Access to Medicinal Cannabis Bill 2015

Introduction Print

EXPLANATORY MEMORANDUM

Clause Notes

Part 1—Preliminary

Clause 1 sets out the main purposes of the Bill, which are to provide for medicinal use of products derived from cannabis, to provide for the lawful cultivation of cannabis for those products, and for the lawful manufacture of those products, and to consequentially amend the **Drugs Poisons and Controlled Substances Act 1981** and to make related amendments to certain other Acts.

Clause 2 is the commencement provision, which provides for the Bill to come into operation on a day or days to be proclaimed. There is no default date by which the Bill must be proclaimed because the Commonwealth has indicated an intention to legislate in relation to cultivation of cannabis for medicinal purposes. It may be necessary to delay the commencement of this Bill in order to resolve any issues that arise as a result of that legislation.

Clause 3 defines certain terms used in the Bill. Key defined terms relate to cannabis.

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

Cannabis extract means a substance extracted from cannabis.

Medicinal cannabis means cannabis cultivated or manufactured for medicinal purposes or for research purposes under or in accordance with this Bill.

Medicinal cannabis product means a substance, compound, preparation or mixture that is manufactured from cannabis for human use or consumption and includes an ***approved medicinal cannabis product*** (which is also a defined term).

Eligible patient is defined to mean a patient under 18 years of age and experiences severe seizures resulting from epilepsy where other treatment options have not proved effective or have generated intolerable side effects, and who meets any other prescribed criteria. The definition also allows for further categories of eligible patients to be prescribed in regulations.

Another key defined term is ***protected information***. This includes information, documents or any other thing which is likely to—reveal the identity of a person under investigation or who has given evidence in an investigation, reveal an investigation method, jeopardise the safety of any person, risk an ongoing investigation or otherwise not be in the public interest. Under clauses 29, 30, 38, 39, 50, 51, 59 and 60, an application for the issue or renewal of a cultivation or manufacturing licence will be investigated by the Chief Commissioner of Police. The Chief Commissioner may oppose the application based on protected information. Where this occurs no reasons need be given by the Chief Commissioner of Police to the Secretary. The decision can be reviewed by VCAT where a presidential member will have access to the protected information. As part of the hearing VCAT will decide whether the information is protected information.

Specialist medical practitioner means a registered medical practitioner who is registered under national law in a recognised speciality that is prescribed for a medical condition for which an practitioner medicinal cannabis authorisation–eligible patient is available. It also includes a registered medical practitioner to whom, or who is a member of a class to which, a declaration under clause 7 applies.

Clause 4 sets out the meaning of ***associate*** for the purposes of the Bill. A person is an ***associate*** of a medicinal cannabis licensee or an application for a licence if the person is—

(a) of or over the age of 18 years;

(b) holds a relevant financial interest, relevant position or is the licensee or applicant's spouse, domestic partner, parent, step-parent, sibling, step-sibling, child, step-child or adopted child.

Subclauses (2) and (3) set out the meaning of the terms ***domestic partner***, ***relevant financial interest***, ***relevant position*** and ***relevant power*** for the purposes of this clause.

Clause 5 sets out the ***suitability matters*** for a person who is applying for the issue or renewal of a cultivation or manufacturing licence. The suitability matters include whether the person is of good repute, has a history of noncompliance with this Bill, the regulations, a licence under the Bill, or the **Drugs, Poisons and Controlled Substances Act 1981** or the regulations made under that Act, has a sound and stable financial background, and is in financial circumstances which may significantly limit their capacity to meet obligations under the licence. If the person is not an individual, whether the person has a satisfactory ownership, trust or corporate structure is also a ***suitability matter***.

Clause 6 provides that in this Bill, a reference to employment by a medicinal cannabis licensee includes employment under a contract of training or employment under any other contract to perform a specified task authorised under the relevant licence.

Clause 7 allows the Health Secretary to declare a registered medical practitioner or class of registered medical practitioner for the purposes of the definition of ***specialist medical practitioner***. This definition is used to determine who can apply for a practitioner medicinal cannabis authorisation.

Clause 8 provides that the Bill binds the Crown in right of the State of Victoria and in all its other capacities.

Part 2—Functions of the Health Secretary

Clause 9 sets out the functions of the Health Secretary. The functions include: to oversee the medicinal cannabis scheme established by this Bill; to review research on the medicinal use of cannabis, to provide certain data to the Commonwealth; to prepare and disseminate educational and guidance materials in relation to medicinal cannabis products, and to generally administer the scheme established by the Bill in accordance with the Bill.

Clause 10 allows the Health Secretary to approve forms for authorisations required under the Bill. Approved forms must be published in the Government Gazette and on a website.

Clause 11 allows the Health Secretary to declare a facility to be a medicinal cannabis testing facility by notice published in the Government Gazette, and on a website. A medicinal cannabis testing facility may be located within Victoria or another State or a Territory.

Part 3—Independent Medical Advisory Committee

Clause 12 provides for the Minister to establish by order published in the Government Gazette an Independent Medical Advisory Committee, and to appoint members to the Committee. The order may provide for the terms and conditions of the appointment of Committee members, matters relating to the procedure of the Committee, and the matters relating to medicinal cannabis that the Committee is to advise on.

Part 4—Cultivation and manufacture of medicinal cannabis—Health Secretary and Resources Secretary

Division 1—Cultivation authorisation—Resources Secretary

Clause 13 authorises the Resources Secretary to cultivate cannabis. The authorisation extends to related activities including to obtain seed, to produce, sell or supply cannabis extract and to undertake research activities. This provision authorises cultivation of cannabis for medicinal and research purposes by the Victorian Government, which is particularly required prior to the commencement of the provisions enabling licensing of commercial and non-government entities to undertake cultivation.

Clause 14 enables the Resources Secretary to enter into a contract with another person to perform a prescribed activity related to cultivation. Only activities set out in clause 13 can be prescribed for the purposes of this clause.

Clause 15 provides that a person who is a party to a contract referred to in clause 14 with the Resources Secretary is authorised to perform the activity to which the contract relates.

Clause 16 enables the Resources Secretary to enter into a contract for the sale or supply of cannabis (other than cannabis seed) or cannabis extract to a licensed manufacturer.

Subclause (2) requires that the contract must specify the amount of cannabis or cannabis extract to be sold or supplied under the contract.

Clause 17 enables the Resources Secretary to apply for and hold a Commonwealth licence for cultivation of cannabis or the production of cannabis extract. At the time of introduction of this Bill the Commonwealth does not licence the cultivation of cannabis or the production of cannabis extract, but has indicated an intention to introduce a licensing scheme.

Division 2—Manufacturing authorisation—Health Secretary

Clause 18 authorises the Health Secretary to manufacture medicinal cannabis products. The authorisation extends to related activities including to obtain or purchase cannabis and cannabis extract; to undertake research activities and to sell, supply, package and transport medicinal cannabis products. This provision authorises the Victorian Government to undertake manufacture of medicinal cannabis, which is particularly required prior to the commencement of the provisions enabling licensing of commercial and non-government entities to undertake manufacture.

Clause 19 enables the Health Secretary to enter into a contract with another person to perform a prescribed activity related to manufacturing. Only activities set out in clause 18 can be prescribed for the purposes of this clause

Clause 20 provides that a person who is a party to a contract referred to in clause 19 with the Health Secretary is authorised to perform the activity to which the contract relates.

Clause 21 enables the Health Secretary to enter into a contract to obtain or purchase cannabis from a licensed cultivator.

Subclause (2) requires that the contract must specify the amount of cannabis to be sold or supplied under the contract.

Clause 22 enables the Health Secretary to apply for and hold a Commonwealth licence for manufacture of cannabis. Under section 15(1) of the Narcotic Drugs Act 1967 of the Commonwealth, cannabis may be manufactured in Australia only under licence issued by the Commonwealth Minister for Health.

