

Briefing for information

Legal status of methamphetamine utensil sales

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To:	Hon Simeon Brown, Minister of Health		
Consulted:	Health New Zealand: ☐		
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Contact for telephone discussion

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Minister's office to complete:

- | | |
|---|--|
| ☐ Noted | ☐ Seen |
| ☐ Needs change | ☐ Withdrawn |
| ☐ See Minister's Notes | ☐ Overtaken by events |

Comment:

Briefing for information

Legal status of methamphetamine utensil sales

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To: Hon Simeon Brown, Minister of Health

Purpose of report

1. This briefing responds to your request for information about laws that apply to the sale of utensils linked to methamphetamine use, and how that legislation works in practice, including enforcement.

Sale of methamphetamine utensils is illegal under the Misuse of Drugs Act

2. Possession of most drug utensils for the purpose of commissioning a drug offence is illegal under section 13 of the Misuse of Drugs Act.
3. Section 22 of the Misuse of Drugs Act gives the Minister of Health the power to prohibit the "importation, supply, possession for the purpose of sale or supply, or offering for sale" of any class of utensil that may be used to administer or prepare a controlled drug.
4. An offence under section 22 has a maximum penalty of three months' imprisonment or a fine of up to \$1,000 for an individual, or a fine of up to \$5,000 for a body corporate.
5. In 2014, then Health Minister the Hon Peter Dunne issued a Gazette notice under section 22 prohibiting, amongst other things, the importation, supply and offer for sale of methamphetamine utensils and their identifiable components. The notice defines a methamphetamine utensil broadly, as either:
 - a. a pipe made of glass or other flameproof and heat-conducting materials, and which has specified features distinguishing it from other types of pipe, or
 - b. any item which has been modified to facilitate the use of methamphetamine.
6. The 2014 notice was replaced by a similar notice with the same definition in March 2020.

How the law works in practice, including enforcement

7. Recent media reports indicate that methamphetamine pipes are widely and openly available for sale in New Zealand. We do not have data on utensil availability to confirm these reports.
8. Enforcement of the utensil sales ban is an operational matter for the Police. ^{s 9(2)(g)(i)}
^{s 9(2)(g)(i)}

9. We are aware that some retailers claim that the pipes are water pipes, ornaments, glass vases, or other objects. We are not aware of any such claim being tested in court, but it would be unlikely to succeed. This is because the definition in the Gazette notice is based on the physical features of the pipe, rather than its purported use.
10. Customs enforce the law at the border and regularly intercept shipments of illicit utensils. They advise that detection at the border can be challenging due to the nature of the items. The goods are individually small, low value, often generically described in import documentation, and resemble many lawful goods when x-rayed. Customs uses risk management and intelligence to develop targeting rules to enforce the import prohibition.

Impacts of methamphetamine utensil availability

11. Methamphetamine can be smoked using a wide range of everyday objects, including aluminium foil and light bulbs. Rates of methamphetamine use are therefore unlikely to be affected by the availability of specialised utensils.
12. If methamphetamine pipes were no longer available, there is risk that more harmful methods of consumption would increase. In particular, overseas evidence indicates that methamphetamine users who cannot access pipes are more likely to inject their drugs. Use of improvised smoking utensils can also increase harm, if they contain substances which are harmful when inhaled.
13. At the same time, it is likely that some of the pipes currently available are low quality, which may also contribute to harm. For example, poor quality glass pipes may not be shatterproof.

Potential next steps

14. As noted above, sale and supply of methamphetamine utensils is already an offence under the Misuse of Drugs Act. Nonetheless, improving compliance with the law is likely to require raising awareness of the existing prohibition with police, retailers and the public.
15. To that end, you may wish to speak to the Hon Mark Mitchell, Minister of Police, about the extent to which the law is understood and enforced by police. The Ministry could also publish materials on its website and social media platforms reminding the public of the prohibition and – in the case of retailers – their responsibilities under the Misuse of Drugs Act.
16. The Ministry can provide advice to support improvements to the way the law operates and achieves its public health goals, for example:
 - a. amending the Misuse of Drugs Act to add the details of prohibited utensils to primary legislation. This could make it less likely for the law to be misunderstood but would not change the legal status of utensil sales.
 - b. reviewing the sufficiency of penalties in the Misuse of Drugs Act related to the offence of offering drug utensils for sale

- c. amending the Misuse of Drugs Act to enable the limited supply of some utensils within a harm-reduction context, for example by licensed drug checking and needle exchange services.

Equity

17. Public discussion of methamphetamine utensils sales, recently and in the past, has largely been driven by Māori. However, it is not clear that availability of utensils has any differential impact on Māori individuals, whānau or communities.
18. According to the Evidence Based Policing Centre's 2022 report on methamphetamine harm in New Zealand, Māori and non-Māori have similar rates of amphetamine use. However, Māori appear more likely to experience harm related to methamphetamine, including criminal charges and hospitalisation.



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14/07/26

Hon Simeon Brown

Minister of Health

Date: