Government Bill

As reported from the Health Committee

Commentary

Recommendation

The Health has examined the Psychoactive Substances Bill and recommends that it be passed with the amendments shown.

Introduction

The bill seeks to regulate otherwise unregulated psychoactive substances such as "party pills" and other "legal highs" in New Zealand. The bill aims to restrict the importation, manufacture, and supply of psychoactive substances unless authorised by a regulator, while allowing the sale of products that meet safety and manufacturing requirements. Currently, any psychoactive substance can be sold legally if it is not listed in the Misuse of Drugs Act 1975. This bill aims to place the onus on the industry to demonstrate that a psychoactive substance is not harmful or poses only a low risk to human health before approval for sale is given. Approval could be given only to finished, packaged psychoactive products, allowing the regulator to assess all the ingredients and the risk that they might present in the particular combination.

The bill proposes the establishment of a regulatory authority within the Ministry of Health, and an independent Expert Technical Committee to advise the regulator on products submitted for approval.

The bill is in three parts. Part 1 contains the interpretation section and provisions to establish the Regulatory Authority and Expert Advisory Committee. Part 2 would establish a licencing regime and process for approvals; and Part 3 would establish controls on approved products and provide for enforcement matters, and confer regulation making powers.

Our commentary covers the main amendments we recommend to the bill.

Purpose statement

We consider that the primary purpose of this bill is to "regulate the availability of psychoactive substances in New Zealand and protect the health and minimise the harm to individuals who use psychoactive substances". We recommend amending clause 3 to make this clear.

Principles

We recommend inserting new subclause 4(ba) to include an affirmative statement to the effect that any psychoactive product meeting the threshold for approval will be approved. We believe that this would assure the industry that Parliament is serious about making the regulatory regime workable.

Interpretations and definitions

We recognise the argument that the term "psychoactive substances" in clause 9(1) is very broad, which could have the effect of bringing other substances such as garden plants and low-risk herbal products into its ambit. After careful consideration, however, we think that the definition should remain broad to avoid leaving loopholes. Current exclusions for food and herbal products are sufficient for the purpose; and for products inadvertently caught by the legislation there is the declaring power in clause 81 to deem them not to be psychoactive substances for the purposes of the bill.

While we saw some merit in a similar argument that the degree of "psychoactive effect" covered by the bill should be defined, we consider that specifying a threshold degree of effect would be overly complex and open to challenge. We also agree that the interpretation of the term "low risk" was best determined through assessment by the expert committee, taking into account the nature of each product and its mode of administration.

Expert Advisory Committee

We recommend inserting new subclause 11(2A) to specify the matters that the Expert Advisory Committee must have regard to in advising the Authority about a psychoactive product.

We also recommend inserting new subclause 11(9) to make it clear that the advisory committee must act independently in performing its functions, and in accordance with the principles of natural justice.

Granting of licence

Licencing would provide an additional level of control over approved products, and we consider that additional licences for various kinds of uses should be a requirement in clause 12. We recommend inserting paragraphs 12(1)(c) and 12(1)(f) to allow the regulator to grant licences to research psychoactive substances, and to grant a licence to sell approved products wholesale and retail.

We recommend amending subclause 15(1)(c) to ensure that applicants meet certain conditions, including being fit and proper persons. We also recommend inserting new subclause 15(1)(d) to allow persons to apply for a licence on behalf of a body corporate, provided that the body corporate is of good repute.

Exporting psychoactive substances

For consistency with the requirement for advance notice to the regulator of imports of psychoactive substances, we recommend inserting new subclause 16(5) specifying that exports must be notified in advance. This would also allow Customs to check the requirements of the destination jurisdiction and inform them of shipments, in keeping with international cooperation in the area of psychoactive substances.

Code of manufacturing practice

We were concerned that the code of manufacturing practice for psychoactive substances in clause 27 would come into force no later than one year after the commencement of the Act, and we recommend that this period be reduced to six months.

Register of products

While we agree that the bill must ensure a commitment to protect confidential information provided under clause 34, we believe that the public should have access to information on both approved and unapproved products, and recommend that clause 41 be amended accordingly.

Appeals

Although we do not consider it desirable for third parties to be able to appeal decisions of the regulator, we recommend an amendment to clause 43 to include a general right of appeal for parties to a decision to revoke a licence or revoke approval for a product.