Part 5—Cultivation licences

Clause 23 sets out what a licensed cultivator is authorised to do by a cultivation research licence. This includes to obtain and cultivate cannabis, to undertake research activities in relation to the cultivation of cannabis, and to possess, package, store and transport cannabis, as set out in the licence.

Clause 24 sets out what a licensed cultivator is authorised to do by a general cultivation licence. This includes to obtain and cultivate cannabis, to sell and supply cannabis (other than cannabis seed) and to possess, package, store and transport cannabis, as set out in the licence.

Clause 25 provides that a cultivation licence authorises the activities specified in the licence only at the licensed premises, or as otherwise required for transportation of cannabis as authorised by the licence.

Clause 26 provides that a cultivation licence authorises an employee of the licensed cultivator to do what the licence authorises the licensed cultivator to do, as required in the course of the employee's employment.

Clause 27 provides that a person may apply to the Resources Secretary for a cultivation licence, and sets out requirements of the application, including the requirement to provide any prescribed information. This allows for the prescribing of additional information to be included in an application, such as evidence of a relationship with a licensed manufacturer, or, in the case of an application for a cultivation research licence, evidence that a research activity connected with medicinal cannabis is to be conducted.

Clause 28 enables the Resources Secretary to require the applicant for a cultivation licence to take further steps in relation to the application. The Resources Secretary may require the applicant to provide further information, to facilitate an inspection of the premises, or to submit a recent police record check in respect of the applicant or an associate of the applicant.

Clause 29 requires a copy of the application and any further information to be given to the Health Secretary and to the Chief Commissioner of Police. The Chief Commissioner can support or oppose the issuing of the licence and must report this decision to the Resources Secretary within 28 days. The Chief Commissioner of Police must also report to the Resources Secretary on any matters concerning the application that the Resources Secretary asks the Chief Commissioner to inquire into and any matters concerning the application that the Chief Commissioner believes is appropriate or reasonably necessary to inquire into. This allows protected information to be considered in an application for a cultivation licence and also assists in determining whether associates are fit and proper persons.

Subclause (4) provides that if the Chief Commissioner opposes the application wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision. Under subclause (5), neither the Resources Secretary nor the applicant is entitled to this written record.

Subclause (6) provides that section 8 of the **Administrative Law Act 1978**, which provides for VCAT to give reasons for a decision it has made or is to make upon request, does not apply to a decision to oppose an application based on protected information. This ensures that protected information is not disclosed.

Clause 30 provides for the Resources Secretary to determine an application for a cultivation licence.

Subclause (1) requires the Resources Secretary to determine the application within 60 days after receipt of the application or the last day that the Secretary makes a requirement under section 28.

Subclause (2) provides that the Resources Secretary may grant the application and issue a cultivation licence (research or general), or refuse the application.

Subclause (3) requires that the Resources Secretary notify the applicant in writing of the decision as soon as practicable.

Subclause (4) sets out information that must be included in the written notice if the Resources Secretary refuses the application, including that the decision is reviewable by VCAT.

Clause 31 sets out the circumstances in which the Resources Secretary may issue a cultivation licence. The Resources Secretary must not grant an application unless the Chief Commissioner of Police has decided to support it, and the Secretary is satisfied about certain matters relating to the applicant, applicant's associates and the relevant premises.

Clause 32 sets out the form and duration of a cultivation licence, including information which must be specified in the licence. A cultivation licence expires on the day specified in the licence, which must be not more than 3 years after the day on which it is issued, unless it is cancelled or renewed before that day.

Clause 33 sets out the conditions to which a cultivation licence is subject. Included in these conditions are those specifying—suitability of employees; compliance with the risk management plan proposed in the application; allowable subspecies and varieties of cannabis; security and surveillance measures at the licensed premises; risk management measures; provision of information to the Secretary; disposal of cannabis; and ensuring quality standards are met. Provision is also made for further conditions to be prescribed.

Clause 34 requires the Resources Secretary to specify in a general cultivation licence that the licence is subject to the condition that the licensed cultivator must not engage in any of the activities under the licence unless party to a registered contract. This is to ensure that there is a clear and secure supply chain for medicinal cannabis and medicinal cannabis products.

Subclause (2) provides that the condition need not be imposed if the licensed cultivator is also a licensed manufacturer.

Clause 35 provides a requirement for a licensed cultivator to issue each employee an identification certificate and specifies the information that must be contained in the certificate. The penalty for breach of this requirement is 60 penalty units. An employee identification certificate expires on the day the cultivation licence expires, and must be returned to the cultivator by the employee if the employment ceases.

Clause 36 provides for the making of an application for the renewal of a cultivation licence, specifies the requirements for the renewal application and provides that the licence can be renewed more than once.

Clause 37 provides that the Resources Secretary may require an applicant for renewal of a cultivation licence to take further steps in relation to the application. The Resources Secretary may require the applicant to provide further information, to facilitate inspection of the licensed premises or to submit a recent police record check in respect of the applicant or an associate of the applicant.

Clause 38 requires a copy of a renewal application and any further information to be given to the Health Secretary and to the Chief Commissioner of Police. The Chief Commissioner can support or oppose the issuing of the licence and must report this decision to the Resources Secretary within 28 days. The Chief Commissioner of Police must also report to the Resources Secretary on any matters concerning the application that the Resources Secretary asks the Chief Commissioner to inquire into and any matters concerning the application that the Chief Commissioner believes is appropriate or reasonably necessary to inquire into. This allows protected information to be considered in an application for a cultivation licence and also assist in determining whether associates are fit and proper persons.

Subclause (4) provides that if the Chief Commissioner opposes the application wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision. Under subclause (5), neither the Resources Secretary nor the applicant is entitled to this written record.

Subclause (6) provides that section 8 of the **Administrative Law Act 1978**, which provides for VCAT to give reasons for a decision it has made or is to make upon request, does not apply to a decision to oppose an application based on protected information. This ensures that protected information is not disclosed.

Clause 39 provides for the Resources Secretary to determine an application for the renewal of a cultivation licence.

Subclause (1) requires the Resources Secretary to determine the application within 60 days after receipt of the application or after making a requirement for further steps.

Subclause (2) provides that the Resources Secretary may grant the applicant and renew the cultivation licence, or refuse the application.

Subclause (3) requires that the Resources Secretary notify the applicant of the decision as soon as practicable.

Subclause (4) sets out information that must be included in the written notice, including that the decision is reviewable by VCAT.

Clause 40 sets out the circumstances in which the Resources Secretary may renew a cultivation licence. The Resources Secretary must not grant an application unless the Chief Commissioner of Police has decided to support it, and the Secretary is satisfied about certain matters relating to the applicant, applicant's associates and the relevant premises.

Clause 41 allows for amendment of a cultivation licence. The Resources Secretary may impose a new condition on a cultivation licence, or amend or remove a condition, on the application of the licensed cultivator or in the Secretary's discretion. The requirements of an application by a licensed cultivator are set out in subclause (4). Subclause (5) provides that the Resources Secretary must determine an application within 28 days of receiving it.

Clause 42 provides for the suspension and cancellation of a cultivation licence.

Subclause (1) provides that the Resources Secretary may, by written notice, cancel or suspend a cultivation licence if any of the grounds listed in paragraphs (a) to (e) apply. A decision by the Secretary under this provision may be reviewed by VCAT under Part 11.

Subclause (2) sets out the notification requirements of the Secretary following the suspension or cancellation of a cultivation licence.

Clause 43 provides that a cultivation licence has no effect while it is suspended or cancelled.

