

South Australia

Industrial Hemp Act 2017

An Act to authorise and regulate the cultivation of industrial hemp; to make a related amendment to the *Controlled Substances Act 1984*; and for other purposes.

Contents

Part 1—Preliminary

- 1 Short title
- 2 Commencement
- 3 Interpretation
- 4 Meaning of *associate*
- 5 Criminal intelligence
- 6 Provisions of Act not unlawful
- 7 Interaction with Commonwealth law

Part 2—Licences

- 8 Application for licence
- 9 Chief Executive must investigate application
- 10 Suitability of applicant—fit and proper person
- 11 Determination of licence application
- 12 Terms and conditions of licence
- 13 Renewal of licence
- 14 Chief Executive must investigate renewal application
- 15 Determining a renewal application
- 16 Suspension or cancellation of licence
- 17 Review by Tribunal

Part 3—Inspectors

- 18 Inspectors
- 19 General powers of inspector
- 20 Inspector has power to seize material

Part 4—Offences

- 21 False or misleading statements
- 22 Offence to fail to comply with a requirement
- 23 Interference with inspectors
- 24 Offence to impersonate inspector
- 25 Offence not to comply with licence

Part 5—Miscellaneous

- 26 Industrial Hemp Register
- 27 Delegation

- 28 Immunity from personal liability
- 29 Protection against self-incrimination
- 30 Regulations

Schedule 1—Related amendment

Part 1—Preliminary

- 1 Amendment provision

Part 2—Amendment of *Controlled Substances Act 1984*

- 2 Amendment of section 31—Application of Part
-

The Parliament of South Australia enacts as follows:

Part 1—Preliminary

1—Short title

This Act may be cited as the *Industrial Hemp Act 2017*.

2—Commencement

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

3—Interpretation

In this Act—

ACC means the Australian Crime Commission established under the *Australian Crime Commission Act 2002* of the Commonwealth;

certified hemp seed means seed certified, in accordance with the regulations, as seed that will typically produce hemp plants with a concentration of THC in the leaves and flowering heads of not more than 0.5%;

Chief Executive means the Chief Executive of the Department that is, under a Minister, responsible for the administration of the *Agricultural and Veterinary Chemicals (South Australia) Act 1994*;

criminal intelligence means information relating to actual or suspected criminal activity (whether in this State or elsewhere) the disclosure of which could reasonably be expected to prejudice criminal investigations, to enable the discovery of the existence or identity of a confidential source of information relevant to law enforcement or to endanger a person's life or physical safety;

cultivate means—

- (a) plant a seed, seedling or cutting of the plant or transplant the plant; or
- (b) nurture, tend or grow the plant; or
- (c) harvest the plant (including pick any part of the plant or separate any resin or other substance from the plant); or
- (d) dry the harvested plant or part of the plant; or
- (e) take part in the process of cultivation of the plant;

drug of dependence means a poison within the meaning of the *Controlled Substances Act 1984* declared by the regulations under that Act to be a drug of dependence;

drug related offence means—

- (a) an indictable offence involving possession, or cultivation of, or trafficking in, a drug of dependence; or
- (b) an indictable offence under the *Controlled Substances Act 1984*; or
- (c) an indictable offence under the law of another jurisdiction involving possession, or cultivation of, or trafficking in, a drug of dependence; or
- (d) an offence of a kind prescribed by the regulations;

hemp means a plant, or any part (including the seed) of a plant, of the genus *cannabis*;

industrial hemp means hemp that—

- (a) has been grown from certified hemp seed; and
- (b) has a concentration of THC in the leaves and flowering heads of not more than 1%,

and includes the seed of such a plant and any product derived from any such plant;

industrial hemp licence—see section 8(1);

industrial hemp register means the register established under section 26;

inspector means—

- (a) a person appointed as an inspector under section 18; or
- (b) a police officer;

licence means a licence under this Act;

licence holder means—

- (a) the holder of an industrial hemp licence; or
- (b) the holder of a special licence;

premises means any land, building, structure, vehicle, vessel or aircraft;

sell means sell by wholesale or retail and includes the following:

- (a) agree to sell;
- (b) offer or expose for sale;
- (c) keep, or possess, for sale;
- (d) deal in, barter or exchange;
- (e) send, forward, deliver or receive for sale;
- (f) authorise, direct, cause or permit the doing of any matter in paragraphs (a) to (e);

special licence—see section 8(2);

supply includes the following:

- (a) deliver, sell, trade, give or distribute, whether for valuable consideration or not;

- (b) offer or agree to supply;
- (c) cause or permit to supply;
- (d) hold in possession for the purpose of supply;
- (e) produce or pack for the purpose of supply;

THC means tetrahydrocannabinol;

Tribunal means the South Australian Civil and Administrative Tribunal established under the *South Australian Civil and Administrative Tribunal Act 2013*.

