

# DRAFT SECOND READING SPEECH

## *Industrial Hemp Amendment Bill 2023*

*\*check Hansard for delivery\**

Mr Speaker, I move that the Bill now be read a second time.

The *Industrial Hemp Amendment Bill 2023* delivers on our commitment in the Government's 2020 Competitiveness of Tasmanian Agriculture for 2050 White Paper to work with the hemp industry to support future growth and streamline regulation.

The *Industrial Hemp Act 2015* itself creates a simple licensing framework to support the growth of Tasmania's industrial hemp industry. Consistent with the intent of the Act, the purpose of this Bill is to retain sufficient flexibility to respond to emerging industry priorities, while providing improved clarity, transparency and efficiency.

Tasmania's low tetrahydrocannabinol, or low-THC, industrial hemp industry is nation-leading; thanks to our regulatory environment and to the hard work and determination of our passionate hemp growers and the leadership of the Tasmanian Hemp Association.

In 2017, shortly after Tasmania's *Industrial Hemp Act* commenced, hemp seed was approved as a food product in Australia. This occurred largely because of Tasmania's efforts to advocate for changes to national regulation.

Industrial hemp is making an important contribution to the sustainable growth of the farm gate value of Tasmanian agriculture to \$10 billion by 2050. It is clear that Tasmania's legislative and regulatory environment enabled our hemp industry to expand rapidly.

Activity peaked in 2019-20 with 1 500 hectares under cultivation and Tasmania produced 30 per cent of Australia's total industrial hemp crop, with a farm gate value of around \$5 million.

In 2021, a review of the Act commenced with the purpose of considering opportunities to update and modernise the regulatory framework and to consider activities with industrial hemp that were not contemplated when the Act was first drafted. The Review acknowledged that the Act had then been in operation for six years and it was timely to make sure that our regulatory settings for industrial hemp are proportionate and contemporary.

The Review focussed on three broad areas:

- Updating existing definitions to clarify scope of regulation, considering ongoing changes in the industry.
- Clarifying the interaction of the Act with other legislation.
- Assessing the Act to ensure the level of regulation remains proportionate to risk.

Importantly, the Review did not consider medicinal cannabis and associated scientific uses, which can only be licenced by the Australian Government under the *Narcotic Drugs Act 1967* (Commonwealth) through the Office of Drug Control. It also did not consider the

regulation of crops for commercial recreational cannabis or personal cultivation, which remains an illegal activity in Tasmania.

A key outcome sought from the Review is to ensure that growers can get maximum value for their crops by using more of the plant, not just the seed, for value-added products.

Like any agricultural commodity, industrial hemp seed is subject to market forces, and a recent over-supply of hemp seed in global markets, has temporarily decreased demand and reduced the size of Tasmania's commercially grown industrial hemp crop.

Accordingly, the Review focused on providing opportunities for greater whole of plant use to enable growers to maximise the return on their crops, whilst maintaining efficient enforcement of illicit activities.

The Act itself is broadly framed and already provides scope for greater whole of plant use.

The licensing and compliance scheme for industrial hemp is administered by AgriGrowth Tasmania in the Department of Natural Resources and Environment Tasmania. Most of the detail for the licensing scheme is contained in licence conditions. The Review found that most issues raised by stakeholders can be addressed by updating licence conditions, developing and publishing policy and streamlining administrative processes.

Accordingly, the Government's response to the Review is to two-fold.

Firstly, legislative amendments are proposed through this Bill including updates to the *Industrial Hemp Regulations 2016*, to improve the effectiveness, transparency and clarity of both the Act and Regulations for industry.

Secondly, this will be complemented by updating licence conditions and developing policy guidance to address practical matters identified in the Review, such as dual medicinal and industrial hemp licencing, animal feed, cover cropping and cultivar testing. This will better support licensees to get the most from their industrial hemp crop and improve the application process and other compliance documentation to make it easier for industry to interact with the licensing scheme. Overall, this will provide increased flexibility, clarity, transparency and remove the perceived and actual barriers to greater value-adding for Tasmania's hemp industry.

Mr Speaker, with that context of how the various matters identified in the Review are being responded to, I will now address the resulting changes as proposed in this Bill.

In summary, this Bill will support greater industry growth and value-adding potential by including horticultural use as an explicit licence purpose. It will address regulatory gaps and improve transparency with respect to actions where a crop tests above 1 per cent tetrahydrocannabinol (THC) and special research licences. It will improve efficiency, clarity and consistency with existing legislation with respect to police powers, the assessment of suitability of applicants, and definitions for fit and proper persons and responsible officers.

In section 9 of the Act, industrial hemp licences must not be granted unless the Secretary of the Department is satisfied that the applicant is a fit and proper person. However, the Act does not define criteria for a fit and proper person. Therefore, the Bill amends section 4 of the Act and inserts section 4A to establish a definition for a fit and proper person, including specifying matters to be taken into account by the Secretary in determining if a

natural person, or a body corporate, is a fit and proper person for the purposes of the Act.

The Bill also inserts sections 21A, 21B and 21C, to establish responsible officers where the holder of a licence is not a natural person. Both the new fit and proper person and responsible officer provisions are aligned to similar provisions which exist in the *Poisons Act 1971* in relation to poppy licences.

The Bill amends section 4 to include police officers under the definition of inspectors, to enable police officers to conduct investigations without needing to be appointed by the Secretary, and to improve the timeliness and responsiveness of investigations.

The Bill also amends sections 4, 7, 11, 12, 14 and 18 to rename “special licence” to a “special research licence” to better reflect the specific research purpose of these licences, which are granted for research into hemp varieties which have more than 1 per cent THC.