Part 6—Manufacturing licences

Clause 44 sets out what a licensed manufacturer is authorised to do by a manufacturing research licence. This includes to obtain or purchase cannabis (other than cannabis seed) from the Resources Secretary or a licensed cultivator in accordance with a registered contract; to obtain or purchase cannabis extract from the Resources Secretary; to use the cannabis or cannabis extract to manufacture medicinal cannabis products; to undertake research activities in relation to the manufacture of medicinal cannabis products; and to possess, package, store and transport cannabis extract and medicinal cannabis products, as set out in the licence.

Clause 45 sets out what a licensed manufacturer is authorised to do by a general manufacturing licence. This includes to obtain and purchase cannabis (other than cannabis seed) from the Resources Secretary or licensed cultivator, to use cannabis and cannabis extract to manufacture medicinal cannabis products, to sell or supply medicinal cannabis products to the Health Secretary; or to possess, package, store and transport cannabis, cannabis extract and medicinal cannabis products, as set out in the licence.

Clause 46 provides that a manufacturing licence authorises the activities specified in the licence only at the licensed premises, or as otherwise required for transportation of cannabis, cannabis extract and medicinal cannabis products as authorised by the licence.

Clause 47 provides that a manufacturing licence authorises an employee of the licensed manufacturer to do what the licence authorises the licensed manufacturer to do, as is required in the course of the employee's employment.

Clause 48 provides that a person may apply to the Health Secretary for a manufacturing licence, and sets out requirements of the application, including the requirement to provide any prescribed information.

Clause 49 enables the Health Secretary to require the applicant for a manufacturing licence to take further steps in relation to the application. The Health Secretary may require the applicant to provide further information, to facilitate an inspection of the premises, or to submit a recent police record check in respect of the applicant or an associate of the applicant.

Clause 50 requires a copy of the application and any further information to be given to the Resources Secretary and to the Chief Commissioner of Police. The Chief Commissioner can support or oppose the issuing of the licence and must report this decision to the Health Secretary within 28 days. This allows protected information to be considered in an application for a manufacturing licence and also assist in determining whether associates are fit and proper persons.

If the Chief Commissioner opposes the application wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision. Under subclause (5), the Health Secretary nor the applicant is entitled to this written record.

Subclause (6) provides that section 8 of the **Administrative Law Act 1987**, which provides for VCAT to give reasons for a decision upon request, does not apply to a decision to oppose an application based on protected information. This ensures that protected information is not disclosed.

Clause 51 provides for the Health Secretary to determine an application for a manufacturing licence.

Subclause (1) requires the Health Secretary to determine the application within 60 days after receipt of the application or the last day that the Secretary makes a requirement under clause 49.

Subclause (2) provides that the Health Secretary may grant the application and issue a manufacturing licence (research or general), or refuse the application.

Subclause (3) requires that the Health Secretary notify the applicant of the decision as soon as practicable.

Subclause (4) sets out information that must be included in the written notice if the Health Secretary refuses the application, including that the decision is reviewable by VCAT.

Clause 52 sets out the circumstances in which the Health Secretary may issue a manufacturing licence. The Health Secretary must not grant an application unless the Chief Commissioner of Police has decided to support it, and the Secretary is satisfied about certain matters relating to the applicant, applicant's associates and the relevant premises.

Clause 53 sets out the form and duration of a manufacturing licence, including information which must be specified in the licence. A manufacturing licence expires on the day specified in the licence, which must be not more than 3 years after the day on which it is issued, unless it is cancelled or renewed before that day.

Clause 54 sets out the conditions to which a manufacturing licence is subject. Included in these conditions are those specifying—suitability of employees; compliance with the risk management plan proposed in the application; and ensuring quality standards are met. Provision is also made for further terms and conditions to be prescribed.

Clause 55 requires the Health Secretary to specify in a general manufacturing licence that the licence is subject to the condition that the licensed manufacturer must not engage in any of the activities under the licence unless party to a registered contract. This is to ensure that there is a clear and secure supply chain for medicinal cannabis and medicinal cannabis products.

Subclause (2) provides that the condition need not be imposed if the licensed manufacturer is also a licensed cultivator.

Clause 56 provides a requirement for a licensed manufacturer to issue each employee an identification certificate and specifies the information that must be contained in the certificate. The penalty for breach of this requirement is 60 penalty units. An employee identification certificate expires on the day the manufacturing licence expires, and must be returned to the manufacturer by the employee if the employment ceases.

Clause 57 provides for the making of an application for the renewal of a manufacturing licence, specifies the requirements for the renewal application and provides that the licence can be renewed more than once.

Clause 58 provides that the Health Secretary may require an applicant for renewal of a manufacturing licence to take further steps in relation to the application. The Health Secretary may require the applicant to provide further information, to facilitate inspection of the licensed premises or to submit a recent police record check in respect of the applicant or an associate of the applicant.

Clause 59 requires a copy of a renewal application and any further information to be given to the Resources Secretary and to the Chief Commissioner of Police. The Chief Commissioner can support or oppose the issuing of the licence and must report this decision to the Health Secretary within 28 days. This allows protected information to be considered in an application for a manufacturing licence and also assist in determining whether associates are fit and proper persons.

Subclause (4) provides that if the Chief Commissioner opposes the application wholly or partly based on protected information, the Chief Commissioner must create a written record of the reasons for the decision. Under subclause (5), neither the Health Secretary nor the applicant is entitled to this written record.

Subclause (6) provides that section 8 of the **Administrative Law Act 1987**, which provides for VCAT to give reasons for a decision upon request, does not apply to a decision to oppose an application based on protected information. This ensures that protected information is not disclosed.

Clause 60 provides for the Health Secretary to determine an application for the renewal of a manufacturing licence.

Subclause (1) requires the Health Secretary to determine the application within 60 days after receipt of the application or the last day that the Secretary makes a requirement under clause 58.

Subclause (2) provides that the Health Secretary may grant the applicant and renew the manufacturing licence, or refuse the application.

Subclause (3) requires that the Health Secretary notify the applicant of the decision as soon as practicable.

Subclause (4) sets out information that must be included in the written notice, including that the decision is reviewable by VCAT.

Clause 61 sets out the circumstances in which the Health Secretary may renew a manufacturing licence. The Health Secretary must not grant an application unless the Chief Commissioner of Police has decided to support it, and the Secretary is satisfied about certain matters relating to the applicant, applicant's associates and the relevant premises.

Clause 62 allows for amendment of a manufacturing licence. The Health Secretary may impose a new condition on a manufacturing licence, or amend or remove a condition, on the application of the licensed manufacturer or in the Secretary's discretion. The requirements of an application by a licensed manufacturer are set out in subclause (4). Subclause (5) provides that the Health Secretary must determine and application within 28 days of receiving it.

Clause 63 provides for the suspension and cancellation of a manufacturing licence.

Subclause (1) provides that the Health Secretary may, by written notice, cancel or suspend a manufacturing licence if any of the grounds listed in paragraphs (a) to (e) apply. A decision by the Secretary under this provision may be reviewed by VCAT under Part 11.

Subclause (2) sets out the notification requirements of the Secretary following the suspension or cancellation of a licence.

Subclauses (3) and (4) provide that a manufacturing licence has no effect while it is suspended or cancelled.

Part 7—Contracts between licensed cultivators and licensed manufacturers

Clause 64 allows a licensed cultivator or licensed manufacturer to apply to the Health Secretary for the registration of a contract between the cultivator and manufacturer.

Clause 65 provides for the Health Secretary to determine an application for the registration of a contract between a cultivator and manufacturer within 60 days of receiving it.

Subclause (2) provides that the Health Secretary may grant the application and register the contract, or refuse the application.

Subclause (3) provides that the Health Secretary must not grant the application if it does not specify the amount of cannabis to be sold under the contract and any other prescribed information.

Subclause (4) provides that the Health Secretary must notify the relevant cultivator and manufacturer the decision as soon as practicable.

Subclause (5) provides that if the Health Secretary grants the application, the Health Secretary must also notify the Resources Secretary.