4—Meaning of *associate*

- (1) For the purposes of this Act, a person who is of or above the age of 18 years is an **associate** of an applicant for a licence or a licence holder if the person—
 - (a) holds any relevant financial interest, or is entitled to exercise any relevant power (whether in right of the person or on behalf of any other person) in the business of the applicant or the licence holder (being the business to which the application or licence relates), and by virtue of that interest or power, is able to exercise a significant influence over or with respect to the management or operation of the business; or
 - (b) holds any relevant position (whether in right of the person or on behalf of any other person) in the business of the applicant or the licence holder (being the business to which the application or licence relates).

- (2) In subsection (1)—

relevant financial interest in relation to 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 relation to the business of an applicant or a licence holder, means—

- (a) the position of director, partner, trustee, manager, secretary or other executive position, however designated; and
- (b) any other position determined by the Chief Executive to be associated or connected with the ownership, administration or management of the operations or business of the applicant;

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 position.

5—Criminal intelligence

- (1) Information that is classified by the Commissioner of Police as criminal intelligence for the purposes of this Act may not be disclosed to any person other than the Chief Executive, the Minister, the Tribunal, a court or a person to whom the Commissioner of Police authorises its disclosure.

- (2) If the Commissioner of Police—
 - (a) opposes the issuing or renewal of a licence; or
 - (b) requests the suspension or cancellation of a licence,on the basis of information that is classified by the Commissioner of Police as criminal intelligence, the Chief Executive is not (despite any other provision of this Act) required to provide any grounds or reasons for a decision to refuse to issue or renew the licence or to suspend or cancel the licence (as the case may be) other than that the decision was made in the public interest.
- (3) In any proceedings under this Act, the Tribunal or a court—
 - (a) must, on the application of the Commissioner of Police, take steps to maintain the confidentiality of information classified by the Commissioner of Police as criminal intelligence, including steps to receive evidence and hear argument about the information in private in the absence of the parties to the proceedings and their representatives; and
 - (b) may take evidence consisting of or relating to information so classified by the Commissioner of Police by way of affidavit of a police officer of or above the rank of superintendent.
- (4) The Commissioner of Police may not delegate the function of classifying information as criminal intelligence for the purposes of this Act except to a Deputy Commissioner or Assistant Commissioner of Police.

6—Provisions of Act not unlawful

Nothing in any other Act or law affects the provisions of this Act or renders unlawful anything done in accordance with this Act.

7—Interaction with Commonwealth law

- (1) A provision of this Act has no effect to the extent of any inconsistency with the Commonwealth Act (and this Act is not to be taken to authorise the performance of a function or the exercise of a power under this Act that would result in operational inconsistency of this Act with the Commonwealth Act).
- (2) In this section—

Commonwealth Act means the *Narcotic Drugs Act 1967* of the Commonwealth.

Note—

See section 7A of the Commonwealth Act in relation to its interaction with State and Territory laws.

Part 2—Licences

8—Application for licence

- (1) A person may apply to the Chief Executive for an industrial hemp licence which authorises a person to possess, cultivate, process or supply industrial hemp for 1 or more of the following purposes specified in the licence:
 - (a) commercial production;
 - (b) use in a manufacturing process;

- (c) food production;
 - (d) scientific research, instruction, analysis or study;
 - (e) any other purpose approved by the Chief Executive.
- (2) A person may apply to the Chief Executive for a special licence which authorises a person to possess, cultivate, process or supply hemp, that is not industrial hemp, for the purpose of scientific research, instruction, analysis or study.
- (3) An application under subsection (1) or (2) must—
- (a) be in a form approved by the Chief Executive; and
 - (b) be accompanied by the prescribed fee; and
 - (c) contain information and be accompanied by such other records as the Chief Executive may require to determine the application.

