

TASMANIA

DRAFT DECRIMINALISING PERSONAL DRUG USE BILL 2023

CONTENTS

PART 1 - PRELIMINARY

1. Short title
2. Commencement
3. Repeal of Act

PART 2 – AMENDMENTS TO THE MISUSE OF DRUGS ACT 2001

4. Principal Act
5. Sections 21 and 22 substituted
 21. Manufacturing controlled drug
 22. Cultivating controlled plant
6. Part 3, Division 3 substituted
 - Division 3 – Possession and Administration
 23. Interpretation of Division
 24. Possessing or administering a controlled drug or controlled plant product
 25. Possessing a controlled plant
7. Schedule 2 inserted

SCHEDULE 2 - PERSONAL POSSESSION QUANTITIES

PART 1 – INTERPRETATION

PART 2 – PERSONAL POSSESSION LIMITS

PART 3 – AMENDMENTS TO THE POISONS ACT 1971

8. Principal Act
9. Division 4A inserted

Division 4A

55A. Exemptions for personal use

10. Section 83A repealed
11. Division 2B repealed

Consultation Draft

**DRAFT DECRIMINALISING PERSONAL DRUG USE BILL
2023**

(Brought in by Rosalie Ellen Woodruff MP)

A BILL FOR

An Act to amend the *Misuse of Drugs Act 2001* and the *Poisons Act 1971* to provide for the decriminalisation of personal use of drugs

Be it enacted by Her Excellency the Governor of Tasmania, by and with the advice and consent of the Legislative Council and House of Assembly, in Parliament assembled, as follows:

PART 1 - PRELIMINARY

1. Short title

This Act may be cited as the *Decriminalising Personal Drug Use Act 2023*.

2. Commencement

This Act commences on the day on which this Act receives the Royal Assent.

3. Repeal of Act

This Act is repealed on the three hundred and sixty fifth day from the day on which all of the provisions of this Act commence.

**PART 2 – AMENDMENTS TO THE MISUSE OF DRUGS ACT
2001**

4. Principal Act

In this Part, the *Misuse of Drugs Act 2001** is referred to as the Principal Act.

5. Sections 21 and 22 substituted

Sections 21 and 22 of the Principal Act are repealed and the following sections are substituted:

21. Manufacturing controlled drug

- (1) A person must not manufacture a controlled drug other than cannabis.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

- (2) A person must not manufacture cannabis –
- (a) in quantities greater than the personal possession limit specified in column 3 of Part 2 of Schedule 2; or
 - (b) from more than 3 cannabis plants.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

22. Cultivating controlled plant

- (1) A person must not cultivate a controlled plant other than a cannabis plant.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

- (2) A person must not cultivate more than 3 cannabis plants.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

6. Division 3 of Part 3 substituted

Division 3 of Part 3 of the Principal Act is repealed and the following Division is substituted:

Division 3 – Possession and Administration

23. Interpretation of Division

In this Division the *personal possession limit*, in relation to a controlled drug or controlled plant product means the quantity specified in Part 2 of Schedule 2.

24. Possessing or administering a controlled drug or controlled plant product

A person must not –

- (a) possess a controlled drug or controlled plant product for which

there is no personal possession limit; or

- (b) possess an amount of a controlled drug or controlled plant product in excess of the personal possession limit; or
- (c) administer a controlled drug to another person.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

25. Possessing a controlled plant

A person must not –

- (a) possess a controlled plant, other than a cannabis plant; or
- (b) possess more than 3 cannabis plants.

Penalty: Fine not exceeding 50 penalty units or imprisonment for a term not exceeding 2 years.

7. Schedule 2 inserted

After Schedule 1 to the Principal Act, the following Schedule is inserted:

**SCHEDULE 2 – PERSONAL POSSESSION
QUANTITIES**

PART 1 – INTERPRETATION

In this Schedule –

discrete dosage unit (or *DDU*), for a drug of dependence or a prohibited substance, means the drug or substance in a form—

- (a) prepared, or apparently prepared, to be administered as a single dose; and
- (b) containing not more than
 -
 - (i) for items 7 and 8 in column 1 of the table in Part 2, the quantity mentioned in column 4 for a drug mentioned in column 2, in a pure form of the substance; and
 - (ii) for items other than item 7 and 8 in column 1 of the table in Part 2, the quantity mentioned

Draft Decriminalising Personal Drug Use Act 2023
Act No. of 2023

s. 7 Part 2 – Amendments to the Misuse of Drugs Act 2001

in column 4 for a drug mentioned in column 2, whether in pure form or a mixture containing the substance; and

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

harvested cannabis means cannabis that has been harvested and—

- (c) is not dried cannabis; or
- (d) is a mixture of dried cannabis and cannabis that is not dried cannabis.

PART 2 – PERSONAL POSSESSION LIMITS

| Column 1 Item | Column 2 Controlled Drugs and Plant Products | Column 3 personal possession limit | Column 4 discrete dosage unit (DDU) |
|------------------|--|---------------------------------------|--|
| 1 | N, α -dimethyl-3,4-(methylenedioxy) phenylethylamine (<i>otherwise known as MDMA</i>) | 5 DDU or 1.5g | 0.3g |
| 2 | Amphetamine | 1.5g | |
| 3 | Cannabis (dried cannabis) | 50g | |
| 4 | Cannabis (harvested cannabis) | 150g | |
| 5 | Cocaine | 1.5g | |
| 6 | Diacetylmorphine (otherwise known as heroin) | 1g | |
| 7 | Lysergic acid | 5 DDU or 0.001g | 0.0002g |
| 8 | Lysergide (otherwise known as lysergic acid diethylamide or LSD or LSD-25) | 5 DDU or 0.001g | 0.0002g |

Draft *Decriminalising Personal Drug Use Act 2023*
Act No. of 2023

Part 2 – Amendments to the Misuse of Drugs Act 2001

s. 7

| | | | |
|----|---|------|--|
| 9 | Methylamphetamine (otherwise known as methamphetamine or 1-phenyl-2-methylaminopropane) | 1.5g | |
| 10 | Psilocybine | 1.5g | |

Consultation Draft

PART 3 – AMENDMENTS TO THE POISONS ACT 1971

8. Principal Act

In this Part, the *Poisons Act 1971** is referred to as the Principal Act.

9. Division 4A inserted

The Principal Act is amended by inserting the following division in Part V after division 4 –

Division 4A

55A. Exemptions for personal use

- (1) A person has not committed an offence under section 36, 48, or 49 of this Act solely due to the possession of a raw narcotic or narcotic substance if –
- (a) the raw narcotic or narcotic substance is a controlled drug or controlled plant product within the meaning of the *Misuse of Drugs Act 2001*; and
 - (b) the raw narcotic or narcotic substance has a personal possession limit within the

* No. 19 of 2002

meaning of section 23 of the
Misuse of Drugs Act 2001; and

- (c) the person does not possess quantities of the raw narcotic or narcotic substance equal to or in excess of the personal possession limit within the meaning of section 23 of the *Misuse of Drugs Act 2001*.

- (2) A person has not committed an offence under section 46 of this Act if a person has made, refined, or prepared a narcotic substance, and

–

- (a) that narcotic substance is cannabis; and
- (b) the person made, refined, or prepared cannabis from no more than 3 cannabis plants; and
- (c) the person did not make, refine, or prepare cannabis in a quantity greater than the personal possession limit within the meaning of section 23 of the *Misuse of Drugs Act 2001*.

10. Section 83A repealed

Section 83A of the Principal Act is repealed.

11. Division 2B repealed

Division 2B of Part VI of the Principal Act is repealed.

Consultation Draft