

Australian Capital Territory legalises personal cannabis growing and consumption

On 25 September 2019, the Legislative Assembly of the Australian Capital Territory (ACT) approved [a law permitting personal cultivation, possession and use of cannabis for recreational purposes](#). The background note to the act describes the objective as a 'harm minimisation approach', stating that 'the outright prohibition model of drug policy is not working'.

The Drugs of Dependence (Personal Use) Amendment Act 2019 enters into force on 31 January 2020. It will exempt people over 18 years old from penalties for cultivation of up to two cannabis plants per person (maximum four plants per household), kept in part of the home not generally accessible by the public, and for possession of up to 50 grams of dried cannabis herb or 150 grams of 'fresh' cannabis. This replaces the 'Simple Cannabis Offence Notice' (monetary fine) currently given to adults found in possession of small quantities of cannabis for personal use, but maintains existing therapeutic and non-therapeutic diversionary schemes for minors.

Under the new law, sale or possession of cannabis seeds remains illegal. The drug should not be used knowingly near children or in a public place. No sales outlets are foreseen, and even sharing a small amount will be considered a cannabis supply offence. Cannabis tourism therefore seems unlikely.

In a parallel with the United States, this puts state-level criminal law in direct conflict with federal criminal law, which provides for a penalty of up to two years' imprisonment for possession. However, in Australia the Commonwealth (federal) Criminal Code provides an exception to Commonwealth offences, where conduct is justified or excused under the law of a State or Territory. It is not yet clear whether that exemption may apply in this case. ACT Policing may arrest for breach of Territory or Commonwealth laws, with an offence to be then tried in a Territory court or a Commonwealth court respectively, but it is unclear how this may be decided.

The ACT houses the federal capital city of Canberra, and has a population of just under 400 000 in approximately 2 358 square kilometres.