Complementary amendments to the *Industrial Hemp Regulations 2016* through new Regulation 7A will add criteria that must be met before the Secretary determines an application for a special research licence. Such criteria include a scientifically valid research method and approach, the potential benefits of the research to the industrial hemp industry, and appropriate safety and security measures will be put in place to minimise the risk of theft or unauthorised access.

The intent is to better support research innovation by providing flexibility, improved transparency and clarity for industry and researchers on the criteria used to assess applications for a special research licence. The level of detail required would be commensurate to the scale and scope of the research proposed and provide more efficient assessment of applications for special research licences.

This approach provides capacity to support research which may deliver significant benefit to Tasmania’s industrial hemp sector. An example could be research into hemp varieties which have more than 1 per cent THC, to ultimately develop a cultivar with below 1 per cent THC and with specific features for industry benefit, such as improved disease-resistance or greater yield. It also manages any safety and security risks that might arise from hemp with THC levels above 1 per cent without being prescriptive on the THC levels which could constrict innovation.

The Bill amends section 8 so that the Secretary is to provide a licence application to the Commissioner of Police to assist with determining the suitability of the applicant. This proposed amendment would bring the Act into line with other existing legislation for assessing licence applications, by ensuring applications are shared with the Commissioner to obtain factual information that may be relevant to the Secretary’s assessment of the applicant’s suitability. The Commissioner is to inquire into and provide the Secretary with a report on such matters concerning the application the Secretary requests. The Commissioner is not required to disclose information to the extent that to do so would prejudice the prevention, investigation or prosecution of an offence.

Section 11 of the Act currently specifies that the Secretary must consult the Minister responsible for administering the *Poisons Act 1971* when considering special licences which, as already outlined, are proposed to become special research licences. The

proposed amendment will make the consultation process more efficient by enabling the Secretary to consult with a person appointed by the Minister.

The Bill amends Section 13 to provide the granting of industrial hemp licences for the explicit purpose of horticultural use. This clarifies that industrial hemp can be licensed as horticultural mulch or compost for example, to support industry value-adding and enable hemp by-product to be better used in a circular economy.

Section 22(4) is amended to clarify that the conditions specified by the Secretary in the instrument of appointment relate to inspectors appointed under this section.

Sections 23 and 24 are amended to clarify that an inspector may in practice arrange for hemp to be tested by a third party, as compared to testing it themselves. Industrial hemp crops are currently tested at Analytical Services Tasmania, a laboratory accredited through the National Association of Testing Authorities (NATA).

All commercial industrial hemp crops are tested and on very rare occasions, may test over one per cent THC. This might be due to environmental factors such as heat stress, or certain imported seed varieties performing differently in Tasmanian conditions. A new section 24A will overcome a deficiency in the Act to provide for the Secretary to direct actions where a crop has tested above 1 per cent THC. Actions could include crop destruction, or alternative actions where, for example, a crop that tests above 1 per cent THC has been grown in good faith and the licensee has otherwise complied with the licence conditions. To clarify and support information sharing, the Secretary is to notify the Commissioner of Police when a direction is given to destroy a crop, and the Secretary may seek the Commissioner's advice before proposing alternative action. The Act's existing review provisions at sections 20 and 21 will apply to decisions of the Secretary under this section.

Section 25 is amended to omit subsection (4) as a consequence of appointing police officers as inspectors. Section 35 of the Act outlines that certain officials are protected from personal liability when performing a function under the Act. It is important that police officers are included under this section. A new section 35A provides authorisation for police officers to possess and supply industrial hemp or hemp for whatever purpose, which could for example be when carrying out investigations, for training purposes, or for the transport and delivery of controlled substances.

Section 13 of the Act provides that an industrial hemp licence may authorise a person to possess, cultivate or supply industrial hemp for one or more of the purposes listed in that provision, as specified in the licence. Section 14 provides that a special licence may authorise a person to possess, cultivate or supply hemp that is not industrial hemp for the purposes of scientific research, instruction, analysis or study. It is proposed that section 37 be amended to retain future flexibility and to provide that the regulations may prescribe the types of activities that may, or may not, be carried out under an industrial hemp licence or special research licence. At the same time, it is proposed that Regulation 6, which lists the types of industrial hemp licence that may be issued under the Act, be rescinded. These two amendments achieve the intent of streamlining and clarifying licence purposes and activities, while providing future flexibility for the regulations to prescribe activities under licence if required.

Finally, section 37A inserts transitional provisions to facilitate an efficient transition process for an existing “special licence” to a “special research licence” under the amended Act.

In closing, the initial process to Review the Act and then the development of this Bill, involved close consultation with leading Tasmanian hemp growers, representatives from the Tasmanian Hemp Association, the Australian Hemp Council and the Tasmanian Farmers and Graziers Association. The Review of the Act and draft Bill were also subject to open public consultation processes. Key Government agencies including Tasmania Police, the Departments of Justice and the Department of Health, along with the Tasmanian Institute of Agriculture, were involved in the inter-departmental working group and steering committee process.

I sincerely thank all those involved, along with staff from AgriGrowth Tasmania in the Department of Natural Resources and Environment Tasmania, and the Office of Parliamentary Counsel, for bringing together what amounts to a considered package of improvements to the regulatory environment for industrial hemp industry in Tasmania.

Like we did on hemp-in-food, the Government has also committed to support industry to advocate nationally for complementary pathways, compliant with the Commonwealth drug regulatory scheme, to potentially allow for greater use of non-medicinal products from industrial hemp such as extracts and resins.

Overall, the Government’s objective is to create avenues for local growers and experts to innovate, value-add and develop a prosperous, sustainable and valuable industrial hemp industry in Tasmania.

Mr Speaker, I commend the Bill to the House.