

2019

The Parliament of the
Commonwealth of Australia

THE HOUSE OF REPRESENTATIVES

Presented and read a first time

**Psychoactive Drug Decriminalisation
(Drugs Are Cool!) Bill 2019
No. , 2018**

Written by CircleSongIsDank MP

Introduced by PM-ME-SPRINKLES (different 2R speech)

**A Bill for an Act to legalise and regulate certain
psychoactive substances for recreational use, to
reduce the penalties for illegal drug possession, and
for related purposes**

Contents

Part 1—Preliminary	1
1 Short title.....	1
2 Commencement.....	2
3 Schedules.....	2
4 Definitions.....	2
5 Application to the States.....	3
Part 2—Licences	4
6 Categories of licences.....	4
7 Application for licences.....	4
8 Vendor licence.....	4
9 Manufacturer’s licence.....	4
10 Application and disqualification of licences.....	4
11 Regulations.....	5
Part 3—Penalties	6
12 Supply of recreational psychoactive substances to minors prohibited.....	6
13 Power to demand suspected minor to give their age.....	6
14 Offences by minors.....	6
15 Unlicensed supply of recreational psychoactive substances.....	7
16 Adulterated recreational psychoactive substances.....	7
17 Licence and permits to be displayed.....	7
18 Licence conditions.....	8
19 Consumption of certain recreational psychoactive compounds in public places.....	8
20 Consumption of recreational psychoactive compounds while doing certain activities.....	8
21 Seizure of recreational psychoactive substances from minors.....	9
22 Recreational psychoactive substances must be clearly labelled.....	9
Schedule 1—Amendments to the Criminal Code Act 1995	10
<i>Criminal Code Act 1995</i>	<i>10</i>
301.1A Application of this Act to recreational psychoactive substances.....	10
Schedule 2—Amendments to the Criminal Code Regulations 2002	11
<i>Criminal Code Regulations 2002</i>	<i>11</i>

Schedule 3— Amendments to the Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990	12
<i>Crimes (Traffic in Narcotic Drugs and Psychotropic Substances) Act 1990</i>	<i>12</i>

1 **A Bill for an Act to legalise and regulate certain**
2 **psychoactive substances for recreational use, to**
3 **reduce the penalties for illegal drug possession, and**
4 **for related purposes**

5 The Parliament of Australia enacts:

6 **Part 1—Preliminary**
7

8 **1 Short title**

9 This Act is the *Psychoactive Drug Decriminalisation (Drugs are*
10 *Cool!) Act 2019*.

Section 2

1 **2 Commencement**

2 (1) Each provision of this Act specified in column 1 of the table
3 commences, or is taken to have commenced, in accordance with
4 column 2 of the table. Any other statement in column 2 has effect
5 according to its terms.
6

Commencement information		
Column 1	Column 2	Column 3
Provisions	Commencement	Date/Details
1. The whole of this Act	Royal Assent	Royal Assent

7 Note: This table relates only to the provisions of this Act as originally
8 enacted. It will not be amended to deal with any later amendments of
9 this Act.

10 (2) Any information in column 3 of the table is not part of this Act.
11 Information may be inserted in this column, or information in it
12 may be edited, in any published version of this Act.

13 **3 Schedules**

14 Legislation that is specified in a Schedule to this Act is amended or
15 repealed as set out in the applicable items in the Schedule
16 concerned, and any other item in a Schedule to this Act has effect
17 according to its terms.

18 **4 Definitions**

19 In this Act, unless the contrary intention appears:

20 ***recreational psychoactive substance*** means any of the following
21 substances or their analogues, salts, esters or precursors, plants
22 containing the following substances or their analogues, salts, esters
23 or precursors, or other items containing the following substances or
24 their analogues, salts, esters or precursors:

- 25 (a) Lysergic acid diethylamide (LSD);
- 26 (b) Lysergic acid diethylamide (LSD);

- 1 (c) N,N-Dimethyltryptamine (DMT);
- 2 (d) 4-PO-Dimethyltryptamine (Psilocybin);
- 3 (e) 3,4,5-Trimethoxyphenethylamine (Mescaline);
- 4 (f) Ketamine;
- 5 (g) Salvinorin A (Salvia);
- 6 (h) Harmine (Harmala alkaloid);
- 7 (i) Cannabis; or
- 8 (j) 3,4-Methylenedioxymethamphetamine (MDMA).