Control of approved products

We are aware of strongly held views that the age for purchase of approved products should be 20 or 21, rather than 18 as provided for. Discussion centred on expert advice concerning brain development in young people; it was argued that this was a new bill and it might be appropriate to start this new regime with a higher age threshold level to help minimise harm to young people. We consider, however, that a higher age limit for approved psychoactive products that pose a low risk to users might suggest to young people that alcohol and tobacco, having lesser age restrictions, are safer alternatives. We therefore recommend that the purchase age in clause 46 remain at 18, aligning it with the Sale and Supply of Alcohol Act 2012. If the age limit in that Act is amended, we recommend that the purchase age for approved products should be automatically amended.

We also recommend that clause 46 be amended to include an offence of possession of a psychoactive substance, including an approved product, by a person under the age of 18.

Supplying approved products to persons under 18

We recommend amending the reference in subclause 48(1) to the supply of approved products to persons under 18. We believe that the clause should specify supply in a public place, to align the provision with the Smoke-free Environments Act 1990, and to obviate the difficulties of enforcement regarding supply in a garage or home, for example.

We also recommend that the fine in subclause 48(2) be raised from \$500 to \$2,000, to align it with both the Sale and Supply of Alcohol Act 2012 and the Smoke-free Environments Act 1990.

Points of sale of approved products

We are aware of concern that outlets for approved substances might include dairies which are frequented by young and underage people, and off-licences. Under the bill as introduced, any restrictions on points of sale of approved products would be determined by regulation; we agree that this matter should be included in the primary legislation. We therefore recommend amending clause 50 to specify restrictions on point of sale.

Sponsorship

We recommend inserting clause 52A to include a prohibition on sponsoring activity involving the use of trademarks associated with, or the names of, approved psychoactive products.

Advertising

We recognise the strongly held views against advertising of such products, and recommend amending clause 53 to include a clear restriction of advertising of approved psychoactive products to point of sale, and that no advertising should be visible from outside a retail outlet. While recognising that it would be difficult to enforce, we also recommend a prohibition on internet advertising except on sites maintained for the primary purpose of selling approved products.

After careful consideration of the community issues surrounding the advertising and naming of approved product retail establishments, we recommend inserting new clause 53A which sets out restrictions on retailers' names.

Labelling and packaging

We are concerned that some packaging might be designed to appeal to minors, and although we consider that to define "appeal" in this context would be difficult in practice, we recommend replacing clause 54 with new clause 54 which prohibits a design of this type. We also recognise the argument for requiring approved psychoactive products to be sold in plain packaging, but are not convinced that this is necessary. Unlike cigarettes, these products will need to be of "minimal or low risk" to be approved and psychoactive products are made up of a range of chemical formulations.

We recommend, however, clarifying the provisions in clause 54 regarding the wording required on the label of the approved product, and for any further requirements to be prescribed by regulations.

Local approved products policies

Despite advertising restrictions to limit advertising to the inside of retail premises and reduce visibility of the products in communities, we are concerned that retail outlets might be situated near schools or in other places considered inappropriate by the local community. We therefore recommend making provision for local community input on decisions as to the location of outlets, including a requirement to have regard to their density, by inserting clauses 61A, 61B, and 61C.

Offences relating to possession of unapproved products

Most of us recognise wide support for the offence for personal possession of unapproved products by persons over the age of 18 as specified in clause 63. However, there was strong debate within the committee whether this clause be deleted from the bill.

The arguments for deletion are:

 The Temporary Class Drug Notice provision (Misuse of Drugs Amendment Act 2011) does not include this offence. We were told that the existing powers of enforcement officers already address concern about unknown substances under the Misuse of Drugs Act 1975. There was a view that infringement fines could incur considerable costs to the public if contested in court and a fine may be difficult for young people to pay.

Arguments to retain clause 63 are:

- This is a new innovative bill and being consistent with the "temporary Class Drug Notice provision" it is not relevant.
- In their advice the Police strongly supported retaining the offence citing in particular the risk to young people from untested substances (both approved and unapproved) for those under 18 and no infringement for possession of unapproved psychoactive substances for those over 18.

Power to enter and search retail premises

In order to ensure compliance with the bill and the conditions of the licence, we recommend the addition of clause 69A allowing an enforcement officer or constable to enter retail premises from which approved psychoactive substances are sold.

Cost recovery

To clarify the bill's provision for cost recovery, we recommend replacing clause 82 with a new subpart 4A. This subpart sets out the duty to recover costs, the principles on which cost recovery is to be based, the methods of cost recovery and appropriate regulation-making powers, and the requirement to consult with industry before making such regulations.

Duty to notify adverse reactions

We recommend amending clause 80(3) to require the name of the substance to be included in any report of adverse reactions to an approved psychoactive product.

