

## **Minister of Health**

### **Cabinet material: Misuse of Drugs Amendment Regulations (No 2) 2023**

**26 October 2023**

These documents have been proactively released by the Ministry of Health on behalf of the Minister of Health, Dr Ayesha Verrall.

#### **Title of Cabinet paper:**

- Misuse of Drugs Amendment Regulations (No 2) 2023

#### **Titles of minutes:**

- Report of the Cabinet Legislation Committee: Period Ended 1 September 2023 (CAB-23-MIN-0418)
- Report of the Cabinet Legislation Committee Minute (LEG-23-MIN-0173).

Some information has been redacted from the Cabinet minute as it is out of scope of the subject of this proactive release.



# Cabinet

## Minute of Decision

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*This document contains information for the New Zealand Cabinet. It must be treated in confidence and handled in accordance with any security classification, or other endorsement. The information can only be released, including under the Official Information Act 1982, by persons with the appropriate authority.*

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### Report of the Cabinet Legislation Committee: Period Ended 1 September 2023

On 4 September 2023, Cabinet made the following decisions on the work of the Cabinet Legislation Committee for the period ended 1 September 2023:

LEG-23-MIN-0173      **Misuse of Drugs Amendment Regulations  
(No 2) 2023**      CONFIRMED  
Portfolio: Health

Out of scope



Out of scope



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Rachel Hayward  
Secretary of the Cabinet



# Cabinet Legislation Committee

## Minute of Decision

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### Misuse of Drugs Amendment Regulations (No 2) 2023

Portfolio                      Health

On 31 August 2023, the Cabinet Legislation Committee:

- 1        **noted** that on 24 July 2023 the Cabinet Social Wellbeing Committee agreed to:
  - 1.1      establish a maximum period of supply for non-opioid Class B and Class C controlled drugs of three months;
  - 1.2      establish a period of supply limit for all opioids classified under the Misuse of Drugs Act 1975 of one month;
  - 1.3      allow the relevant Medical Officer of Health to authorise a maximum period of supply of up to three months for specified prescribers under section 24A of the Misuse of Drugs Act 1975, to maintain access to Opioid Substitution Treatment;
  - 1.4      apply the same maximum periods of supply to both physical and electronic prescriptions;

[SWC-23-MIN-0086]

- 2        **noted** that the Misuse of Drugs Amendment Regulations (No 2) 2023 (the Regulations) will give effect to the decisions referred to in paragraph 1 above;
- 3        **noted** that to give effect to paragraph 1.3 above, the Regulations will authorise a maximum period of supply for up to 3 months when prescribed as part of Opioid Substitution Treatment, as specified under section 24A of the Misuse of Drugs Act 1975;
- 4        **authorised** the submission to the Executive Council of the Misuse of Drugs Amendment Regulations (No 2) 2023 [PCO 25763/2.0];
- 5        **noted** that the Regulations will come into force on 5 October 2023.

Rebecca Davies  
Committee Secretary

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**Attendance: see over**

**Present:**

Hon Grant Robertson (Chair)  
Hon Dr Ayesha Verrall  
Hon Willie Jackson  
Hon Andrew Little  
Hon Peeni Henare  
Hon Kieran McAnulty  
Hon Barbara Edmonds  
Hon Dr Duncan Webb  
Hon Willow-Jean Prime  
Hon Rachel Brooking  
Tangi Utikere, MP (Chief Government Whip)

**Officials present from:**

Office of the Prime Minister  
Officials Committee for LEG

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Office of the Minister of Health  
Chair, Cabinet Legislation Committee

**Misuse of Drugs Amendment Regulations (No 2) 2023**

**Proposal**

- 1 This paper seeks authorisation for submission to the Executive Council of the Misuse of Drugs Amendment Regulations (No 2) 2023.

**Policy**

- 2 On 24 July 2023, Cabinet agreed to amend regulations to improve safe access to controlled drug medicines by:
  - 2.1 establishing a consistent maximum period of supply, of three months, for all non-opioid Class B and C controlled drugs, for all controlled drug prescribers
  - 2.2 creating a maximum period of supply for all Class B and C opioids, of one month, for all controlled drug prescribers
  - 2.3 providing an exception to the one-month period of supply limit for Class B and C opioids, when prescribed as part of Opioid Substitution Treatment
  - 2.4 applying the same maximum periods of supply to both physical and electronic prescriptions [CAB-23-MIN-0313].
- 3 These changes were the result of a review of access to opioids conducted by Manatū Hauora | the Ministry of Health. The review identified improvements to opioid controls, including amending prescribing regulations to be more in line with best practice and supporting practitioners to prescribe appropriately.
- 4 The amendment regulations will create new maximum prescribing amounts for controlled drugs, which provide a balance between safety and access and support regular clinical review.
- 5 The amendment regulations will also maintain current prescribing maximums for controlled drugs used to treat attention deficit hyperactivity disorder (ADHD), such as methylphenidate. Prescribers will continue to be able to prescribe three months' worth of these medicines.

