that quantity of substance:

"cannabis resin" means a substance that contains chemicals of any one or more of the following classes:

- (a) cannabinoids;
(b) tetrahydrocannabinols;

(c) alkyl homologues of tetrahydrocannabinols,

where the amount of soluble material in any quantity of the substance, when dissolved in the solvent known as hexane, constitutes more than 15 per cent but not more than 85 per cent of the weight of that quantity of substance;

(b) by striking out from subsection (1) the definition of “child” and substituting the following definition:

“child” means a person under the age of 18 years and, in relation to the alleged commission of an offence, means a person who was, at the time of the alleged commission of the offence, under that age;

(c) by striking out from subsection (1) the definition of “plant”;

and

(d) by inserting in subsection (1) after the definition of “prohibited substance” the following definition:

“school zone” means the grounds of a primary or secondary school and the area within 500 metres of the boundary of the school.

Prohibition of manufacture, production, sale or supply of drug of dependence or prohibited substance

4. Section 32 of the principal Act is amended—

(a) by striking out paragraphs (a) and (b) of subsection (5) and substituting the following paragraphs:

A. *For the following offences in the following circumstances:*

(1) *the sale, supply or administration, or taking part in the sale, supply or administration of a drug of dependence or prohibited substance to a child;*

(2) *being in possession, within a school zone, of a drug of dependence or a prohibited substance for the purpose of the sale, supply or administration of the drug or substance to another person:*

(a) where the substance the subject of the offence is cannabis or cannabis resin—

(i) if the quantity of the cannabis or cannabis resin involved in the commission of the offence equals or exceeds the amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection—a penalty of both a fine not exceeding \$1 000 000 and imprisonment for a term not exceeding 30 years;

(ii) in any other case—a fine not exceeding \$100 000 or imprisonment for a term not exceeding 15 years, or both;

(b) where the substance the subject of the offence is a drug of dependence or a prohibited substance (not being cannabis or cannabis resin)—

(i) if the quantity of the substance involved in the commission of the offence equals or exceeds the amount prescribed in respect of that sub-

stance for the purposes of this subsection—a penalty of both a fine not exceeding \$1 000 000 and imprisonment for life or such lesser term as the court thinks fit;

(ii) in any other case—a penalty of both a fine not exceeding \$400 000 or imprisonment for a term not exceeding 30 years, or both;

B. For any other offence under this section:

(a) where the substance the subject of the offence is cannabis or cannabis resin—

(i) if the quantity of the cannabis or cannabis resin involved in the commission of the offence equals or exceeds the amount prescribed in respect of cannabis or cannabis resin for the purposes of this subsection—a penalty of both a fine not exceeding \$500 000 and imprisonment for a term not exceeding 25 years;

(ii) in any other case—a penalty not exceeding \$50 000 or imprisonment for 10 years, or both;

(b) where the substance the subject of the offence is a drug of dependence or a prohibited substance (not being cannabis or cannabis resin)—

(i) if the quantity of the substance involved in the commission of the offence equals or exceeds the amount prescribed in respect of that substance for the purposes of this subsection—a penalty of both a fine not exceeding \$500 000 and imprisonment for life or such lesser term as the court thinks fit;

(ii) in any other case—a penalty not exceeding \$200 000 or imprisonment for 25 years, or both;

and

(b) by striking out subsection (6) and substituting the following subsection:

(6) Where a person is found guilty of an offence involving cultivation of not more than the prescribed number of cannabis plants and the court is satisfied that the person cultivated the plants solely for his or her own smoking or consumption, the person is liable only to a penalty not exceeding \$500.

Matters to be considered when court fixes penalty

5. Section 44 of the principal Act is amended by inserting after paragraph (d) the following paragraphs:

(da) in the case of an offence involving the sale, supply or administration, or taking part in the sale, supply or administration of a drug of dependence or prohibited substance to a child—whether the offence occurred within a school zone or at or near any other prescribed place;

(db) in the case of an offence of being in possession of a drug of dependence or a prohibited substance for the purpose of the sale, supply or administration of the drug or substance to another person (not being an offence committed within a school zone)—whether the offence occurred at or near any other prescribed place;

Expiation of simple cannabis offences

6. Section 45a of the principal Act is amended by striking out paragraph (d) of the definition of "simple cannabis offence" in subsection (8) and substituting the following paragraph:

(d) an offence arising out of the cultivation of not more than the prescribed number of cannabis plants.

Regulations

7. Section 63 of the principal Act is amended by striking out from subsection (3) "section 32 (3) or (5)" and substituting "section 32 or section 45a".

In the name and on behalf of Her Majesty, I hereby assent to this Bill.

D. B. DUNSTAN, Governor