Subclause (6) provides that if the Health Secretary refuses an application, the Health Secretary must provide the applicant with the reasons for the refusal of an application.

Clause 66 requires the Health Secretary to keep a register of contracts, and sets out the information that must be entered on the register in respect of each contract. This is to assist in ensuring a secure supply chain.

Subclause (1)(b) and (c) provides that the register must include not only the contracts that have been the subject of an application under clause 64, but also the contracts that the Resources Secretary makes with licensed manufacturers under clause 16, and the contracts that the Health Secretary makes with licensed cultivators under clause 21.

Clause 67 requires the Health Secretary to notify the Resources Secretary of any reported amendment or cancellation to a registered contract.

Clause 68 requires the Health Secretary to allow the Resources Secretary, and any person who is prescribed or belongs to a prescribed class, to access the contracts register.

Part 8—Health Secretary's functions regarding obtaining, purchasing, registering, selling and supplying medicinal cannabis products

Clause 69 authorises the Health Secretary to obtain or purchase medicinal cannabis products from a licensed manufacturer, and to transport, possess and store that medicinal cannabis.

Clause 70 allows the Health Secretary to approve a medicinal cannabis product if satisfied the product is of sufficient standard and quality to be suitable for use by patients.

Clause 71 requires the Health Secretary to keep a publicly accessible register of approved medicinal cannabis products. An entry for an approved medicinal cannabis product is to include sufficient information to identify the product, and any other prescribed information.

Clause 72 authorises the Health Secretary to sell or supply an approved medicinal cannabis product to a pharmacist, and to transport the product for that purpose.

Under subclause (2), a pharmacist is authorised to obtain or purchase any approved medicinal cannabis product from the Health Secretary, to possess, store and transport the product, and to sell or supply the product to a person who has a patient medicinal cannabis authorisation for that product.

Clause 73 allows the Health Secretary to set a maximum price at which a pharmacist may sell an approved medicinal cannabis product, by notice published in the Government Gazette. A pharmacist may not sell an approved medicinal cannabis product for more than the maximum price. This is a price control mechanism to assist in ensuring medicinal cannabis products are accessible to people who have a low income.

Clause 74 allows the Health Secretary to give directions to a pharmacist in relation to the manner of the sale or supply of approved medicinal cannabis products by the pharmacist.

Subclause (2) provides that a pharmacist must comply with a direction.

Clause 75 authorises the Health Secretary to sell or supply any specified medicinal cannabis product to an authorised research practitioner, and to transport the product for that purpose. The clause does not need to authorise the practitioner to obtain the product from the Health Secretary; this authorisation is provided by clause 77. Under subclause (2), the terms ***authorised research practitioner*** and ***specified medicinal cannabis product*** are defined for the purposes of this clause.

Part 9—Practitioner medicinal cannabis authorisations

Clause 76 sets out what is authorised by a practitioner medicinal cannabis authorisation—eligible patient or a practitioner medicinal cannabis authorisation—exceptional circumstances. It authorises each practitioner specified in it to issue a patient medicinal cannabis authorisation to the specified patient for the specified approved medicinal cannabis product. It also authorises each practitioner to supply that product to that patient by issuing the patient medicinal cannabis authorisation.

Clause 77 sets out what is authorised by a practitioner medicinal cannabis authorisation—research purposes. It authorises each practitioner specified in it to issue a patient medicinal cannabis authorisation to a specified participant for the specified medicinal cannabis product. Each specified practitioner is also authorised to obtain or purchase the medicinal cannabis product from the Health Secretary, to possess, store and transport it, and to supply it to participants.

Clause 78 enables a specialist medical practitioner to apply for a practitioner medicinal cannabis authorisation—eligible patient, and sets out the requirements for the application.

Subclause (3) provides that a specialist medical practitioner must not apply for a practitioner medicinal cannabis authorisation—eligible patient unless satisfied that the patient is an eligible patient, and it is appropriate in all the circumstances that the patient should be treated with an approved medicinal cannabis product. This is to ensure that treatment with medicinal cannabis is integrated with a patient's overall medical treatment.

Clause 79 enables a specialist medical practitioner to apply for a practitioner medicinal cannabis authorisation—research purposes, and sets out the requirements for the application. This can be in respect of a person or class of persons who are to participate in the trial.

Subclause (3) provides that a specialist medical practitioner must not apply for a practitioner medicinal cannabis authorisation—research purposes unless satisfied it is appropriate in all the circumstances that a participant should be treated with a medicinal cannabis product for research purposes.

Clause 80 enables a registered medical practitioner to apply for a practitioner medicinal cannabis authorisation—exceptional circumstances for a person who is not an eligible patient, and sets out the requirements for the application.

Subclause (3) provides that a registered medical practitioner must not apply for a practitioner medicinal cannabis authorisation—exceptional circumstances unless satisfied that the patient is not an eligible patient, but exceptional circumstances exist to justify the patient being treated with an approved medicinal cannabis product. This is to allow for consideration, on compassionate

grounds, of cases that lie outside the legislated or prescribed eligible patient groups.

Clause 81 requires the Health Secretary to determine an application for a practitioner medicinal cannabis authorisation within the prescribed time period of receiving it, and sets out the circumstances in which the Secretary may grant the application. This includes the requirement that the patient or each participant to whom the application relates ordinarily reside in Victoria.

Subclauses (4) and (5) require the Health Secretary to notify the applicant of the decision as soon as practical, and to provide reasons if the application is refused.

Clause 82 sets out the information that must be specified by the Health Secretary in a practitioner medicinal cannabis authorisation, and provides that an authorisation expires on the date specified in it, unless it is cancelled before that date.

Clause 83 requires the Health Secretary to keep a practitioner medicinal cannabis authorisations register. The register is to contain an entry for each practitioner medicinal authorisation, each additional medical practitioner specified in the authorisation, and any other prescribed information.

Clause 84 allows for the Health Secretary to amend a medicinal cannabis authorisation if satisfied it is appropriate to do so in all the circumstances, on the application of the practitioner or in the Secretary's discretion.

Subclauses (3) and (4) require that the Secretary must determine an application by a practitioner as soon as practicable after receiving it, and must notify the practitioner if an amendment is made.

Clause 85 allows the Health Secretary to suspend or cancel a practitioner medicinal cannabis authorisation at any time if satisfied that it is appropriate to do so in all the circumstances.

Under subclause (2), the Health Secretary must notify each registered medical practitioner specified in the authorisation as soon as practicable.

Subclauses (3) and (4) provide that the authorisation has no effect while suspended, and ceases to have effect when it is cancelled.

Part 10—Patient medicinal cannabis access authorisations

Clause 86 sets out that a patient medicinal cannabis access authorisation authorises the patient or participant specified in it to obtain, possess, store and use the medicinal cannabis product specified in it.

Clause 87 allows a registered medical practitioner specified in a practitioner medicinal cannabis authorisation to issue a patient medicinal cannabis authorisation to a patient or participant specified in the practitioner medicinal cannabis authorisation.

Subclause (2) sets out what must be specified in the patient authorisation.

Clause 88 authorises a pharmacist to sell or supply an approved medicinal cannabis product to a patient in accordance with a patient medicinal cannabis authorisation, or a person acting on the patient's behalf, and to transport the product for that purpose.

Clause 89 authorises a registered medical practitioner to sell or supply a medicinal cannabis product to a person who is participating in research or in a trial in accordance with a practitioner medicinal cannabis authorisation—research purposes, and to transport the product for that purpose.

Clause 90 provides authority to the following persons to possess and administer medicinal cannabis product supplied under an authorisation to the patient or participant specified in the authorisation—

- each registered medical practitioner specified in the authorisation;
- the patient or participant's treating registered medical practitioner,
- a person who has responsibility for the immediate care and responsibility for the patient or participant or their carer, parent or guardian.

