



ACT
Government

Justice and Community Safety

Ms Sarah McNaughton SC
Director
Commonwealth Director of Public Prosecutions
GPO Box 3104
CANBERRA ACT 2601

Dear Ms McNaughton

I am writing to you in order to seek your views on legislation being considered by the ACT Legislative Assembly to remove penalties for the use and possession of personal amounts of cannabis.

A Private Member's Bill (Attachment A), presented in November 2018 proposes to allow for personal use of cannabis, including possession of up to 50 grams, cultivation of up to four plants per person and consumption of cannabis in private places for persons aged 18 years or older.

The Bill does not propose legalising the sale or supply of cannabis to others, legalising cultivation of cannabis of more than four plants, or legalising the use of cannabis for those under 18 years of age.

In line with its drugs policy focussing on harm minimisation, the ACT Government has indicated it intends to support the Bill subject to a range of amendments (Attachment B) intended to add further safeguards and protections for the community.

The ACT Government's view is that the Bill is a logical next step of the Simple Cannabis Offence Notice (SCON) scheme that has been in operation since 1992. The SCONs scheme is intended to continue for individuals under 18 years old.

The ACT Government's amendments are also intended to resolve potential incompatibilities with Commonwealth laws including the *Criminal Code Act 1995*. This would be achieved by retaining offences in the *Drugs of Dependence Act 1989 (ACT)* for possession and cultivation of cannabis over prescribed limits with the inclusion of an exception such that those offences do not apply to anyone over 18 years of age. This is intended to operate as an excuse to an offence under s 308.1 of the Commonwealth Criminal Code (see s 313.1 of the Commonwealth Criminal Code).

I would appreciate your views on the issue of consistency with Commonwealth legislation, and whether the Bill with amendments to be proposed would operate as an excuse under s 313.1 of the Commonwealth Criminal Code. I have also written to the Secretary of the Australian Attorney-General's Department to seek his views on this matter.

Officers in ACT Government with responsibility for this matter are Mr Andrew Mehrton in the Chief Minister, Treasury and Economic Development Directorate, available at andrew.mehrton@act.gov.au or 6205 8507 and Mr Keegan Lee in the Justice and Community Safety Directorate, available at Keegan.lee@act.gov.au or 6207 5244.

Yours sincerely



Richard Glenn
A/g Director-General
Justice and Community Safety Directorate

30 August 2019

Cc Mr Shane Drumgold
Director
The Office of the Director of Public Prosecutions

Encl.