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## Medicinal Cannabis: 100-Day Action

To: Hon David Clark, Minister of Health

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### Purpose

This report provides you with the final *Medicinal Cannabis: 100-Day Action* Cabinet paper for the Cabinet Business Committee (CBC) on Wednesday 6 December.

### Key points

- The paper seeks the CBC's agreement for a Misuse of Drugs Amendment Bill that will:
  - introduce a medicinal cannabis scheme that will deliver products made to a quality standard faster
  - provide an exception and a statutory defence for terminally ill people to possess and use illicit cannabis, and
  - deschedule cannabidiol as a controlled drug.
- This will deliver on the Government's 100-day action to introduce legislation to improve equitable access to medicinal cannabis for people with a terminal illness or chronic pain.
- The talking points for the Cabinet paper are attached in Appendix One.
- You will be supported by Hannah Cameron (Deputy Chief Policy Officer) and Stewart Jessamine (Director Protection, Regulation and Assurance).

### Recommendations

The Ministry recommends that you:

- a) **Agree** to lodge the paper with Cabinet Office before the CBC meeting of 6 Dec 2017 **Yes/No**

Hannah Cameron  
Director Protection, Regulation and Assurance  
**Strategy & Policy**

**Minister's signature:**

**Date:**

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## Medicinal Cannabis: 100-Day Action

### Consultation with other agencies

1. The legislative changes proposed in the draft Cabinet paper were generally supported by other agencies.
2. The Ministry of Justice raised a concern that the proposal for terminally ill people to possess and use illicit cannabis did not provide a statutory defence for family/whanau and friends to obtain illicit cannabis on the terminally ill person's behalf.
3. The Ministry of Health does not propose providing an exception and statutory defence to family/whanau and friends of the terminally ill. This would significantly broaden the proposal. Terminally ill people have a range of support networks, so it would not be possible to tightly define who an exception and statutory defence should cover.
4. Also, extending the proposal could risk unintended consequences. A person could set up a business supplying illicit cannabis to terminally ill people and argue that the exception and statutory defence cover this activity.

### Next steps

5. A draft Misuse of Drugs Amendment Bill will be prepared for the Cabinet Legislation Committee in either December or January, so it can be introduced within the Government's first 100 days.
6. The Ministry will develop a Cabinet paper in the New Year with further detail on the proposed Scheme, including start-up and ongoing costs of an agency. This will go to Cabinet in March next year to enable relevant considerations for Budget 2018.
7. The Ministry will liaise with your office regarding a media statement on the Misuse of Drugs Amendment Bill and the Medicinal Cannabis Scheme. This will be supported by more information on the Ministry of Health website.

## Appendix One: Speaking notes - Medicinal Cannabis: 100-Day Action

- I propose a Misuse of Drugs Amendment Bill to improve access to medicinal cannabis.
- The amendment bill will:
  - introduce a medicinal cannabis scheme that will deliver products made to a quality standard faster
  - introduce an exception and a statutory defence for terminally ill people to possess and use illicit cannabis, and
  - deschedule cannabidiol (CBD) as a controlled drug.
- The approach is guided by the principles of equity, quality and safety, and compassion.

### The Medicinal Cannabis Scheme

- The Medicinal Cannabis Scheme will have three key components:
  - a review of how cannabis is prescribed
  - domestic cultivation and manufacture, and
  - minimum quality standards for products.
- The Scheme will support medical practitioners by increasing the range and availability of quality cannabis products, and providing information on these products.
- An agency to oversee the cultivation and manufacture of cannabis produced domestically will be established. This will make sure we comply with our obligations under the United Nations drug conventions. The agency will also oversee the import of cannabis produced overseas.
- A Medicinal Cannabis Advisory Committee will be established in early 2018. The Committee will provide a valuable mechanism for engagement with health professionals to identify areas of concern, information needs and any process issues.
- The first task for the Committee will be to review the prescribing process for cannabis products, with a particular focus on the pre-approval requirement.
- Nurse prescribers are not currently able to prescribe cannabis products. This is because most cannabis products are not consented, and only medical practitioners can prescribe non-consented medicines. However, nurses will be represented on the Committee, reflecting the key role they play in patient care.
- The Scheme will take time to develop and implement. I am aware that Australia has been working on its domestic medicinal cannabis Scheme for two years. It has yet to provide product to patients, but I understand it is expected to, early next year.

### Compassionate approach to people with a terminal illness

- It is a criminal offence to possess and use cannabis unless it is obtained on prescription from medical practitioner.
- I propose an exception from this offence and a statutory defence for people with a terminal illness.
- This is a compassionate approach for a group of people where the usual concerns about product quality and safety are different. It acknowledges that currently some terminally ill people are choosing to use illicit cannabis to relieve their symptoms.

*If needed, this is how it would work*

- The exception means that a terminally ill person who can produce a document showing they have a terminal illness will not be prosecuted or charged if questioned by the Police.

- The statutory defence is a backstop for a terminally ill person who cannot provide immediate evidence of their illness at the time of questioning, but can produce evidence in court.
- We will provide guidance that a terminally ill person should get certification from their practitioner before using cannabis, in case they are questioned by the Police.

*The exception and statutory defence provisions do not provide a supply route*

- The exception and statutory defence provisions do not provide a supply route for terminally ill people. My proposed Medicinal Cannabis Scheme will address supply, as it will make quality cannabis products available through import and domestic cultivation.
- I am aware that many terminally ill people will not source illicit cannabis themselves, but will rely on family/whanau and friends to obtain cannabis for them.
- I do not propose extending an exception and statutory defence to family/whanau and friends of the terminally ill. This would significantly broaden the proposal. Terminally ill people have a range of support networks, so it would not be possible to tightly define who an exception and statutory defence should cover.
- Also, extending the proposal could risk unintended consequences. A person could set up a business supplying illicit cannabis to terminally ill people and argue that the exception and statutory defence cover this activity.

**Descheduling cannabidiol**

- CBD is a substance found in cannabis that has potential therapeutic value and little or no psychoactive properties.
- I intend using the proposed Misuse of Drugs Amendment Bill to deschedule CBD from the Misuse of Drugs Act 1975. This is a technical amendment that would make CBD a prescription medicine only.
- Descheduling CBD reflects the advice of the Expert Advisory Committee on Drugs who reviewed the classification of CBD last year. The Committee advised that, based on CBD's risk profile and potential therapeutic value, it would be reasonable to remove CBD from the Act.
- This change will bring New Zealand's scheduling into line with other countries such as Australia, who made CBD a prescription medicine only in 2015.

**END.**