9—Chief Executive must investigate application

- (1) On receiving an application under section 8, the Chief Executive may carry out such investigations and inquiries as the Chief Executive considers necessary to determine the application.
- (2) The Chief Executive may, by notice in writing, require an applicant to—
- (a) provide information, and produce such documents, as are relevant to the investigation of the application as specified in the notice; and
 - (b) provide the Chief Executive with such authorities and consents as the Chief Executive directs to enable the Chief Executive to obtain financial or other confidential information concerning the applicant from other persons; and
 - (c) submit to the Chief Executive a criminal history report (such as a National Police Certificate) relating to the applicant provided by South Australia Police or the ACC or an ACC accredited agency or broker,
- and, if a requirement made under this section is not complied with, the Chief Executive may refuse to determine the application.
- (3) The Chief Executive must provide a copy of each application under section 8 and any accompanying information and documents to the Commissioner of Police.
- (4) The Commissioner of Police must—
- (a) inquire into and report to the Chief Executive on any matters concerning the application that the Commissioner of Police believes are appropriate or reasonably necessary; and
 - (b) inquire into and report to the Chief Executive on any matters concerning the application that the Chief Executive requests; and
 - (c) within 60 days of receiving the application from the Chief Executive, notify the Chief Executive in writing of the Commissioner of Police's decision to support or oppose the issuing of the licence and provide the reasons for the decision.
- (5) If the Chief Executive is notified under subsection (4)(c) that the Commissioner of Police opposes the issuing of a licence, the Chief Executive must not issue the licence.

- (6) Before determining an application for a special licence under section 8(2), the Chief Executive must consult with the Minister responsible for the administration of the *Controlled Substances Act 1984*.

10—Suitability of applicant—fit and proper person

- (1) The Chief Executive must not grant a licence to an applicant, or renew a licence on application by a licence holder, unless the Chief Executive is satisfied that—
- (a) neither the applicant nor any associate of the applicant has been found guilty of a drug related offence; and
 - (b) the applicant and each associate of the applicant are fit and proper persons to be concerned in or associated with the cultivation of hemp or industrial hemp (as the case requires); and
 - (c) the applicant meets the prescribed requirements (if any).
- (2) For the purpose of determining whether an applicant or a licence holder is a fit and proper person under this Act, the Chief Executive may consider any of the following:
- (a) the character, honesty and integrity of—
 - (i) the applicant or licence holder; and
 - (ii) the associates of the applicant or licence holder; and
 - (iii) the relatives of the applicant or licence holder; and
 - (iv) any person in a position to exercise control or significant influence over the conduct of the applicant or licence holder;
 - (b) whether the applicant or licence holder or any associate or relative of the applicant or licence holder has been found guilty by a court (whether in or outside South Australia) of any offence;
 - (c) whether the applicant or licence holder or any associate of the applicant or licence holder has a history of non-compliance with the Act;
 - (d) in the case of an applicant or licence holder that is not a natural person—whether the applicant or licence holder has a satisfactory ownership, trust or corporate structure;
 - (e) the financial circumstances of the applicant or licence holder, including any matter that may significantly limit the applicant or licence holder's capacity to meet obligations in conducting activities under the licence in compliance with the terms and conditions applying to the licence.
- (3) In this section—

domestic partner means a person who is a domestic partner within the meaning of the *Family Relationships Act 1975*, whether declared as such under that Act or not;

relative means a person who is—

- (a) a spouse or domestic partner; or
- (b) a parent; or
- (c) a step-parent; or
- (d) a sibling or step-sibling; or

(e) a child, step-child or adopted child;

spouse—a person is the spouse of another if they are legally married.

11—Determination of licence application

- (1) After considering an application and carrying out an investigation under section 9, the Chief Executive must determine the application by—
 - (a) granting the application and issuing an industrial hemp licence or a special licence to the applicant; or
 - (b) refusing the application.
- (2) The Chief Executive must—
 - (a) notify the applicant in writing of the decision under subsection (1); and
 - (b) if the Chief Executive refuses an application under subsection (1)(b), provide reasons for the decision.