9
10 *minor* means a person who is under the age of 18.

11 **5 Application to the States**

12 Where this Act conflicts with State legislation, this Act is to apply
13 to the extent of the inconsistency.

1 **Part 2—Licences**

2 **6 Categories of licences**

3 The Minister may issue licences in the following categories:

- 4 (a) *vendor licence*; and
5 (b) *manufacturer's licence*.

6 **7 Application for licences**

7 A body corporate or a person who is not a minor, and not
8 disqualified from holding from holding such a licence, may apply
9 to the Minister for the grant of a licence or licences.

10 **8 Vendor licence**

11 A vendor licence authorises the licensee to:

- 12 (a) purchase recreational psychoactive substances from a
13 manufacturer holding a manufacturer's licence; and
14 (b) sell recreational psychoactive substances to a person who is
15 not a minor.

16 **9 Manufacturer's licence**

17 A manufacturer's licence authorises the licensee to:

- 18 (a) manufacture recreational psychoactive substances; and
19 (b) sell recreational psychoactive substances to the holder of a
20 vendor licence.

21 **10 Application and disqualification of licences**

22 The Minister may issue an order of disqualification or an order of
23 surrender of a licence if:

- 24 (a) a licensee requests a Minister to do so; or
25 (b) the Minister is of the opinion that a licensee has contravened
26 this Act.

1 **11 Regulations**

2 The Minister may make any regulations in relation to the granting,
3 regulation and removal of vendor and manufacturer's licences.

1 **Part 3—Penalties**
2

3 **12 Supply of recreational psychoactive substances to minors**
4 **prohibited**

- 5 (1) A person must not:
6 (a) supply recreational psychoactive substances; or
7 (b) permit or facilitate the supply of recreational psychoactive
8 substances.

9 Penalty: 20 penalty units.

10 **13 Power to demand suspected minor to give their age**

- 11 (1) If a member of the Police Force, licensee or employee or agent of a
12 licensee has reason to believe that a person appearing to be a
13 minor:
14 (a) has requested;
15 (b) has received;
16 (c) has consumed;
17 (d) is consuming; or
18 (e) is about to consume;

19 a recreational psychoactive substance, the member of the Police
20 Force, licensee or employee or agent of a licensee may demand
21 particulars of the person's age, name and address.

- 22 (2) A person must not:
23 (a) refuse to give particulars of their age, name and address;
24 (b) give any false particulars of their age, name and address; or
25 (c) supply any false evidence as to their age, name or address;

26 Penalty: 5 penalty units

27 **14 Offences by minors**

- 28 (1) A minor must not:
29 (a) Purchase or receive recreational psychoactive substances; or

1 (b) possess or consume recreational psychoactive substances.

2 Penalty: 5 penalty units.

3 **15 Unlicensed supply of recreational psychoactive substances**

4 (1) A person who is not a licensee must not supply recreational
5 psychoactive substances.

6 (2) Subsection (1) does not apply to the sale of recreational
7 psychoactive substances by an employee or agent of a licensee if
8 the sale is in accordance with the licence and this Act.

9 Penalty: 30 penalty units.

10 **16 Adulterated recreational psychoactive substances**

11 (1) A person, whether a licensee or not, must not knowingly supply
12 adulterated recreational psychoactive substances.

13 (2) If a person is convicted of an offence under this section, the court
14 shall also order all recreational psychoactive substances found in
15 the person's possession or under the person's control, together with
16 its containers, forfeited to the Minister.

17 Penalty: 500 penalty units.

18 **17 Licence and permits to be displayed**

19 (1) A licensee or employee or agent of the licensee must display the
20 licence at a location clearly visible to the customer where a sale is
21 made.

22 Penalty: 10 penalty units.

23 (2) A person must not indicate that they are a licensee or employee or
24 agent of a licensee if they are not so.

25 Penalty: 50 penalty units.

Section 18

1 **18 Licence conditions**

2 (1) The holder of a vendor licence shall not willingly, without
3 reasonable excuse, contravene a condition specified in the licence.

4 Penalty: 100 penalty units.

5 (2) The holder of a manufacturer's licence shall not willingly, without
6 reasonable excuse, contravene a condition specified in the licence.

7 Penalty: 250 penalty units.

8 **19 Consumption of certain recreational psychoactive compounds in**
9 **public places**

10 (1) A person shall not consume the following recreational
11 psychoactive substances in a public place:

- 12 (a) LSD;
- 13 (b) DMT;
- 14 (c) Psilocybin;
- 15 (d) Mescaline; or
- 16 (e) Salvia.

