



Cabinet

Minute of Decision

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Regulations to Support a Licensing Scheme for Drug Checking

Portfolio **Health**

On 13 December 2021, following reference from the Cabinet Social Wellbeing Committee, Cabinet:

Background

- 1 **noted** that drug checking services check the composition of illicit drugs and provide harm reduction advice to help individuals make informed decisions about drug use;
- 2 **noted** that drug checking will be regulated under the Misuse of Drugs Act 1975, as amended by the Drug and Substance Checking Legislation Act 2021, which enables a permanent licensing scheme for drug checking service providers;

Previous decisions

- 3 **noted** that it was originally intended that most elements of the licensing scheme would be given effect by regulations under the Misuse of Drugs Act 1975, and that in March 2021, SWC agreed to regulations on this basis, to give effect to:
 - 3.1 pathways for licence applications, renewals, suspensions and revocations;
 - 3.2 an appeals process where a licence has been declined, suspended or revoked;
 - 3.3 a pathway for complaints about service providers;
 - 3.4 standards and guidance for service providers;
 - 3.5 a pathway for the use of new drug checking technologies and methods;
 - 3.6 requirements for all licence-holders on matters including:
 - 3.6.1 accessibility, for example wheelchair accessibility;
 - 3.6.2 that clients are not charged to use the service;
 - 3.6.3 reporting;
 - 3.6.4 monitoring and audit;
 - 3.6.5 training, qualifications and experience;
 - 3.6.6 suitability of key individuals;
 - 3.7 the setting of conditions in individual licences;

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- 4 **noted** that most of the elements listed above are now included in the Misuse of Drugs Act 1975, as amended by the Drug and Substance Checking Legislation Act 2021;
- 5 **rescinded** the decisions referred to in paragraph 3 above, as those elements have been given effect in the Misuse of Drugs Act, or will be given effect through paragraph 7 below, the licensing process, or the Ministry's general role as the licensing authority;

Further decisions

- 6 **noted** that further Cabinet decisions are required on the content of regulations for the licensing scheme;
- 7 **agreed** that regulations pursuant to the Misuse of Drugs Act 1975 will provide for the following elements of the licensing scheme:
- 7.1 a requirement that all applications for a licence must include:
 - 7.1.1 the name and contact details of the applicant;
 - 7.1.2 if the applicant is an entity:
 - 7.1.2.1 the names and contact details of the contact person, and every 'responsible person', defined in the Misuse of Drugs Act as a director, partner or trustee of the applicant entity, or a person acting in the manner of a director, partner or trustee;
 - 7.1.2.2 the results of a criminal record check for every responsible person;
 - 7.1.2.3 a description of any activities other than drug checking carried out by the entity;
 - 7.1.3 if the applicant is a natural person, the results of a criminal record check for that person;
 - 7.1.4 if the applicant or any responsible person has a relevant conviction or record of non-compliance, an explanation of why that person is suitable to hold a licence or be a responsible person in relation to a licence holder;
 - 7.1.5 a description of the proposed service model, including locations or types of locations where services will be provided, testing methods to be used, and how any surrendered drugs will be disposed of;
 - 7.1.6 examples of documents or recordings to be used to train workers;
 - 7.1.7 a description of storage arrangements for any drugs or substances to be held by the applicant;
 - 7.1.8 examples of harm reduction advice, which may be provided as part of the documents or recordings mentioned in paragraph 7.1.6;
 - 7.1.9 a description of any risks to the personal privacy of service users, and how these risks will be mitigated;
 - 7.2 provisions for licence renewals, including the right to request a review of a decision not to renew a licence;
 - 7.3 a provision specifying that the National Drug Intelligence Bureau is the drug information body for drug checking purposes;

- 7.4 conditions for all licences specifying the following time periods for which records must be kept:
- 7.4.1 for information required to be reported to the Director-General of Health or the drug information body, 12 months after the information was sent;
 - 7.4.2 for information on drugs and substances in the possession of the licence holders, 12 months after the licence holder ceased to have any of that drug or substance in its possession;
 - 7.4.3 for any other information which the licence holder is required to collect or maintain, for the period specified in the relevant regulation or licence condition, and if no period is specified, then for 12 months after the information is collected;
- 7.5 a licence condition that, if a provider surrenders their licence, they must send to the Director-General of Health any records or information required to be collected or maintained, and which have not already been sent to the Director-General or drug information body;
- 7.6 a requirement for all licence holders to take reasonable steps to assess the accessibility of their services and, where practical, take steps to improve or maintain accessibility;
- 7.7 a requirement for all licence holders to send drugs and substances for further testing on the request of the National Drug Information Bureau;
- 8 **authorised** the Minister of Health to take further decisions on minor and technical matters in line with the policy decisions agreed above;
- 9 **invited** the Minister of Health to issue drafting instructions to Parliamentary Counsel Office to create regulations pursuant to the Misuse of Drugs Act in the manner agreed in paragraph 7 above.

Michael Webster
Secretary of the Cabinet

Secretary's Note: This minute replaces SWC-21-MIN-0209. Cabinet agreed to the rescinding recommendation in paragraph 5.