Part 11—Review of decisions relating to licences

Division 1—Decisions that may be reviewed

Clause 91 sets out the decisions of the Resources Secretary and Health Secretary in respect of which a person may apply to VCAT for review of the decision, and the time within which an application for review must be made.

Division 2—Protected information

Clause 92 provides that VCAT must request information from the Secretary who made the decision which is the subject of an application for review. VCAT must request information about whether the decision is based on protected information, and the Secretary must provide the requested information to VCAT in a written notice.

Clause 93 requires VCAT to appoint a special counsel to represent the interests of the applicant where the Resources Secretary or the Health Secretary has informed VCAT that the decision to be reviewed is based on protected information.

Subclause (2) specifies the mandatory qualification and skill requirements for that special counsel.

Subclause (3) specifies that the special counsel may communicate with the party being represented before obtaining any confidential affidavit or attending the hearing.

Subclause (4) specifies the requirements for the special counsel communicating with parties being represented in the review after the special counsel obtains any confidential affidavit or attends the hearing.

Subclause (5) provides that the special counsel may be required to sign a confidentiality agreement.

Clause 94 provides for preliminary procedures for hearing a review of a decision that was based on protected information.

Subclause (1) requires that VCAT must first determine whether the information purported to be protected information is protected information.

Subclause (2) provides that a hearing or part of a hearing to determine whether information is protected information may be in private.

Subclause (3) sets out the procedures that apply to a hearing determined by VCAT to be in private.

Subclause (4) provides for VCAT to decide whether evidence adduced at a hearing under subclause (3) amounts to protected information.

Subclause (5) provides that where VCAT decides that evidence adduced under subclause (3) is not protected information, the applicant must be admitted to the proceedings and subclause (3) ceases to apply.

Clause 95 provides for procedures that apply where VCAT has decided that the evidence adduced under clause 94 is protected information.

Subclause (1) provides that where VCAT has decided that the evidence adduced under clause 94(3) is protected information, the procedures set out in that provision continue to apply.

Subclause (2) provides that in making a determination where protected information has been adduced, VCAT must decide the weight to be given to the protected information and any other evidence adduced and whether in all the circumstances the licence should be issued, renewed or reinstated (as the case may be).

Subclause (3) sets out requirements and precautions for VCAT and the special counsel to prevent release of the protected information.

Subclause (4) provides for requirement relating to the information that can be included in an order issued by VCAT to ensure protected information is not disclosed.

Subclause (5) provides that VCAT may publish reasons for its decision to the extent that those reasons do not relate to protected information.

Clause 96 provides for further procedural matters relating to hearings involving protected information.

Subclause (1) requires a hearing involving protected information to be constituted by a presidential member of VCAT.

Subclause (2) provides for the Resources Secretary or Health Secretary to change the decision being reviewed before the final determination by VCAT.

Subclause (3) disapplies Subdivision 1 of Division 3 of Part 3 and section 49 of the **Victorian Civil and Administrative Tribunal Act 1998** and section 8 of the **Administrative Law Act 1978** where the hearing involved protected information. These provisions relate to the tribunal providing reasons for decisions, the decision maker providing reasons to VCAT and hearings being held in public.

Subclause (4) provides that subclause (3) does not apply to the extent that the proceeding does not involve protected information.

Part 12—Offences

Clause 97 makes it an offence for a medicinal cannabis licensee who is party to a registered contract not to report certain amendments to the contract to the Health Secretary and the Resources Secretary within 3 days. The provision applies to amendments that change the date on which the contract expires, or the amount of cannabis plant matter that is to be sold under the contract. The cancellation of a registered contract must also be reported within 3 days. These contract details are of vital importance to ensure the effective regulation of the scheme and to enable Victoria to meet its reporting obligations to the Commonwealth. The maximum penalty for the offence is 100 penalty units.

Clause 98 makes it an offence for a licensed manufacturer not to inform the Health Secretary within 10 days if their Commonwealth manufacturing licence is amended or cancelled. If a manufacturer's Commonwealth manufacturing licence is amended or cancelled, the Secretary must be informed to enable steps to be taken to prevent any further cannabis being manufactured, which could otherwise create an oversupply which would increase the risk of diversion of medicinal cannabis. The maximum penalty for the offence is 100 penalty units.

Clause 99 makes it an offence for a licensed cultivator or licensed manufacturer not to report an event specified in subclause (3) to the relevant Secretary within 7 days. Events specified under subclause (3) include changes to the details specified in the licence, signing of a personal insolvency agreement that applies

to the licensee or any declaration of bankruptcy by the licensee, or an event that means information included in the licence application is no longer accurate. The requirement to report on the events specified in subclause (3) is to ensure that the relevant Secretary always has the necessary and relevant information regarding whether a licence holder is a fit and proper person to continue to hold a licence. The maximum penalty for the offence is 100 penalty units.

Clause 100 makes it an offence for a licensed cultivator or licensed manufacturer not to report a prescribed event to the relevant Secretary within 7 days. This is also to ensure that the relevant Secretary has at all times any necessary information related to the licence. The maximum penalty for the offence is 100 penalty units.

Clause 101 makes it an offence for a licensed cultivator or licensed manufacturer not to surrender their licence and related documents to the relevant Secretary within 14 days of the suspension or cancellation of the licence. The maximum penalty for the offence is 20 penalty units.

Clause 102 makes it an offence for a licensed cultivator or licensed manufacturer to contravene a condition of a licence.
The maximum penalty where the condition is prescribed to be minor is 20 penalty units. This offence recognises that some conditions, which will be prescribed in the regulations, are more minor and that contravention of these conditions should invoke a lesser penalty. In all other cases the maximum penalty is 100 penalty units or 12 months imprisonment or both.
This recognises the importance of compliance with the licence terms and conditions in the scheme.

Clause 103 makes it an offence for a licensed cultivator or licensed manufacturer to permit, without reasonable excuse, any person to enter licensed premises unless the person belongs, or is accompanied by someone who belongs, to one of several specified classes. These classes are persons who are employed by the licensee for particular purposes, persons who are to a registered contract with the licensee (and persons who are employed by a party to one of these contracts), and relevant inspectors. The maximum penalty for the offence is 100 penalty units.

Clause 104 makes it an offence for an employee of a licensed cultivator or licensed manufacturer not to carry their identification certificate whilst performing authorised activities. An employee is also required to produce their employee identification certificate on the request of a medicinal cannabis inspector. The maximum penalty for each offence is 60 penalty units.

Clause 105 makes it an offence for a licensed cultivator or licensed manufacturer to employ a disqualified person in the business conducted under the licence. A person may be disqualified from being employed if they—

- are under 17 and not an apprentice or trainee;
- have been found guilty of a serious offence in the last 10 years;
- have been found guilty of an offence against this Bill or a corresponding law in the last 5 years;
- or belong to a prescribed class of persons.

This places an obligation on the licensee to ensure that they are not employing disqualified persons. The maximum penalty for the offence is 60 penalty units.

Clause 106 makes it an offence for a disqualified person to accept employment to carry out activities under a cultivation licence or a manufacturing licence. This places an obligation on an employee to ensure that they are not a disqualified person before they accept employment. The maximum penalty for the offence is 60 penalty units.

Clause 107 make it an offence for a licensed cultivator or licensed manufacturer does not take reasonable steps to prevent each employee contravening relevant laws, and to provide each employee with appropriate information, training, instruction and supervision in order to carry out any activity in accordance with the licence. It is also an offence for an employee not to cooperate with the licensee in relation to any direction given or action taken. The maximum penalty for each offence is 60 penalty units.

Clause 108 provides for the criminal liability of a licensed cultivator or licensed manufacturer if an employee commits an offence against this Bill and the licensee failed to exercise due diligence to prevent the commission of the offence. The liability of the licensee is the maximum penalty that applies to the offence committed by the employee.