12—Terms and conditions of licence

- (1) A licence has effect for a period of 5 years from the day on which it is granted, or such shorter period as specified in the licence, unless it is sooner suspended or cancelled.
- (2) A licence is subject to the prescribed terms and conditions (if any).
- (3) The Chief Executive may, at any time by notice in writing to the holder of a licence—
 - (a) impose a term or condition on a licence; and
 - (b) vary, suspend or revoke a term or condition of a licence,and such a term, condition, variation, suspension or revocation takes effect when notice is given to the holder of a licence or on such later date as specified in the notice.
- (4) The Chief Executive may exercise a power under subsection (3)—
 - (a) on the application of the holder of a licence; or
 - (b) in the Chief Executive's discretion.
- (5) An application by the holder of a licence under subsection (4)(a) must—
 - (a) be in writing; and
 - (b) be accompanied by the relevant prescribed fee (if any); and
 - (c) be accompanied by any prescribed particulars.
- (6) Without limiting subsection (3), the conditions of a licence may require—
 - (a) the keeping of records and other documents; and
 - (b) the provision of information, records or other documents to the Chief Executive relating to—
 - (i) the activities carried out under the licence; or
 - (ii) the source of seeds from which hemp or industrial hemp is cultivated; or

- (iii) a change in the position of director, trustee, partner, manager, secretary or other executive position, however designated, or the structure of the business to which the licence relates; or
 - (iv) any other matter that the Chief Executive reasonably requires in relation to the licence or the licensed activity.
- (7) A licence is not transferrable.

13—Renewal of licence

- (1) The holder of a licence may apply to the Chief Executive for the renewal of the licence.
- (2) A renewal application must be made to the Chief Executive at least 3 months before the licence is due to expire.
- (3) A renewal application must—
 - (a) be in writing; and
 - (b) be accompanied by any information relevant to whether or not the applicant and each associate of the applicant is a fit and proper person; and
 - (c) be accompanied by the relevant prescribed renewal fee (if any); and
 - (d) be accompanied by any other information the Chief Executive reasonably requires to assess the application; and
 - (e) contain any prescribed particulars.

14—Chief Executive must investigate renewal application

- (1) On receipt of a renewal application under section 13, the Chief Executive must carry out any investigation or inquiry necessary to determine the renewal application.
- (2) The Chief Executive must provide a copy of a renewal application made under section 13 and any accompanying documents to the Commissioner of Police.
- (3) The Commissioner of Police must—
 - (a) inquire into and report to the Chief Executive on any matters concerning the application that the Commissioner of Police believes are appropriate or reasonably necessary; and
 - (b) inquire into and report to the Chief Executive on any matters concerning the renewal application that the Chief Executive requests; and
 - (c) within 60 days of receiving the application from the Chief Executive notify the Chief Executive in writing of the Commissioner of Police's decision to support or oppose the renewal of a licence and provide the reasons for the decision.
- (4) If the Chief Executive is notified under subsection (3)(c) that the Commissioner of Police opposes the renewal of a licence, the Chief Executive must not renew the licence.

15—Determining a renewal application

- (1) After considering a renewal application and any investigation under section 14, the Chief Executive must determine the renewal application by—
 - (a) renewing the licence for a period not exceeding 5 years; or
 - (b) refusing the application.
- (2) A renewed licence expires on the date specified by the Chief Executive, unless the licence is sooner cancelled or suspended.
- (3) The Chief Executive must—
 - (a) notify the applicant in writing of the decision under subsection (1)(a); and
 - (b) if the Chief Executive refuses to renew a licence under subsection (1)(b), provide reasons for the decision.

16—Suspension or cancellation of licence

- (1) The Chief Executive may, by notice in writing to a licence holder, suspend or cancel the licence—
 - (a) if the licence holder requests suspension or cancellation; or
 - (b) if the Chief Executive is satisfied that the licence holder has contravened or failed to comply with the provisions of this Act or a term or condition of the licence; or
 - (c) if the Chief Executive is satisfied that the licence holder or any associate of the licence holder is no longer a fit and proper person to be concerned with or associated with the cultivation or supply of hemp or industrial hemp (as the case requires); or
 - (d) if the Commissioner of Police requests suspension or cancellation on the basis of criminal intelligence concerning the licence holder or an associate of the licence holder; or
 - (e) if the licence holder ceases to carry on the activity to which the licence relates; or
 - (f) if prescribed circumstances exist.
- (2) Before suspending or cancelling a licence under subsection (1), the Chief Executive must—
 - (a) notify the licence holder that the licence holder may, within 30 days before the licence is to be suspended or cancelled, show cause why the licence should not be suspended or cancelled; and
 - (b) consider any submission under paragraph (a).
- (3) If a licence is suspended or cancelled under subsection (1), the Chief Executive must notify the Commissioner of Police regarding the suspension or cancellation.
- (4) The suspension or cancellation of a licence takes effect from the day specified in the notice, or in the case of a suspension, for the period specified in the notice.