### Timing and 28-day rule

- 6 I am not seeking a waiver of the 28-day rule.
- 7 The regulations will be notified in the *New Zealand Gazette* as soon as possible after officials are informed of the Executive Council's agreement. The regulations will come into force 28 days after they are notified in the *Gazette*.

### Compliance

- 8 The regulations comply with:
- 8.1 the principles of the Treaty of Waitangi;
  - 8.2 advice from the Treaty Provisions Officials Group on any Treaty of Waitangi provisions;
  - 8.3 the rights and freedoms contained in the New Zealand Bill of Rights Act 1990 or the Human Rights Act 1993;
  - 8.4 the principles and guidelines set out in the Privacy Act 2020;
  - 8.5 relevant international standards and obligations;
  - 8.6 the Legislation Guidelines (2021 edition), which are maintained by the Legislation Design and Advisory Committee.
- 9 The Misuse of Drugs Amendment Regulations (No 2) 2023 will be made under section 37 of the Misuse of Drugs Act 1975.

### Regulations Review Committee

- 10 The Parliamentary Counsel Office does not consider there are grounds for the Regulations Review Committee to draw this instrument or regulations to the attention of the House of Representatives under Standing Order 327.

### Certification by Parliamentary Counsel

- 11 The draft regulations have been certified by the Parliamentary Counsel Office as being in order for submission to Cabinet.

### Impact Analysis

- 12 A Regulatory Impact Statement was prepared in accordance with the necessary requirements and was submitted to the Cabinet Social Wellbeing Committee at the time that approval was sought of the policy relating to the regulations [SWC-23-MIN-0086].

### Publicity

- 13 Manatū Hauora will issue a press release about these changes once they have been authorised by the Executive Council.

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- 14 Once the regulations are notified in the *New Zealand Gazette*, officials from Manatū Hauora and Te Whatu Ora will communicate directly with impacted stakeholders to ensure they are aware of the new regulations and the implications.

### Proactive release

- 15 This paper will be proactively released according to standard processes under the Cabinet Office circular CO (18) 4, subject to redactions as appropriate under the Official Information Act 1982.

### Consultation

- 16 Engagement with the health sector took place in the course of developing the policy and draft regulations. This provided an opportunity for interested stakeholders to express their views on opioid access and submit feedback on proposed regulation changes.
- 17 The following agencies have been consulted on this paper: Te Whatu Ora, Te Aka Whai Ora, Pharmac, Te Aho o Te Kahu | Cancer Control Agency, Te Tāhū Hauora | Health Quality and Safety Commission, New Zealand Police, Treasury, and the Department of the Prime Minister and Cabinet.

### Recommendations

I recommend that the Cabinet Legislation Committee:

- 1 note that on 24 July 2023 Cabinet agreed to:
  - 1.1 establish a maximum period of supply for non-opioid Class B and Class C controlled drugs of three months
  - 1.2 establish a period of supply limit for all opioids classified under the Misuse of Drugs Act 1975 of one month
  - 1.3 allow the relevant Medical Officer of Health to authorise a maximum period of supply of up to three months for specified prescribers under section 24A of the Misuse of Drugs Act 1975, to maintain access to Opioid Substitution Treatment
  - 1.4 apply the same maximum periods of supply to both physical and electronic prescriptions [CAB-23-MIN-0313 refers];
- 2 note that the Misuse of Drugs Amendment Regulations (No 2) 2023 will give effect to the decisions referred to in recommendation 1 above;
- 3 note that to give effect to recommendation 1.3 above, the Misuse of Drugs Amendment Regulations (No 2) 2023 will authorise a maximum period of supply for up to 3 months when prescribed as part of Opioid Substitution Treatment, as specified under section 24A of the Misuse of Drugs Act 1975;

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**IN CONFIDENCE**

- 4 authorise the submission to the Executive Council of the Misuse of Drugs Amendment Regulations (No 2) 2023;
- 5 note that the Misuse of Drugs Amendment Regulations (No 2) 2023 will come into force 28 days after notification in the Gazette.

Authorised for lodgement

Hon Dr Ayesha Verrall

Minister of Health

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