

Misuse of Drugs (Medicinal Cannabis) Amendment Bill

Member's Bill

Explanatory note

The purpose of this bill is to amend the Misuse of Drugs Act 1975 so that cannabis can be used for medicinal purposes.

Cannabis has significant benefits for many people suffering from a variety of serious and intractable illnesses. Scientific research is now verifying patients' anecdotal evidence that cannabis is a safe and effective medicine, variously used as an antispasmodic for sufferers of multiple sclerosis and spasticity, for relief of intraocular pressure associated with glaucoma, for pain relief, for treatment of nausea associated with chemotherapy and other medications, and for the stimulation of appetite for people with HIV.

The first recorded use of cannabis is as a medicine in a Chinese pharmacopeia, and it has been used for that purpose throughout Asia, Africa, the Middle East, Europe, and more recently in the Americas and the Pacific. The first recorded use of cannabis as a medicine in New Zealand was by Sister Mary Aubert on the Wanganui River.

Clause by clause analysis

Clause 1 relates to the title of the Bill.

Clause 2 provides that the Bill comes into force on the day after the date on which it receives the Royal assent.

Clause 3 states that the principal Act being amended is the Misuse of Drugs Act 1975.

Clause 4 sets out the purpose of the Bill.

Clause 5 inserts two new definitions into the principal Act for a “card holder” and a “designated agent”.

Clause 6 makes a change to section 6 of the principal Act which is consequential on the new sections 8A and 9A being inserted into the Act by clauses 8 and 10.

Clause 7 makes a change to section 7 of the principal Act which is consequential on the new sections 8A and 9A being inserted into the Act by clauses 8 and 10.

Clause 8 inserts a new *section 8A* into the principal Act and provides further exemptions to sections 6 and 7. The new section 8A allows for card holders to consume, smoke or otherwise use cannabis and to possess a certain amount for personal use. *Subsection (2)* allows a card holder’s designated agent to supply a certain amount of cannabis to the card holder.

Clause 9 makes a change to section 9 of the principal Act which is consequential on the new *section 9A* being inserted into the Act by clause 10.

Clause 10 inserts new *sections 9A, 9B, 9C, 9D, and 9E* into the principal Act.

Section 9A provides an exemption for a card holder or designated agent from section 9 and allows them to cultivate and possess a certain amount of cannabis.

Under section 9B, any person may apply for a Medicinal Cannabis Identification Card if they can provide evidence that they suffer from a condition where cannabis may alleviate the pain and suffering associated with that condition, they have the written support of their medical practitioner or specialist and, where the applicant is under 18, they have the written permission of their parents. If the Medical Officer of Health is satisfied all the requirements are fulfilled and he or she does not consider there are any exceptional circumstances for not granting the card, a Medicinal Cannabis Identification Card will be issued. The card is valid for 12 months and the card holder may reapply after that time.

Section 9C states that a designated agent may be nominated by the card holder to cultivate, possess, and supply the card holder with a certain amount of cannabis if the card holder is unable to cultivate it himself or herself.

Section 9D sets out the duties of the designated agent. Under *section 9E*, the Minister of Health is to establish a Medicinal Cannabis Registration Board to keep and maintain a register of card holders, their designated agents, any person having the care of a card holder, and the amount of cannabis a card holder or designated agent may possess. The Board will issue Medicinal Cannabis Identification Cards and Designated Agent Identification Cards upon instruction of the Medical Officer of Health. The Board will advise card holders, collate and distribute new information to card holders, inform the police of the details of card holders, and carry out any other duties as the Minister thinks fit.

Clause 11 makes a change to section 14 of the principal Act which is consequential on the new sections being inserted into the Act by clause 10.

Clause 12 states the police are to supply cannabis seeds to medicinal cannabis identification card holders or their designated agents from stock seized during the course of law enforcement activities.

Clause 13 inserts a new Schedule 4 in the principal Act listing the conditions to which this bill applies.