Clause 109 makes it an offence for a person to hinder, obstruct or fail to comply with a direction given by an inspector exercising a power under this Bill without reasonable excuse. The maximum penalty is 100 penalty units.

Clause 110 sets out offences concerning labelling, packaging, containers requirements that apply in relation to medicinal cannabis. The maximum penalty for each offence is 20 penalty units.

Part 13—Medicinal cannabis inspectors and enforcement powers

Division 1—Authorisation and general powers of cultivation inspectors

Clause 111 provides for the Resources Secretary to authorise, by instrument, any person employed under Part 3 of the **Public Administration Act 2004** or any other appropriately qualified person to be an inspector in respect of the cultivation of cannabis.

Subclause (2) provides for conditions of the authorisation. These may be determined by the Resources Secretary, and may also be set out in the regulations.

Subclause (3) authorises the Resources Secretary to include as a condition general directions as to how the inspector's powers are to be exercised.

Clause 112 provides that the Resources Secretary must issue an identification certificate to each cultivation inspector who is not a police officer, and that the cultivation inspector must produce the certificate on request. A police officer who is performing the functions of a cultivation inspector must produce written evidence of the officer's status as a member of Victoria Police on request.

Clause 113 sets out the function and general powers of cultivation inspectors.

The function of a cultivation inspector is to determine whether the activities a licensed cultivator is authorised to undertake under the licence are undertaken in compliance with the licence, Bill and regulations.

A cultivation inspector may, for the purposes of determining that compliance, with any assistance they think necessary, at a reasonable time, do any of the things set out in subclauses (2)(a) to (h). The powers cannot be exercised if the inspector does not produce their identification certificate on request. Subclause (4) sets out what a cultivation inspector must do if a sample is taken.

Division 2—Authorisation and general powers of manufacturing inspectors

Clause 114 provides for the Health Secretary to authorise, by instrument, any person employed under Part 3 of the **Public Administration Act 2004** or any other appropriately qualified person to be an inspector in respect of the manufacture of medicinal cannabis products.

Subclause (2) provides for conditions of the authorisation. These may be determined by the Health Secretary, and may also be set out in the regulations.

Subclause (3) authorises the Resources Secretary to include as a condition general directions as to how the inspector's powers are to be exercised.

Clause 115 provides that the Health Secretary must issue an identification certificate to each manufacturing inspector who is not a police officer, and that the manufacturing inspector must produce the certificate on request. A police officer who is performing the functions of a manufacturing inspector must produce written evidence of the officer's status on request.

Clause 116 sets out the function and general powers of manufacturing inspectors.

The function of a manufacturing inspector is to determine whether the activities a licensed manufacturer is authorised to undertake under the licence are undertaken in compliance with the licence, Bill and regulations.

A manufacturing inspector may, for the purposes of determining that compliance, with any assistance they think necessary, at a reasonable time, do any of the things set out in subclauses (2)(a) to (g). The powers can only be exercised if the inspector produces their identification certificate when requested by the occupier or person in charge of the place. Subclause (4) sets out what a manufacturing inspector must do if a sample is taken.

Division 3—Medicinal cannabis inspectors' powers and procedures

Clause 117 requires an inspector to give a receipt on seizure of a document, taking a sample, removing a specimen or seizure or securing of cannabis. The receipt must identify the thing seized, state the name of the inspector who seized the thing and state the reason for the seizure.

Clause 118 provides an inspector with the power to copy information contained on electronic storage devices in the place they are inspecting, either into physical form or onto another electronic storage device and to seize the copied documents or remove the storage device containing the copy from that place. This power may be exercised where the inspector reasonably believes that the stored information may be relevant to determine whether the Bill, the regulations or a cultivation or manufacturing licence has been complied with.

Subclause (2) provides that the inspector may operate the equipment, or require the licensee or their employee to operate the equipment to access the information.

Subclause (4) provides that the inspector must not operate electronic equipment under this section unless the inspector believes, on reasonable grounds, that the operation can be carried out without damage to the equipment.

Clause 119 provides an inspector with the power to seize or secure cannabis, cannabis extract or a medicinal cannabis product if the inspector believes on reasonable grounds that the Bill, the regulations or a cultivation licence or manufacturing licence has been contravened. It also provides for this power to be exercised if a cultivation licence or manufacturing licence has been suspended or cancelled. The clause sets out the procedure that an inspector must follow on seizing or securing the cannabis.

Clause 120 provides that an inspector may access and make a record of ratepayer information of a person who holds, or is applying for, a cultivation licence or manufacturing licence for the purposes of exercising a power under this Bill, without being charged a fee.

Clause 121 provides an inspector with a power to issue an infringement notice to any person that the inspector believes has committed a prescribed offence. A prescribed offence will be an infringement offence for the purposes of the **Infringements Act 2006**.

Clause 122 authorises an inspector to possess cannabis, cannabis extract and medicinal cannabis products in the exercise or performance of any power, function or duty conferred or imposed on the inspector by this Bill or the regulations.

Division 4—Powers of Secretaries regarding seized cannabis

Clause 123 sets out how the Resources Secretary must deal with seized cannabis.

Subclauses (1) and (3) empower the Resources Secretary to deal with seized cannabis in certain ways, including by disposing of it or destroying it. The Secretary may only do so if the Secretary is satisfied on reasonable grounds that there has been a contravention of the Bill, regulations or cultivation licence and the relevant person has surrendered the seized cannabis material and agreed that the Secretary may deal with it. Subclause (1) also authorises the Secretary to retain the cannabis if required for evidence in a proceeding.

Subclause (2) provides that unless the Resources Secretary is retaining seized cannabis for evidence in a proceeding, or dealing with it as otherwise authorised by subclause (1), the Secretary must take reasonable steps to return it to the person from whom it was seized or its lawful owner.

Subclause (4) provides that clause 129(1), which authorises the Resources Secretary to have the seized cannabis tested at a medicinal cannabis testing facility, applies to seized cannabis retained under this Division.

Clause 124 sets out how the Health Secretary must deal with seized cannabis.

Subclauses (1) and (3) empower the Health Secretary to deal with seized cannabis in certain ways, including by disposing of it or destroying it. The Secretary may only do so if the Secretary

is satisfied on reasonable grounds that there has been a contravention of the Bill, regulations or manufacturing licence and the relevant person has surrendered the seized cannabis material and agreed that the Secretary may deal with it. Subclause (1) also authorises the Secretary to retain the cannabis if required for evidence in a proceeding.

Subclause (2) provides that unless the Health Secretary is retaining seized cannabis for evidence in a proceeding, or dealing with it as otherwise authorised by subclause (1), the Secretary must take reasonable steps to return it to the person from whom it was seized or its lawful owner.

Subclause (4) provides that clause 129(1), which authorises the Health Secretary to have the seized cannabis tested at a medicinal cannabis testing facility, applies to seized cannabis retained under this Division.

Clause 125 applies if the Resources Secretary or the Health Secretary is retaining seized cannabis for a proceeding. The Secretary must return seized cannabis within 3 months of the date of seizure unless proceedings have been commenced during that time or the Magistrates' Court makes an order extending the retention period. This clause provides for the protection of property rights as it prevents the Secretaries from retaining seized cannabis indefinitely.

Clause 126 provides that the Resources Secretary or the Health Secretary may apply to the Magistrates' Court for an extension of the period to retain seized cannabis. The Magistrates' Court may make the order if satisfied that it is in the interests of justice and the total period of retention does not exceed 12 months and retention is necessary for the purposes of an investigation. The Secretary must give to the person from whom the cannabis was seized and the lawful owner 7 days' notice prior to the hearing.

