

Legal Framework for Cannabis Cultivation in SA

Under South Australian law, **any cultivation of *Cannabis*** (a plant or any part including seeds ¹) is prohibited without authorization. The *Controlled Substances Act 1984* (SA) (CSA 1984) makes it an offence to cultivate a “controlled plant” – which includes any growing cannabis plant – except under a licence ² ¹. Specifically:

- **Cultivation Offences:** Section 33K(1) CSA 1984 makes it an offence to cultivate **more than the prescribed number of cannabis plants** (currently 5 ³), or to cultivate any cannabis plant by “artificially enhanced” means (e.g. hydroponics), or to cultivate with intent to supply ² ¹. These offences carry a maximum penalty of \$2,000 or 2 years imprisonment ². A single plant cultivated by normal means, or up to 5 plants (the “prescribed number” ³), is still an offence under section 33K(2), but with a lower maximum penalty (\$1,000 or 6 months imprisonment ⁴). Because these offences target **any cultivation** without licence, **growing even one cannabis plant is illegal [ILLEGAL]** under SA law ² ³.
- **Possession Offences:** Possession of cannabis or its parts (including seeds) is likewise criminalized. Section 33L(2) makes possessing any cannabis, resin or oil an offence punishable by a fine up to \$500 ⁵. Possession up to **100g** of cannabis (and 20g of resin) qualifies as a “simple cannabis offence” (see below) ⁶, but possession of any amount remains illegal [ILLEGAL] under SA law.
- **Thresholds for “Simple” Offences:** South Australia’s law distinguishes “simple cannabis offences” eligible for expiation (on-the-spot fines) ⁷ ⁸. A simple offence includes cultivating *one* cannabis plant by ordinary (non-hydroponic) means ⁶ ⁸, or possessing ≤100g cannabis or ≤20g resin ⁶. Exceeding those limits (e.g. multiple plants or >100g) removes the simple-offence status and attracts full penalties ⁶ ⁸. In practice, SA police often deal with one-plant cultivation as a **simple offence**, issuing expiation notices rather than jail ⁶. (Importantly, even a “simple” cannabis offence remains *illegal* conduct – it is merely eligible for a fine in lieu of prosecution.)
- **Federal Law:** At the Commonwealth level, the *Narcotic Drugs Act 1967* (Cth) establishes a licensing scheme for cannabis cultivation (for medicinal or research purposes only) ⁹. Under that Act, any cultivation of cannabis requires a federal permit ⁹, and unlicensed cultivation is unlawful under Commonwealth law. Thus personal cultivation in SA is also illegal federally, except where a *medicinal cannabis licence/permit* has been granted ⁹. (Therapeutic cannabis products are tightly controlled under the *Therapeutic Goods Act 1989* and Poisons Standard – e.g. cannabidiol (CBD) is Schedule 4 and cannabis products Schedule 8 – but those regimes govern prescription and supply rather than cultivation.)
- **Industrial Hemp:** Low-THC hemp (<1% THC) is separately regulated. The *Industrial Hemp Act 2017* (SA) allows cultivation of hemp under licence by Primary Industries and Regions SA (PIRSA). Hemp licensees may cultivate industrial hemp (genetically certified low-THC cannabis) under strict conditions ¹⁰. Without such a permit, cultivating hemp remains illegal [ILLEGAL] (hemp is defined as cannabis by genus but excluded from “controlled plant” if licenced).

Status of Cultivation: Illegal vs Permit

- **Personal Cultivation:** Cultivating any cannabis plant at home is explicitly prohibited under the CSA 1984. There is *no exemption* for personal or medicinal use by individuals. Even growing a single seedling is deemed “cultivation” ¹¹ and is an offence. Therefore **cultivating a single cannabis plant is [ILLEGAL]** under SA law ² ³ . (It remains illegal federally as well absent a licence ⁹ .)
- **Medical/Research Licences:** The only lawful cultivation is via formal licences. Under Commonwealth law, *medicinal cannabis licences or permits* may be granted to approved businesses or researchers ⁹ ¹² . A person or entity with a Narcotic Drugs Act medicinal cannabis licence may cultivate cannabis for production of medicines, but only under strict regulatory control ⁹ . Likewise, universities or manufacturers can obtain *research licences* for non-human research cultivation. In South Australia, prescribing cannabis to patients is done via doctor/pharmacist using imported or authorised products, not by patient-grown plants ¹³ . No provision allows patients or home users to grow cannabis even for their own medical use (such cultivation would violate both state and federal law unless done under a formal licence). Thus **medicinal or scientific cultivation requires a permit [PERMIT REQUIRED]** through the Commonwealth licensing system ⁹ ; ordinary individuals cannot self-license.
- **Religious or Other Exemptions:** No specific religious or cultural exemption exists. The CSA 1984 contains no carve-out for sacramental use, and South Australia does not issue permits for non-medical cannabis use. In short, apart from licensed hemp cultivation and the regulated medicinal scheme, any cannabis cultivation is an offence ² ⁹ .

Enforcement in Practice

South Australian authorities treat minor cannabis cultivation as a low-level offence. **Expiation Notices:** A single-plant cultivation offence (if non-hydroponic) is classified as a *simple cannabis offence*, punishable by an on-the-spot fine rather than arrest ⁶ . In recent years SAPOL has issued thousands of Cannabis Expiation Notices (CENs) annually for simple possession/cultivation cases (for example, 3,909 CENs in 2022–23 ⁶). An offender receiving a CEN pays the prescribed fee (e.g. ~\$400 for one plant ¹⁴) and incurs no conviction if paid. **Diversion/Cautioning:** Eligible offenders (first-time, small-scale) may be offered a Cannabis Intervention Requirement (education/counselling) or police caution, under South Australia’s diversion scheme. These alternatives aim to avoid formal prosecution for minor offences. However, serious or repeat offenders (or those exceeding thresholds) face criminal charges.