17 Penalty: 10 penalty units.

18 (2) A person shall not possess an open container of the recreational
19 psychoactive substances listed in subsection (1) with the intention
20 of consuming them in that place.

21 Penalty: 5 penalty units.

22 **20 Consumption of recreational psychoactive compounds while**
23 **doing certain activities**

24 (1) A person shall not consume, or possess an open container with the
25 intent of consuming, any recreational psychoactive substances
26 when:

- 27 (a) driving a vehicle;
- 28 (b) operating heavy machinery; or

1 (c) in any other instances where inebriation could endanger the
2 life of others;

3 Penalty: 20 penalty units

4 **21 Seizure of recreational psychoactive substances from minors**

5 If a member of the Police Force reasonably believes that a minor is
6 in possession of recreational psychoactive compounds in
7 contravention of this act, the member may seize and take away, or
8 cause the seizing and taking away of the recreational psychoactive
9 substance, together with any vessel containing the recreational
10 psychoactive substance.

11 **22 Recreational psychoactive substances must be clearly labelled**

12 (1) Recreational psychoactive substances must be clearly labelled
13 detailing their composition.

14 Penalty: 20 penalty units

15 Note: If the recreational psychoactive substances are found to differ in
16 composition to their label, they are to be considered adulterated and
17 subject to also the penalties listed in subsection 16(1).

1 **Schedule 1—Amendments to the Criminal**
2 **Code Act 1995**

3 *Criminal Code Act 1995*

4 **1 Section 300.2**

5 Insert:

6 *recreational psychoactive substance* means the same as in the
7 Psychoactive Drug Decriminalisation Act 2019..

8 **2 Section 301.1A**

9 Omit the section, substitute:

10 **301.1A Application of this Act to recreational psychoactive**
11 **substances**

12 Despite any other provision of this Act, a regulation must not list
13 recreational psychoactive substances as, and the Minister must not
14 determine recreational psychoactive substances are, any of the
15 following:

- 16 (a) a controlled drug;
17 (b) a controlled plant;
18 (c) a border-controlled drug;
19 (d) a border-controlled plant;
20 (e) a serious drug;
21 (f) a controlled precursor; or
22 (g) a border-controlled precursor.

23 **3 Section 308.1(1)**

24 Omit “2 years or 400 penalty units, or both”, substitute “10 penalty
25 units”.

1 **Schedule 2—Amendments to the Criminal**
2 **Code Regulations 2002**

3 *Criminal Code Regulations 2002*

4 **1 Subregulation 5C(1)**

5 Repeal table items 2, 3, 4, 5, 6, 7, 11 and 13.

6 **1 Subregulation 5E(1)**

7 Repeal table items 3 and 7.

8 **1 Subregulation 5F(1)**

9 Repeal table items 4, 5, 6, 7, 8, 12, and 14.

10 **1 Schedule 3**

11 Repeal table items 3, 4, 48, 77, 98, 146, 151, 152, 154, 171, 173, 235
12 and 236.

13 **1 Schedule 4**

14 Repeal table items 14, 33, 51, 73, 106, 111, 112, 114, 121, 122, 126,
15 128, 192 and 193.

1 **Schedule 3— Amendments to the Crimes**
2 **(Traffic in Narcotic Drugs and**
3 **Psychotropic Substances) Act 1990**

4 *Crimes (Traffic in Narcotic Drugs and Psychotropic*
5 *Substances) Act 1990*

6 **1 Subsection 9(1)**

- 7 (1) Omit “any substance listed in Table I or II in the Annex to the
8 Convention”; and
9 (2) Omit “substance” (second occurring).

10 **2 Subsection 15(2) (tables)**

11 In the tables (wherever occurring):

- 12 (a) omit “life”, substitute “10 years”
13 (b) omit “25 years”, substitute “5 years”
14 (c) omit “10 years”, substitute “2 years”
15 (d) omit “5 years”, substitute “1 years”

16 **2 Amendments of listed provisions—Part 1 of Schedule 3**

17 In the table, repeal the following items:

- 18 (a) DMT
19 (b) Lysergide (LSD, LSD-25)
20 (c) MDA
21 (d) MDMA
22 (e) Mescaline
23 (f) MMDA
24 (g) Psilocine
25 (h) Psilocybine