Clause 127 provides that the Resources Secretary or the Health Secretary may apply to the Magistrates' Court for a forfeiture and destruction order where the relevant licence has been cancelled and the Secretary is satisfied on reasonable grounds that there has been a contravention of the Bill, regulations or licence. On application, the Court may order that the seized cannabis is forfeited to the Crown. The Magistrates' Court may make a destruction order if satisfied that the seized cannabis poses a

risk to public health and safety and that in all the circumstances it is appropriate to make the order. The Magistrates' Court may give any direction necessary to enable the Secretary to carry out the order and authorise the Secretary to give a direction to destroy the seized cannabis in accordance with the order. These directions may be required to ensure that the Resources Secretary or the Health Secretary can engage and authorise third parties to enter any relevant premises to carry out the order.

Clause 128 provides for recovery of costs of carrying out a forfeiture or destruction order by the Resources Secretary or the Health Secretary in any court of competent jurisdiction as a debt due to the Crown.

Part 14—General

Clause 129 authorises the Resources Secretary and the Health Secretary to transport, provide and receive cannabis, cannabis extract or a medicinal cannabis product to or from a medicinal cannabis testing facility. The clause also provides a corresponding authorisation for a person who operates a medicinal cannabis testing facility.

Clause 130 authorises a courier and an employee of a courier to transport, possess and store cannabis, cannabis extract or a medicinal cannabis product when engaged by a person who is authorised to effect that transport in respect of that cannabis. Under subclause (5), the employee's authority only extends to activities required in the course of the employee's employment.

Clause 131 allows the Resources Secretary to delegate any powers or functions under this Bill and the regulations, other than the power of delegation, to a person or class of persons employed under Part 3 of the **Public Administration Act 2004**.

Clause 132 allows the Health Secretary to delegate any powers or functions under this Bill and the regulations, other than the power of delegation, to a person or class of persons employed under Part 3 of the **Public Administration Act 2004**.

Clause 133 provides for immunity of certain officials. The Resources Secretary, the Health Secretary and inspectors are each not liable to any penalty in respect of anything done by the person under the Bill or regulations.

Clause 134 relates to the Competition and Consumer Act 2010 of the Commonwealth and the Consumer Code. Activities relating to medicinal cannabis licences and contracts are specified to be authorised by this Bill for the purposes of the Competition and Consumer Act 2010 of the Commonwealth and the Consumer Code. This is to allow the scheme established by the Bill to operate without breaching competition laws.

Clause 135 requires the Minister to cause an independent review to be conducted into the operation of the Bill before the fourth anniversary of the commencement of this clause.

Clause 136 provides for regulation making powers required for the operation of the Bill. The clause provides that regulations may be made by Governor in Council for all aspects of the medicinal cannabis scheme. Regulations made under the Bill may provide that any specified contravention of the regulations is to be regarded as infamous conduct in professional respect, or as unprofessional conduct within the meaning and for the purposes of the Health Practitioner Regulation National Law.

Regulations may be made specifying the persons or classes of persons authorised or entitled to purchase, obtain, possess, use or administer any medicinal cannabis products. This allows for people who may be required to administer medicinal cannabis during the course of their employment to be authorised to do so, for example—

- school based staff including principals, assistant principals, campus principals, teachers, nurses, allied health officers, first aid officers, education support officers and wellbeing staff;
- education and care services staff including approved providers, persons with management and control of an education and care service, certified supervisors, educators, family day care coordinators and family day care educators;
- children's services staff including the proprietor, nominated supervisor, nominees and primary nominees;
- disability support workers.

Part 15—Amendment of the Drugs, Poisons and Controlled Substances Act 1981

Clause 137 inserts new definitions into section 4(1) of the **Drugs, Poisons and Controlled Substances Act 1981**. These definitions are necessary to ensure that terms used in that Act have the same meaning as they do in this Bill.

Subclause (2) inserts a reference to "medicinal cannabis" into the definition of ***poison or controlled substance***, and includes the words "other than medicinal cannabis" in the definition of ***Schedule 9 poison***. The effect of these amendments is that medicinal cannabis is a ***poison or controlled substance*** but not a ***Schedule 9 poison*** for the purposes of the **Drugs, Poisons and Controlled Substances Act 1981**. Medicinal cannabis will remain a ***drug of dependence*** within the meaning of the **Drugs, Poisons and Controlled Substances Act 1981**.

Clause 138 inserts a reference to the Bill into section 7. The effect of this is that the **Drugs, Poisons and Controlled Substances Act 1981** will be read and construed in aid and not in derogation of this Bill.

Clause 139 inserts a reference to the Bill and regulations under it into section 13(1) of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect is that the authorisation to possess and to use, sell or supply a poison or controlled substance or drug of dependence provided by section 13(1) is subject to the Bill and regulations under it, as well as to the **Drugs, Poisons and Controlled Substances Act 1981** and the regulations under that Act.

Clause 140 inserts the words "other than medicinal cannabis" into section 20(3) of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is to ensure that a permit issued under Division 4 of Part II of the **Drugs, Poisons and Controlled Substances Act 1981** does not apply in respect of medicinal cannabis. Authorisations for medicinal cannabis are issued under the Bill.

Clause 141 inserts a reference to the Bill into section 23(1) and (2) of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is to ensure that the prohibition against manufacture, sale and supply of poisons or controlled substances by wholesale will not apply to conduct that is authorised under the Bill or the regulations.

Clause 142 inserts a reference to the Bill into section 24 of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this is that the prohibition against wholesaling of certain poisons will not apply to conduct that is authorised under the Bill or the regulations.

Clause 143 inserts a reference to the Bill into subsections 26(1) and (2) of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is that the prohibition against retailing of poisons and controlled substances will not apply to conduct that is authorised under the Bill or the regulations.

Clause 144 inserts a reference to the Bill into section 27 of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is that the prohibition against the sale of poisons or controlled substances by person other than manufacturers or wholesale dealers will not apply to conduct that is authorised under the Bill or the regulations.

Clause 145 inserts a new subsection (5) into section 27A of the **Drugs, Poisons and Controlled Substances Act 1981**, which provides that this section does not apply to medicinal cannabis, approved medicinal cannabis or other medicinal cannabis products. This is because clause 110 of the Bill contains offences concerning labelling of medicinal cannabis.

Clause 146 inserts a new subsection (3) into section 29 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the sale of substances in unauthorised containers. The effect of this amendment is that nothing in section 29 will affect any other requirement of or under that Act or the Bill with respect to the containers in which approved medicinal cannabis products may be sold.

Clause 147 substitutes the gender-neutral term "the person's" for "his" in section 30 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to vending machines for poisons or controlled substances.

Clause 148 inserts new section 31A into the **Drugs, Poisons and Controlled Substances Act 1981**. New section 31A provides that Division 10 of Part II does not apply to medicinal cannabis. This is because the scheme for authorisation of medicinal cannabis is set out in the Bill.

Clause 149 inserts a reference to medicinal cannabis, the Bill and regulations into section 36C of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is that nothing in Division 10A, which relates to the administration of medication in aged care services, will affect any other requirement in relation to medicinal cannabis in or under that Act or this Bill.

Clause 150 inserts references to medicinal cannabis into section 36E of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this amendment is that the requirement to ensure that a registered nurse manages the administration of a drug of dependence in aged care services, for residents in high level residential care, applies to medicinal cannabis supplied under a patient medicinal cannabis access authorisation.

Clause 151 inserts references to the Bill and regulations under it into section 42(1), (2) and (3) of the **Drugs, Poisons and Controlled Substances Act 1981**. The effect of this is to provide additional inspection powers in relation to medicinal cannabis licenses.

Clause 152 inserts a new subsection (5) into section 43 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to duties of officers in relation to seized substances. The new subsection provides that the section does not apply to medicinal cannabis seized under Part 13 of the Bill. This is because Part 13 of the Bill contains the scheme for seizure in relation to medicinal cannabis.