Recent Amendments and Proposed Changes

No substantive legal changes to cannabis cultivation law have occurred in South Australia since 2020. The key offences in the CSA 1984 remain as above. (The Australian *Medicinal Cannabis Scheme* was implemented in 2016 federally, but SA’s Controlled Substances Act was already aligned with that scheme.) In 2021 a **Cannabis Legalisation Bill 2021** was introduced to Parliament (Green MLC T. Franks) proposing to legalize small-scale cultivation and possession. That Bill passed first reading but was not enacted ¹⁵ . As of mid-2025, no state legislation has altered cannabis offence provisions, and no new decriminalization regime is in force. (Any future changes would likely arise from new Bills or from federal reforms.)

Penalties Summary

The table below summarizes relevant offences, maximum penalties and licence status:

Offence	Statute (SA)	Penalty (max)	Status
Possess cannabis or seeds (any amount)	CSA 1984 s33L(2) (a) ⁵	Fine up to \$500 ⁵	[ILLEGAL]
Consume/smoke cannabis (private)	CSA 1984 s33L(2) (b) ⁵	Fine up to \$500 ⁵	[ILLEGAL]
Possess drug equipment (for cannabis use)	CSA 1984 s33L(2) (c) ⁵	Fine up to \$500 ⁵	[ILLEGAL]
Cultivate 1 plant (non-hydroponic)	CSA 1984 s33K(2) ⁴	Fine up to \$1,000 or 6 mo jail ⁴ (no jail if Simple)	[ILLEGAL]
Cultivate 2-5 plants (non-hydroponic)	CSA 1984 s33K(2) ⁴	Fine up to \$1,000 or 6 mo jail ⁴	[ILLEGAL]
Cultivate >5 plants (or hydroponic/"enhanced")	CSA 1984 s33K(1) (b)/(ab) ²	Fine up to \$2,000 or 2 yrs jail ²	[ILLEGAL]
Cultivate with intent to supply any plant/product	CSA 1984 s33K(1) (c) ²	Fine up to \$2,000 or 2 yrs jail ²	[ILLEGAL]
Industrial hemp (licensed cultivation)	Industrial Hemp Act 2017 (SA) ¹⁰	License conditions (low-THC)	[PERMIT REQUIRED]
Medicinal cannabis (licensed)	Narcotic Drugs Act 1967 (Cth) ⁹	License/permit from Federal ODC	[PERMIT REQUIRED]

All unlicensed cultivation or possession of cannabis is [ILLEGAL]. Only state- or federally-licensed activities (hemp or medicinal/research) are lawful ⁹ ¹⁰ .

Sources: South Australian legislation (CSA 1984 and Regulations) ² ³ ⁵ and official government information ⁹ ¹⁵ on medicinal cannabis and licensing have been used to compile this summary. (See also Legal Services Commission guidance ⁶ .)

¹ ⁴ ⁷ ¹¹ Controlled Substances Act 1984

https://www.legislation.sa.gov.au/_/legislation/lz/c/a/controlled%20substances%20act%201984/2011.12.31/1984.52.auth.pdf

² ⁵ Controlled Substances Act 1984

https://www.legislation.sa.gov.au/_/legislation/lz/c/a/controlled%20substances%20act%201984/2008.06.30/1984.52.auth.pdf

³ ⁸ Controlled Substances (Controlled Drugs, Precursors and Plants) Regulations 2014

[https://www.legislation.sa.gov.au/_/legislation/lz/c/r/controlled%20substances%20\(controlled%20drugs%20precursors%20and%20plants\)%20regulations%202014/2024.06.26/2014.236.auth.pdf](https://www.legislation.sa.gov.au/_/legislation/lz/c/r/controlled%20substances%20(controlled%20drugs%20precursors%20and%20plants)%20regulations%202014/2024.06.26/2014.236.auth.pdf)

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<https://lsc.sa.gov.au/dsh/ch12s06.php>

9 Narcotic Drugs Act 1967 | Office of Drug Control (ODC)

<https://www.odc.gov.au/resources/legislation/narcotic-drugs-act-1967>

10 Industrial Hemp Act 2017

https://www.legislation.sa.gov.au/__legislation/lz/c/a/industrial%20hemp%20act%202017/current/2017.15.auth.pdf

12 Chapter 2: Cannabis regulation in Australia | Office of Drug Control (ODC)

<https://www.odc.gov.au/review-narcotic-drugs-act-1967-final-report-2019/chapter-2-cannabis-regulation-australia>

13 Medicinal cannabis - Patient access in South Australia | SA Health

<https://www.sahealth.sa.gov.au/wps/wcm/connect/public+content/sa+health+internet/conditions/medicines/medicinal+cannabis/medicinal+cannabis+patient+access+in+south+australia>

15 Cannabis Legalisation Bill 2021

https://www.legislation.sa.gov.au/__legislation/lz/b/archive/cannabis%20legalisation%20bill%202021_hon%20tammy%20franks%20mlc/b_as%20introduced%20in%20lc/cannabis%20legalisation%20bill%202021.un.pdf