Metiria Turei

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Contents

	Page
1 Title	2
2 Commencement	2
3 Principal Act amended	2
4 Purpose	2
5 Interpretation	2
6 Dealing with controlled drugs	2
7 Possession and use of controlled drugs	2
8 New section 8A inserted	3
8A Further exemption from sections 6 and 7	3
9 Cultivation of prohibited plants	3
10 New sections 9A to 9E inserted	3
9A Exemption from section 9	3
9B Medicinal Cannabis Identification Cards	3
9C Card holder may nominate designated agent	4
9D Duties of designated agent	5
9E Registration of card holders	5
11 Licences	6
12 Supply of cannabis seeds	6
13 New Schedule 4 inserted	6
Schedule	7
New Schedule 4 inserted	

The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Misuse of Drugs (Medicinal Cannabis) Amendment Act **2006**.
- 2 Commencement** 5
This Act comes into force on the day after the date on which it receives the Royal assent.
- 3 Principal Act amended**
This Act amends the Misuse of Drugs Act 1975.
- 4 Purpose** 10
The purpose of this Act is to—
(a) allow people to be registered as users of cannabis for medical purposes:
(b) allow registered users or a designated agent to cultivate and possess a small amount of cannabis for the registered user. 15
- 5 Interpretation**
Section 2 is amended by inserting the following definitions in their appropriate alphabetical order:
“**card holder** means any person who is issued a Medicinal 20
Cannabis Identification Card under **section 9B**
“**designated agent** means any person who is issued a Designated Agent Identification Card under **section 9C**”.
- 6 Dealing with controlled drugs**
Section 6(1) is amended by omitting “section 8” and substituting “sections 8, **8A, and 9A**”. 25
- 7 Possession and use of controlled drugs**
Section 7(1) of the principal Act is amended by omitting “section 8” and substituting “sections 8, **8A, and 9A**”.

8 New section 8A inserted

The following section is inserted after section 8:

“8A Further exemption from sections 6 and 7

“(1) Despite anything in sections 6 and 7, any card holder may— 5

“(a) consume, smoke or otherwise use any plant of the *genus Cannabis* or any preparation containing any tetrahydrocannabinols; and

“(b) procure or have in his possession, an amount of any plant of the *genus Cannabis* or any preparation containing any tetrahydrocannabinols as agreed upon by the medical practitioner caring for the card holder and the card holder themselves. 10

“(2) Despite anything in sections 6 and 7, a card holder’s designated agent nominated under **section 9C** may supply to that card holder an amount of any plant of the *genus Cannabis* or any preparation containing any tetrahydrocannabinols as agreed upon by the medical practitioner caring for the card holder and the card holder themselves.” 15

9 Cultivation of prohibited plants

Section 9(1) is amended by inserting “and except as provided in **section 9A**” after “Except pursuant to a licence under this Act”. 20

10 New sections 9A to 9E inserted

The following sections are inserted after section 9:

“9A Exemption from section 9 25

Despite anything in section 9, any card holder or their designated agent may cultivate and possess, at his or her place of residence, an amount of any plant of the *genus Cannabis* plant as agreed upon by the medical practitioner of the card holder and the card holder themselves.” 30

“9B Medicinal Cannabis Identification Cards

“(1) Any person may apply to the Medical Officer of Health for a Medicinal Cannabis Identification Card in the prescribed form.