We discussed the responsibility of medical practitioners to report any adverse reactions to approved psychoactive substances to the relevant authority. On balance, we were not persuaded of the necessity for reporting to be compulsory. Voluntary reporting of reactions to medicines works well. Rather than including such a requirement in the bill, we recommend that the Ministry of Health work with medical practitioners on a voluntary system of reporting.

Immunities

We recommend that new clause 84A include provision for immunity from liability for members of the Expert Advisory Committee providing they act in good faith, and an explicit statement that members are not public servants within the meaning of the State Sector Act 1988 by virtue of their appointment.

Transitional provision

The transitional provision applies to psychoactive substances that were lawfully being sold during the lead-in period before commencement. Upon enactment, these substances could continue to be sold providing an application for approval was made to the Authority within 30 days and accepted, and an application for a retail licence made within the same timeframe. While acknowledging the argument for removing these substances from sale immediately, we consider this might have the unintended consequence of increasing black-market activity because of a lack of supply and a continuing demand. We believe that controls applied by the bill such as minimal advertising, restricted outlets, and an age restriction are sufficiently robust to allay concern, but we recommend amending schedule 1 to reduce the lead-in period from 6 to 3 months.

Report of the Interim Psychoactive Substances Expert Advisory Committee

We received a report that was written by the chair of the Interim Expert Advisory Committee. We were advised that the report was agreed by consensus and that all members of the committee endorsed the report.

Possible increased demand on health services

We acknowledge that with the banning of some substances currently available there could be increased demand on mental health and drug and alcohol services, which health providers will need to make provision for.

Advice on the scope of the Psychoactive Substances Bill

Given that this area was controversial, we agreed that the advice dated 5 June 2013 should be recorded in the commentary:

Background

Standing Order 288(1) states that the committee may recommend only amendments that are relevant to the subject-matter of the bill, are consistent with the principles and objects of the bill, and otherwise conform to Standing Orders and practices of the House.

For an amendment to be within the scope of the bill, it must be relevant to the subject-matter and consistent with its principles and objects.

Purpose of the bill

The purpose of the bill is to "Regulate the availability of Psychoactive Substances in New Zealand".

Animal testing

On 26 April 2013 the committee was given advice on whether possible amendments prohibiting testing psychoactive substances on animals would be within the scope of the bill as referred by the House.

The advice of the Office of the Clerk was that possible amendments relating to the prohibition of animal testing of psychoactive substances would not be within the scope of the bill.

The purpose of the bill is to regulate the availability of Psychoactive Substances in New Zealand. To this end the bill provides for the approval of the importing, manufacture and sale of psychoactive substances.

The bill does not prescribe any design or testing stage, and the ethics of any testing regime is not relevant to the purpose of the bill. As such, possible amendments prohibiting testing psychoactive substances on animals are not related to the subject matter of the bill as introduced.

The issue has since then been raised with the Clerk of the House outside of the Health Committee.

The Clerk of the House confirmed the initial advice that amendments prohibiting testing psychoactive substances on animals were beyond the scope of the bill as the bill is about approval and licensing of the substances not their testing.

The Office can advise that an amendment to preclude the use of information derived from animal testing of psychoactive products in support of any application for approval may be in order.

An amendment setting out the types of information that may be used in the approval or licensing processes is not the same as providing for a testing regime or ruling out certain types of testing.

We considered whether or not to hear submissions regarding the use of animal testing in clinical trials of psychoactive products. A vote was held. Labour and Green and New Zealand First members voted in favour. National members voted against. The vote being tied, submissions were not heard.

Green Party minority view

The Green Party broadly endorses the Health Committee's commentary on the bill and the amendments that have been made. We believe this important bill has been substantially improved by the committee's work. Nonetheless, we have a significant reservation about the issue of possession of psychoactive substances by young people, which is unaddressed in the committee's commentary, and we have a very substantial concern about the harm that may be inflicted on animals.

Possession of psychoactive substances by young people

The bill as reported back creates an offence for any person under the age of 18 to be in possession of a psychoactive substance, whether approved or unapproved. The committee concluded, on balance, that the creation of an infringement offence for under-18s, analogous to that for alcohol, would enable young people at risk of harm to be con-

nected with agencies in a position to help reduce harm. The Green Party accepts that conclusion, but remains concerned that the existence of this offence might be used by some Police officers as a means of harassing and coercing some young people. The committee heard that this is not the Police intention, and the Green Party wants this to be recorded in the commentary on the bill so that when the Act is reviewed pursuant to Clause 87 the performance of the Police in relation to this possession offence is particularly scrutinised.

