

South Australia

**Controlled Substances (Palliative Use of Cannabis)
Amendment Bill 2008**

A BILL FOR

An Act to amend the *Controlled Substances Act 1984*.

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The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Controlled Substances (Palliative Use of Cannabis) Amendment Act 2008*.

5 2—Amendment provisions

In this Act, a provision under a heading referring to the amendment of a specified Act amends the Act so specified.

Part 2—Amendment of *Controlled Substances Act 1984*

3—Amendment of section 31—Application of Part

10 Section 31(1)—after paragraph (d) insert:

or

(e) —

- 15 (i) the cultivation of cannabis or the possession, smoking or consumption of cannabis or cannabis resin; or
 - (ii) the sale or possession of equipment for use in connection with such cultivation, possession, smoking or consumption,
- in accordance with section 31A.

4—Insertion of section 31A

After section 31 insert:

20 31A—Palliative use of cannabis

- (1) A person may cultivate cannabis, or possess, smoke or consume cannabis or cannabis resin, if—
 - (a) the person holds a valid certificate that complies with subsection (3) (a *palliative cannabis certificate*); and

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- (b) the amount of cannabis or cannabis resin is not more than the amount prescribed by the regulations for the purposes of this subsection; and
- (c) the person complies with any other requirement set out in the regulations for the purposes of this subsection.
- (2) A person may sell equipment for use in connection with the cultivation of cannabis, or the smoking or consumption of cannabis or cannabis resin if—
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- (a) the sale is to a person who holds a valid palliative cannabis certificate; and
- (b) the equipment is of a kind prescribed by the regulations; and
- (c) the person complies with any other requirement set out in the regulations for the purposes of this subsection.
- (3) A *palliative cannabis certificate* issued to a person for the purposes of this section must—
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- (a) be in the prescribed form; and
- (b) be issued by a medical practitioner; and
- (c) certify that the person named in the certificate has been diagnosed as suffering from a specified illness or disease; and
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- (d) specify the symptoms associated with the illness or disease; and
- (e) specify any side effects related to the treatment of the illness or disease for which palliation may be necessary or desirable;
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- (f) include a declaration—
- (i) that, in the opinion of the medical practitioner, the smoking or consumption of cannabis or cannabis resin by the person would palliate the symptoms of the person's illness or disease, or the specified side effects related to the treatment of the illness or disease; and
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- (ii) that the person has discussed with the medical practitioner the risks associated with using cannabis or cannabis resin; and
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- (g) recommend an amount of cannabis or cannabis resin that is, in the opinion of the medical practitioner, appropriate for smoking or consumption by the person on a daily basis for the purpose of palliating the symptoms of his or her illness or disease, or the specified side effects related to the treatment of the illness or disease; and
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- (h) specify the period (not exceeding 12 months) during which the certificate is to be in force,

and may contain any other information or recommendation the medical practitioner thinks fit.

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- (4) A palliative cannabis certificate is, unless revoked earlier, valid for the period specified in the certificate.
- (5) A medical practitioner must, within 7 working days after issuing a palliative cannabis certificate, furnish the Minister with a copy of the certificate.

Maximum penalty: \$1 250.

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- (6) If a medical practitioner who has issued a palliative cannabis certificate forms the opinion that the smoking or consumption of cannabis or cannabis resin by the person named in the certificate is no longer recommended for the purposes specified in the certificate, the medical practitioner must immediately—

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- (a) revoke the certificate; and
- (b) give notice of the revocation, in the prescribed manner, to the person and the Minister.

Maximum penalty: \$1 250.

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- (7) A medical practitioner who wilfully makes any false or misleading statement in a palliative cannabis certificate is guilty of an offence.

Maximum penalty: \$10 000 or imprisonment for 2 years.

- (8) Nothing in this section authorises the sale or supply of cannabis or cannabis resin.

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- (9) For the purposes of the *Medical Practice Act 2004*, the *Consent to Medical Treatment and Palliative Care Act 1995* or any other Act or law, or for the purposes of any disciplinary proceedings, no civil or criminal liability attaches to a medical practitioner by reason of his or her having issued a certificate in accordance with this section.