“(2) Applicants under this section must provide evidence that they— 35

- “(a) suffer from a condition listed under **Schedule 4**, or any other condition, where the use of cannabis may alleviate the pain and suffering associated with that condition or the treatment of that condition; and
- “(b) have the written support of his or her medical practitioner or medical specialist; and 5
- “(c) where the person is under 18 years of age, have the written permission of his or her parents or guardians.
- “(3) A Medicinal Cannabis Identification Card will be issued by the Medicinal Cannabis Registration Board if the Medical Officer of Health is satisfied that the requirements under **subsection (2)** are fulfilled and there are no exceptional circumstances relating to the applicant or their condition so that the Medical Officer of Health is of the opinion that no card should be granted. 10
- “(4) A Medicinal Cannabis Identification Card is valid for 12 months from date of issue. 15
- “(5) At the expiry of the card, the card holder may reapply under this section.
- “**9C Card holder may nominate designated agent**
- “(1) If a card holder is unable to cultivate any plant of the *genus Cannabis*, that card holder may nominate, in the prescribed form, a designated agent to cultivate, possess, and supply an amount of any plant of the *genus Cannabis*, or any preparation containing any tetrahydrocannabinols, as specified in **section 8A(b)** for the card holder. 25
- “(2) A designated agent must prove himself or herself to be of good moral character.
- “(3) A Designated Agent Identification Card will be issued by the Medicinal Cannabis Registration Board if the Board is satisfied that the nominated person fulfils the requirement under **subsection (2)**. 30
- “(4) A Designated Agent Identification Card is valid for 12 months from the date of issue.
- “(5) At the expiry of the card under **subsection (4)**, the card holder may re-nominate the designated agent under **subsection (1)**. 35

“9D Duties of designated agent

A designated agent may—

- “(a) possess an amount of any plant of the *genus Cannabis*, as specified under **section 8A(b)**, for each card holder for whom he or she is the designated agent: 5
- “(b) supply an amount of any plant of the *genus Cannabis* as specified under **section 8A(b)** to the card holder for whom he or she is the designated agent:
- “(c) cultivate and possess an amount of cannabis plant material as specified under **section 9(1)(c)** for the use of card holder for whom he or she is the designated agent: 10
- “(d) administer to the card holder an amount of any plant of the *genus Cannabis* as specified under **section 8A(1)(b)**.

“9E Registration of card holders

The Minister must establish a Medicinal Cannabis Registration Board under section 5 to— 15

- “(a) keep and maintain a register to—
 - “(i) card holders:
 - “(ii) their designated agents:
 - “(iii) any person having the care of a card holder: 20
 - “(iv) the amount of any plant of the *genus Cannabis* or any preparation containing any tetrahydrocannabinols that the card holder or their designated agent may possess as agreed upon under **section 8A(1)(b)**. 25
- “(b) issue Medicinal Cannabis Identification Cards to successful applicants under **section 9B**:
- “(c) issue Designated Agent Identification Cards to persons successfully nominated under **section 9C**:
- “(d) consult with and advise card holders on the use and administration of plants of the *genus Cannabis* and any preparations containing any tetrahydrocannabinols: 30
- “(e) collate and distribute new information regarding different strains of any plant of the *genus Cannabis*, any preparations containing any tetrahydrocannabinols and methods of its administration to treat various conditions: 35

- “(f) inform the police in the area where a card holder has his or her primary place of residence of the details kept maintained under **paragraph (a)**:
“(g) carry out any other duties as the Minister thinks fit.”

11 Licences 5
Section 14(3) is amended by inserting “or medical use” after “or study”.

12 Supply of cannabis seeds
(1) Cannabis seeds are to be supplied by the police to card holders or their designated agent on a regular basis as agreed upon by the Minister of Health and the Commissioner of Police. 10
(2) Cannabis seeds supplied by the police will be supplied from stock seized during the course of law enforcement activities.

13 New Schedule 4 inserted
The **Schedule 4** set out in the Schedule of this Act is inserted after Schedule 3. 15

Schedule
New Schedule 4 inserted
Schedule 4

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AIDS Wasting Syndrome	
Alzheimer's Disease	5
Anti-Tumor Effects	
Arthritis	
Asthma	
Brain Injury/Stroke	
Crohn's disease and Ulcerative Colitis	10
Depression and Mental Illness	
Eating Disorders	
Epilepsy	
Fibromyalgia	
Glaucoma	15
High Blood Pressure/Hypertension	
Migraine	
Multiple Sclerosis	
Nail Patella Syndrome	
Nausea associated with cancer chemotherapy	20
Pain	
Phantom Limb Pain	
Schizophrenia	
Spinal Cord Injury	
Tourette's Syndrome	25