- (5) A licence holder may surrender hemp, industrial hemp or other material cultivated under this Act to the Chief Executive on suspension or cancellation of a licence, and the surrendered material must be dealt with in accordance with the regulations.

17—Review by Tribunal

- (1) A person may apply to the Tribunal under section 34 of the *South Australian Civil and Administrative Tribunal Act 2013* for review of a decision of the Chief Executive made under this Act.
- (2) Subject to subsection (3), an application for review must be made within 1 month of the making of the relevant decision of the Chief Executive.
- (3) If the reasons of the Chief Executive are not given in writing at the time of making the decision and the person (within 1 month of the making of the decision) requires the Chief Executive to state the reasons in writing, the time for commencing proceedings before the Tribunal runs from the time at which the person receives the written statement of those reasons.

Part 3—Inspectors

18—Inspectors

- (1) The Chief Executive may, by instrument in writing, authorise persons to be inspectors for the purposes of this Act.
- (2) The Chief Executive may determine the terms and conditions of authorisation of any inspector.
- (3) The terms and conditions of authorisation of an inspector may contain general directions as to how the inspector's powers may be exercised.
- (4) The Chief Executive, in writing, may vary or revoke the authorisation of an inspector at any time.
- (5) The Chief Executive must provide each inspector (other than an inspector who is a police officer) with an identification certificate setting out the provisions of this Act for which the inspector is authorised to be an inspector.
- (6) An inspector must, at the request of a person in relation to whom the inspector has exercised, or intends to exercise, powers under this Act, produce the inspector's identification certificate.
- (7) In this Part, a reference to an identification certificate in relation to an inspector who is a police officer is a reference to written evidence of the fact that the inspector is a police officer.

19—General powers of inspector

- (1) For the purposes of determining compliance with this Act, or a licence issued under this Act, an inspector, with any assistance the inspector thinks necessary, at any reasonable time may do all or any of the following:
 - (a) enter and inspect any premises, other than premises used as a residence, if the inspector believes on reasonable grounds that hemp is being kept, cultivated or supplied at those premises contrary to this Act;

- (b) intercept, inspect and examine any vehicle or equipment which an inspector reasonably believes is being used in relation to the possession, cultivation, processing or supply of hemp or industrial hemp;
 - (c) require a person to produce any document that the inspector reasonably requires for ascertaining whether the Act or a licence is being complied with—
 - (i) to examine the document; and
 - (ii) to make copies of it or take extracts from it; and
 - (iii) to remove the document for as long as is reasonably necessary to make copies or take extracts;
 - (d) take or remove for examination samples of or from, or specimens of, soil, hemp, or any other plant or crop to determine—
 - (i) whether hemp has been cultivated in accordance with the licence; or
 - (ii) the concentration of THC in the hemp; or
 - (iii) that its possession is in accordance with the licence;
 - (e) submit any sample or specimen taken in accordance with this Part to a laboratory or place approved by the Chief Executive for examination and testing.
- (2) An inspector must not exercise any powers under this Act if the inspector fails to produce the inspector's identification certificate for inspection on request by the occupier of the place or the person in charge or apparent control of the place.
- (3) If an inspector seizes a document or thing or takes a sample of, or from, a thing under this section, the inspector must do so in accordance with any requirements prescribed by the regulations.

20—Inspector has power to seize material

- (1) An inspector may seize hemp, industrial hemp or material cultivated under this Act if—
- (a) the inspector believes on reasonable grounds that the holder of the licence has contravened a provision of the Act; or
 - (b) the material is required for evidence in a legal proceeding; or
 - (c) a licence is suspended or cancelled.
- (2) If an inspector seizes any material under this section, the seized material must be dealt with in accordance with the regulations.
- (3) Without limiting the generality of subsection (2), regulations made under this section may provide for the following:
- (a) the circumstances in which seized material may be destroyed or otherwise disposed of;
 - (b) the recovery by the Chief Executive of any costs incurred in dealing with seized material.

Part 4—Offences

21—False or misleading statements

A person must not, in giving any information under this Act—

- (a) make a statement knowing it to be false or misleading; or
- (b) omit any matter from a statement knowing that without that matter the statement is false or misleading.

Maximum penalty: \$5 000.