Clause 153 inserts a new subsection (6) into section 44 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to persons who are liable for contravention of the Act. The new subsection provides that the section does not apply to medicinal

cannabis. This is because the Bill contains equivalent provisions in relation to medicinal cannabis.

Clause 154 inserts a new section 61A into Part IVA of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to authorities for low-THC cannabis. The new section provides that this Part does not apply to medicinal cannabis. This is because the Part relates to authorisations relating to low-THC cannabis for commercial or research purposes relating to non-therapeutic use, which does not apply to medicinal cannabis.

Clause 155 inserts a reference to the Bill and regulations under it into section 71(1) of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the offence of trafficking in a drug or drugs of dependence—large commercial quantity. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 156 inserts a reference to the Bill and regulations under it into section 71AA of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the offence of trafficking in a drug or drugs of dependence—commercial quantity. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 157 inserts a reference to the Bill and regulations under it into section 71AB of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the offence of trafficking in a drug of dependence to a child. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 158 inserts a reference to the Bill and regulations under it into section 71AC of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the offence of trafficking in a drug of dependence. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 159 inserts a reference to the Bill and regulations under it into section 71A of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to the offence of possession of substance, material documents or equipment for trafficking in a drug of dependence. The effect of this amendment is that the

offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 160 inserts references to the Bill and regulations under it into section 71B of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to supply of a drug of dependence to a child. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 161 inserts a reference to the Bill and regulations under it into section 71C of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to possession of a tablet press. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 162 inserts a reference to the Bill and regulations under it into section 71D of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to possession of precursor chemicals. The effect of this amendment is that the offence will not apply to conduct relating to medicinal cannabis if that conduct is authorised under the Bill or the regulations.

Clause 163 inserts a reference to the Bill and regulations under it into section 71E of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to possession of document containing information about trafficking or cultivating a drug of dependence. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 164 inserts a reference to the Bill and regulations under it into section 71F of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to publication of document containing instructions. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 165 inserts a reference to the Bill and regulations under it into section 72 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to cultivation of narcotic plants—large commercial quantity. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 166 inserts a reference to the Bill and regulations under it into section 72A of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to cultivation of narcotic plants—commercial quantity. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 167 inserts a reference to the Bill and regulations under it into section 72B of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to cultivation of narcotic plants. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 168 inserts a reference to the Bill and regulations under it into section 72D of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to permitting use of premises for trafficking or cultivation of drug of dependence. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 169 inserts references to the Bill and regulations under it into section 73 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates possession of a drug of dependence. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 170 inserts references to the Bill and regulations under it into section 74 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to introduction of a drug of dependence into the body of another person. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 171 inserts references to the Bill and regulations under it into section 75 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to use of a drug of dependence. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 172 inserts a new subsection (2) into section 77 of the **Drugs, Poisons and Controlled Substances Act 1981**, which creates the offence of forging prescriptions and orders for drugs of dependence. The new subsection ensures that the offence applies to a patient medicinal cannabis access authorisation.

Clause 173 inserts references to the Bill and regulations under it into section 78 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to obtaining drugs of dependence by false representation. The effect of this amendment is that the offence will not apply to conduct that is authorised under the Bill or the regulations.

Clause 174 inserts a new definition into Part VC of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to cannabis water pipes and hookahs.

The definition is ***medicinal cannabis vaporier,*** which means a device for introducing in to the body of a person a medicinal cannabis product by the drawing of vapour resulting from heating the product.

Clause 175 inserts new section 80TA into Part VC of the **Drugs**, **Poisons and Controlled Substances Act 1981**, which relates to cannabis water pipes and hookahs. New section 80TA provides that 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 Bill or regulations made under it.

Clause 176 inserts a new subsection (7) into section 118 of the **Drugs**, **Poisons and Controlled Substances Act 1981**, which relates to the requirement to keep a list of persons holding current licences, permits or warrants under the Act. The new subsection provides that the section does not apply to licences and authorisations relating to medicinal cannabis. This is because the Bill contains record keeping requirements for medicinal cannabis.

Clause 177 inserts a reference to medicinal cannabis product into section 122 of the **Drugs, Poisons and Controlled Substances Act 1981**, which relates to proof that a substance is a poison. The effect of this amendment is to ensure that the evidentiary provisions in section 122 apply to medicinal cannabis products.

Clause 178 inserts new section 129A of the **Drugs, Poisons and Controlled Substances Act 1981** which provides Governor in Council with regulation making powers in respect of medicinal cannabis. The regulation making powers under that section do not limit any power to make regulations under the Bill.

Part 16—Consequential amendments to other Acts and repeal of amending Parts

Division 1—Amendments of other Acts

Clause 179 inserts definitions into the **Crimes Act 1958**. The defined terms ***medicinal cannabis product*** and ***patient medicinal cannabis access authorisation*** have the same meaning as in the Bill.

Clause 180 amends section 37H(2) of the **Crimes Act 1958**, which relates to the effect of intoxication on reasonable belief. The effect of this amendment is that intoxication from the use of a medicinal cannabis product in accordance with a patient medicinal cannabis access authorisation is not self-induced for the purposes of section 37H, unless the person using the product knew, or had reason to believe, that taking the drug would significantly impair their judgment or control.

Clause 181 amends section 322T(5) of the **Crimes Act 1958**, which relates to the effect of intoxication on reasonable belief. The effect of this amendment is that intoxication from the use of a medicinal cannabis product in accordance with a patient medicinal cannabis access authorisation is not self-induced, unless the person using the product knew, or had reason to believe, that taking the drug would significantly impair their judgment or control.

Clause 182 amends section 3(1) of the **Guardianship and Administration Act 1986**, which is the definitions section. The effect of this amendment is that the administration of an approved medicinal cannabis product in accordance with a patient medicinal cannabis access authorisation is not ***medical or dental treatment*** within the meaning of that Act. This is consistent with how that Act deals with administration of a pharmaceutical drug.

Clause 183 amends section 3(1) of the **Health Records Act 2001**, which is the definitions section. The effect of this amendment is that the sale or supply of an approved medicinal cannabis product in accordance with the Bill by a registered pharmacist is a ***health***

service within the meaning of that Act. This is consistent with how that Act deals with the dispensing of a drug on prescription by a pharmacist.

Clause 184 amends section 7 of the **Mental Health Act 2014**, which sets out what is medical treatment for the purposes of that Act. The effect of this amendment is that the administration of an approved medicinal cannabis product in accordance with the Bill falls within the definition of ***medical treatment***, which is consistent with how that Act deals with the administration of a pharmaceutical drug.

Clause 185 inserts definitions into the **Pharmacy Regulation Act 2010**. ***Medicine*** is defined to include an approved medicinal cannabis product within the meaning of the Bill, and ***prescription*** is defined to include a patient medicinal cannabis access authorisation within the meaning of the Bill. The effect of this is that the Act will apply to medicinal cannabis products and authorisations in the same way it applies to medicines and prescriptions.

Clause 186 inserts a reference to the Bill into section 107(1)(c) of the **Pharmacy Regulation Act 2010**. The effect of the amendment is that the Health Secretary can receive information collected under the Act in respect of the Bill and regulations made under it, as well as in respect of the **Drugs Poisons and Controlled Substances Act 1981** and regulations under that Act.

Clause 187 inserts a reference to the Bill into section 9(1)(j) of the **Prevention of Cruelty to Animals Act 1986**. The effect of the amendment is that the administration of a substance to animal in accordance with the Bill is not an offence against that Act.

Division 2—Repeal of amending Parts

Clause 188 provides for the automatic repeal of Parts 15 and 16 on the first anniversary of the first day on which all of the provisions of the Bill are in operation. The repeal of these Parts does not affect in any way the continuing operation of the amendments made by them (see section 15(1) of the **Interpretation of Legislation Act 1984**).