

CLAUSE NOTES

Poisons Amendment (Poppy Industry Reform) Bill 2016

- Clause 1 **Short Title**
- Clause 2 **Commencement**
Provides for the Act to commence date of Royal Assent.
- Clause 3 **Principal Act**
States that the *Poisons Act 1971* is the Principal Act.
- Clause 4 **Section 3 amended (Interpretation)**
Updates the terms used in the Act.
- Clause 5 **Sections 3A and 3B inserted**
Inserts fit and proper persons tests for an individual and a body corporate into the Principal Act which outlines the matters that may be considered in deciding if a person is a fit and proper person to hold a licence under the Act.

Matters that can be taken into account are commensurate to the type of licence application being assessed and the risk posed to public health.

For example, poppy growers will not need to provide financial information or evidence of business expertise but manufacturing chemists will.
- Clause 6 **Part 1A inserted (General provisions relating to licences)**
Outlines the general requirements in relation to all licences issued under the Act.
- Applications must be in approved form (section 6)
 - The responsible licensing authority has the power to investigate an application and request further information (section 7).
 - The responsible licensing authority must determine that an applicant is suitable to be in the poppy industry (section 8).
 - Conditions can be place on a licence (section 9).

- Clause 6
(continued)
- A licence can be suspended or cancelled (section 10).
 - A licence can be immediately suspended if there is a high risk of diversion or imminent harm to the public (section 11).
 - Where the holder of a licence is not a natural person, a natural person must be appointed as a responsible officer, who has duties in relation to the licence (sections 12- 13A)
- Clause 7 **Section 16 amended (Licences)**
- Amends section 16 as a consequence of the reorganisation of the structure of the Act to now include general requirements for all licences issued under the Act.
- Clause 8 **Sections 16A, 16B, 16C and 17 repealed**
- Repeals sections 16A, 16B, 16C and 17 as a consequence of the reorganisation of the structure of the Act to now include these matters within the general requirements for all licences issued under the Act.
- Clause 9 **Section 18 amended (Offences)**
- Increases penalties for offences in relation to licences for manufacturing chemists and wholesale chemists.
- Clause 10 **Section 27 amended (Licences to sell certain substances)**
- Amends section 27 of the Act as a consequence of the reorganisation of the structure of the Act to delete provisions dealing with matters now included within the general requirements for all licences issued under the Act.
- Clause 11 **Section 46 amended (Manufacture of narcotic substances)**
- Amends section 46 of the Principal Act to update a reference as a consequential change required by new provisions.
- Clause 12 **Section 47 amended (Sale and supply of narcotic substances, prohibited plants, and prohibited substances)**
- Amends section 47 as a consequential change required by new poppy research licence and poppy grower licence provisions.

- Clause 13** **Section 49 amended (Prohibition of possession of prohibited plants except under licence)**
- Amends section 49 of the Principal Act to update a reference as a consequential change required by new provisions and to omit or amend terms now defined in the amended Section 3 of the Principal Act.
- Clause 14** **Section 50 amended (Exceptions as to scientific institutions)**
- Inserts “or research” after “scientific” to make the wording of Section 50 consistent with the new provisions for poppy research licences.
- Clause 15** **Section 52 amended (Growing of certain plants prohibited except under licence)**
- Amends Section 52 (1) to reflect general licensing changes and vary the term now defined in the amended Section 3 of the Principal Act.
- Clause 16** **Section 53 substituted (Division 3- Poppy research licence and Division 3A- Poppy grower’s licence)**
- Inserts new provisions 52A-D in relation to poppy research licences and 52E-K in relation to poppy grower licences. Provisions relate to issue, duration, renewal and conditions of licences and provide for review of a decision on a poppy grower licence.
- Licences will now be issued for up to five years, rather than annually.
- Clause 17** **Section 56 amended (Offences against this Part)**
- Omits paragraph 56 (1) (c) as it is no longer required due to the general licensing provisions in Part 1A.
- Clause 18** **Section 59 amended (Regulations)**
- Amends paragraph 59(1)(k) to reflect consequential changes.
- Clause 19** **Part VB, Division 1: Heading inserted (Division 1 – Poppy Advisory and Control Board)**
- Inserts a new heading into the Principal Act.
- Clause 20** **Sections 59G amended (Interpretation)**
- Removes definitions of terms now defined in the amended Section 3 of the Principal Act.

- Clause 21** **Sections 59H amended (Poppy Advisory and Control Board)**
- Broadens membership of the Board to allow for a Commonwealth observer and include:
- two independent members, one of whom is the Chair to bring industry expertise to the Board; and
 - the Secretary responsible for the *Primary Industry Activities Protection Act 1995* or a person nominated by that Secretary.
- Clause 22** **Sections 59N,59O, 59P and 59Q inserted**
- Inserts new provisions to enable the Minister to issue a statement of expectation and the Board to respond with a statement of intent. This will serve to clarify the role of the Minister and the Board in regulating the poppy industry.
- Clause 23** **Part VB, Division 2 inserted (General)**
- Inserts new provisions to allow the Board to issue guidelines and to provide indemnity to Board members.
- Clause 24** **Part VI, Division 1A inserted (Improvement notices)**
- Inserts new provisions to allow the licensing authority to issue improvement notices to introduce a staged enforcement regime. The provisions also require a licensee to comply with improvement notices, and provides for offences for non-compliance with notices, and review of notices by the Court.
- Clause 25** **Section 83C inserted (Offence to make false statement, &c.**
- Inserts a new provision offence to make it an offence to provide false information in relation to seeking a licence under the Act.
- Clause 26** **Section 84 amended (Forfeiture of substances, &c., in certain cases)**
- Amends section 84 (1) (b) by omitting the word “opium” and substituting the word “alkaloid” to reflect the new definition in the Interpretation section.

- Clause 27** **Section 84A and 84B inserted (Destruction of scheduled substances and prohibited plants and Directions to former holder of licence)**
- Inserts provisions around the destruction of scheduled substances and prohibited plants to apply in relation to convictions for drug related offences, contravention, suspension or cancellation of licences and also permits the Secretary to make other arrangements (84A).
- Inspectors are able to issue directions to former licence holders to manage issues like crop re-growth (84B).
- Clause 28** **Section 86B inserted (Savings provisions for current licences)**
- Inserts savings provisions for existing licences to enable transition from annual to five year licences.
- Clause 29** **Section 90 amended (Powers of inspectors with respect to licensed premises, &c.)**
- Amends section 90 (1) (d) by making minor wording changes to alter tenses in paragraphs (a) and (b) and omitting the words “or cultivate” in paragraph (d) as cultivation is now included within the definition of “grow” in the Interpretation section. The changes to tense allow an inspector’s powers to request removal off poppy material to apply six months after the expiry of a licence.
- Clause 30** **Section 92 amended (Revocation or suspension of rights)**
- Amends section 92 (1) (b) by omitting the words “or cultivate” as cultivation is now included within the definition of “grow” in the Interpretation section.
- Clause 31** **Section 92B inserted (Infringement notices)**
- Adds provisions which allow the issue of infringement notices for prescribed offences under the Act.
- Clause 32** **Repeal of Act**
- Provides for automatic repeal of the Amendment Act after one year.