

Security classification: In-Confidence

File number: AD62-14-2018
Action required by: n/a

Medicinal Cannabis: Cabinet paper seeking permission to table Supplementary Order Paper

To: Hon Dr David Clark, Minister of Health

Purpose

This report provides you with the Misuse of Drugs (Medicinal Cannabis) Amendment Bill: Supplementary Order Paper for consideration by the Cabinet Legislation Committee (LEG) on 29 November 2018.

Key points

- On 7 November 2018, the Cabinet Social Wellbeing Committee [SWC -18-MIN-0162] agreed to amend the Bill to reflect concerns raised by submitters, increase the number of people eligible to use the exception for illicit cannabis, allow the use of cannabis varieties already established in New Zealand and to require regulations on quality standards to be made within a year of the Bill coming into force.
- Implementation of this decision requires a Misuse of Drugs (Medicinal Cannabis) Amendment Bill Supplementary Order Paper.
- The attached paper seeks Cabinet's approval to table the Supplementary Order Paper at the Committee of the whole House stage of the Misuse of Drugs (Medicinal Cannabis) Amendment Bill.
- Following Cabinet's consideration of the paper on 3 December you will need to approve the release of the Supplementary Order Paper. This will give Members of Parliament the opportunity to consider the content of the Supplementary Order Paper ahead of the Committee of the whole House stage.
- Talking points are attached to support any discussion at LEG Committee.
- You will be supported by Jane Hubbard (Deputy Chief Legal Advisor) and Emma Hindson (Manager) at the LEG meeting.
- We do not intend to proactively release this paper until the Supplementary Order Paper has been tabled in the House.

Contacts:	[Redacted]	[Redacted]
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Recommendations

The Ministry recommends that you:

- | | |
|--|---------------|
| a) invite the Ministry to lodge the paper with Cabinet Office on Thursday 22
November 2018 | Yes/No |
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Todd Krieble
Acting Deputy Director-General
System Strategy and Policy

Minister's signature:

Date:

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Talking Points

- This Supplementary Order Paper (SOP) amends the Misuse of Drugs (Medicinal Cannabis) Amendment Bill.
- The Bill currently makes three key changes:
 - it provides people who have a terminal illness a defence to the charge of possessing and using cannabis
 - it will allow us to make regulations to set quality standards for medicinal cannabis products
 - it removes cannabidiol from the Misuse of Drugs Act, so that it is no longer a controlled drug.
- The Health Committee could not reach agreement on the Bill. As a result, the Bill was reported back to the House with no amendments.
- I propose making a number of changes to improve the Bill through the SOP. These changes were recommended to the Health Committee during its consideration of the Bill or emerged during coalition consultation on the SOP.
- I propose changing the exception and statutory defence provisions. These currently allow people with a terminal illness to use illicit cannabis as a compassionate measure. Only people with less than 12 months to live are eligible.
- The SOP changes the Bill so that people receiving palliation are eligible for the exception and statutory defence provisions.
- Palliation is an approach that aims to alleviate pain and suffering for a person with an advanced progressive life limiting condition, who is nearing the end of life. I consider this a better description of the group of patients the compassionate provisions were designed for.
- I expect this change to increase the number of people covered by the exception and statutory defence provisions. Health data tells us that currently approximately 25,000 New Zealanders could benefit from palliative care. I expect this group of patients would be covered by the definition of palliation, though it is not known how many would choose to use illicit cannabis.
- The SOP also changes the Bill, so that the Regulations will only name the standards that must be met. The detail of the quality standards would be published by the Director-General of Health separately. This would allow the Director-General to update the quality standards faster, as they would not have to change the Regulations to update the standards. Quality standards are highly technical, and may need to be changed to keep up with improving technology and changes in industry practice.
- The SOP also:
 - moves the position of the defence for people who require palliation so that it is located with similar provisions in the Act
 - controls only those substances found in cannabis that are related to tetrahydrocannabinols (THCs) and are capable of producing a psychoactive effect
 - amends the definition of cannabidiol products. Currently the definition has a two percent allowance for all other cannabinoids as trace level contaminants, whether they are capable of producing a psychoactive effect or not. This current definition includes cannabinoids that are not classified as controlled drugs under the Misuse of Drugs Act. The change would mean that the two percent allowance only applies to cannabinoids capable of producing a psychoactive effect.
 - requires regulations to allow a licence holder under the Scheme to use locally sourced cannabis plants, fruit, and seeds that were previously imported without authorisation. We will require all

stages of medicinal cannabis cultivation and production to be licenced, there is no obvious reason to prohibit the use of varieties that are already established in New Zealand.

- requires regulations to be made within a year of the Bill coming into force.
- The amendments do not represent a significant change in the policy agreed by Cabinet.
- If approved, the SOP will be introduced during the Committee of the whole House stage of the Bill.

END.