22—Offence to fail to comply with a requirement

A person must not, without lawful excuse, refuse or fail to comply with a requirement made of the person under this Act.

Maximum penalty: \$15 000.

23—Interference with inspectors

A person must not obstruct, hinder, threaten or attempt to influence an inspector in the exercise of a power under this Act.

Maximum penalty: \$15 000.

24—Offence to impersonate inspector

A person must not impersonate an inspector.

Maximum penalty: \$15 000.

25—Offence not to comply with licence

The holder of a licence—

- (a) must not possess, cultivate or supply hemp or industrial hemp otherwise than for the purpose for which the licence is granted; and
- (b) must comply with the terms and conditions of the licence.

Maximum penalty: \$15 000 or imprisonment for 12 months, or both.

Part 5—Miscellaneous

26—Industrial Hemp Register

- (1) The Chief Executive must establish and maintain an industrial hemp register.
- (2) The industrial hemp register must contain the following information:
 - (a) the name of each licence holder;
 - (b) the location of the premises at which hemp or industrial hemp is authorised to be cultivated or processed under the licence;
 - (c) other information as required by the regulations.
- (3) The Chief Executive must ensure that the industrial hemp register, or any part of the register, is only accessed by a prescribed person, or a person of a prescribed class who is authorised to do so by the Chief Executive.

- (4) The Chief Executive must ensure that personal information in the industrial hemp register is only disclosed in accordance with this Act.
- (5) Unless a disclosure is authorised under this section, a person authorised to have access to the industrial hemp register or any part of the register must not disclose to any person the following information in the register:
 - (a) personal information;
 - (b) the location of specified premises;
 - (c) commercial in confidence information.

Maximum penalty: \$15 000 or imprisonment for 12 months, or both.

- (6) The Chief Executive or a person authorised to have access to the industrial hemp register or any part of the register may disclose personal information in the industrial hemp register to a public authority—
 - (a) for the purpose of law enforcement; or
 - (b) as required by or under any Act or law; or
 - (c) if the Chief Executive or a person authorised to have access to the register believes on reasonable grounds that to do so is necessary to enable the proper administration of the Act.

27—Delegation

- (1) The Minister or the Chief Executive may, by instrument in writing, delegate a power or function under this Act (other than this power of delegation)—
 - (a) to a particular person; or
 - (b) to the person for the time being performing particular duties or holding or acting in a specified position.
- (2) A power or function delegated under this section may, if the instrument of delegation so provides, be further delegated.
- (3) A delegation—
 - (a) may be absolute or conditional; and
 - (b) does not derogate from the power of the delegator to act personally in a matter; and
 - (c) is revocable at will.

28—Immunity from personal liability

The Chief Executive, a person acting under the direction of the Chief Executive, or an inspector are not in any way liable in respect of any act done or omitted in good faith in respect of anything done by them in the exercise or performance of any power, function or duty conferred or imposed on them by this Act.

29—Protection against self-incrimination

It is a reasonable excuse for a natural person to refuse or fail to give information or do any other thing that the person is required to do by or under this Act if the giving of the information or the doing of that thing would tend to incriminate the person.

30—Regulations

- (1) The Governor may make such regulations as are contemplated by this Act, or as are necessary or expedient for the purposes of this Act.
- (2) Without limiting the generality of subsection (1), the regulations may—
 - (a) prescribe fees or charges in respect of any matter under this Act and provide for the payment, recovery, reduction or waiver of fees or charges (including fees payable under another provision of this Act); and
 - (b) be of general, limited or varied application according to any specified factor to which the regulation is expressed to apply; and
 - (c) provide that a matter or thing in respect of which regulations may be made is to be determined according to the discretion of the Minister or the Chief Executive.

Schedule 1—Related amendment

Part 1—Preliminary

1—Amendment provision

In this Schedule, 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*

2—Amendment of section 31—Application of Part

- (1) Section 31(1)—after paragraph (ag) insert:
 - (ah) the cultivation, processing, possession, sale or supply of a plant, or the sale, supply or possession of a substance by a person who is acting in accordance with the *Industrial Hemp Act 2017*; or
 - (ai) the possession of industrial hemp that is cultivated or supplied pursuant to a licence under the *Industrial Hemp Act 2017*; or
- (2) Section 31(3)—before the definition of *relevant controlled drug* insert:

industrial hemp has the same meaning as in the *Industrial Hemp Act 2017*;