Animal testing

The introduction of a requirement that psychoactive substances are proven to be relatively safe before being sold in New Zealand inevitably creates the requirement for a whole new area of product safety testing. It is unsurprising that this has given rise to very significant concern from New Zealanders who oppose the cruel treatment of animals and who believe that testing of these products on animals in order to establish safety is unnecessary and, indeed, inferior to alternative methods. This view has widespread public support, as public opinion polls on the subject have demonstrated, and many individuals and organisations received encouragement from the Minister and others to express their concerns in submissions to the select committee.

However, on 8 May 2013 the Health Committee Chair ruled that all submissions received on the subject of animal testing were outside the scope of the bill, and these submissions were returned to those who made them without being considered. By a majority the committee decided to reject a Green Party motion to hear evidence from these submitters even if their submissions were out of scope. It is the Green Party's very strong view that both of these decisions were wrong.

The Clerk of the House had provided advice that amendments to the bill that sought to outlaw product testing on animals were out of scope. However, nearly all of the submissions that were rejected raised issues that could have been addressed by an amendment to the bill to prohibit the use of information derived from animal testing in an application for a licence. The Clerk has advised that such an amendment would clearly be in scope, and the Green Party believes that it was therefore manifestly wrong to refuse to hear public submissions on the matter.

Belatedly the committee did receive advice from the chair of the Interim Psychoactive Substances Expert Advisory Committee, which had been asked by the Minister to comment on the animal testing issues, but which also did not have access to the submissions that had been rejected by the Health Committee chair. That advice was that the interim committee does not believe substances can be established to be low risk without animal testing. This effectively introduces a requirement that there be animal testing data for licence applications, and this new requirement has been introduced entirely without any views from the general public, animal welfare organisations or experts (except those who happen to be on the interim committee).

The Green Party believes this to be profoundly unsatisfactory. In our view, with the initial decision to reject these submissions having been shown to be in error, the correct course of action would have been to reopen submissions on this specific matter.

In the absence of a select committee hearing these submissions, the Green Party invited those individuals and organisations who wished to have their voice heard to do so in a separate hearing. We found as follows:

Non-animal tests are available and more accurate

Evidence was heard that many countries do not use animal testing for pre-clinical trials for safety because the results from non-animal testing are more reliable. The New Zealand Anti-Vivisection Society (NZAVS) said that in 2008 the United States Environmental Protection Agency, the National Institute of Health, and the Food and Drug Administration started a process to replace all toxicology testing on animals with non-animal techniques to produce results that are more relevant to humans.

Submitters talked about other countries that use these non-animal testing programmes as a preference to animal testing. Evidence was presented that the data from animal testing was actually less reliable in safety testing than non-animal testing. It was argued that if the bill allows for the lower quality data from animal testing to be acceptable evidence of safety then human health would be put at risk.

NZAVS gave evidence about the Ministry of Health's proposed testing regime and outlined in detail the non-animal testing options that are available to provide an adequate, if not superior, guarantee of safety.

A safety testing regime would include four stages:

- manufacturing and controls information
- preclinical toxicology studies
- human clinical studies
- post registration surveillance

It is this pre-clinical testing where animal testing would be used.

The initially proposed pre-clinical testing involves four proposed parts, each of which has well regarded non-animal testing options.

Type of testing	Non-animal option
Acute toxicity	 Ames Test Neutral Red Uptake Assay In vitro micronucleus assay as required by Health Canada
	 3D models with cultured human cells Computer models
Repeat dose toxicity	• Various <i>in vitro</i> human cell line studies e.g. liver, lungs, bone marrow (tests for effects on the immune system)
	 Quantitative Structure- Activity Relationship (QSAR) computer mod- elling

Toxicokinetic investigations

- Cell line tests
- *In vitro* absorption tests e.g. Caco-2 cells
- Computer modelling
- *In vitro* assays on hepatocytes (liver cells)
- Physiologically Based Toxicokinetic (PBTK) modelling

Genotoxicity

- Ames test
- *In vitro* cell gene mutation test
- *In vitro* chromosomal aberration test
- *In vitro* cell micronucleus test

New Zealand's international reputation is at risk

It was argued by submitters that New Zealand is known as an innovative country with a reputation for good animal welfare. Submitters said that developing legislation which allows for unnecessary animal testing will damage this reputation, especially given that there is an international trend towards avoiding animal testing wherever possible. SAFE submitted that this is an opportunity to avoid risking our reputation and to enhance our reputation as an innovative and ethical country.

Submitters also gave evidence that other countries are looking to New Zealand's development of regulation of psychoactive substances as a potential model for their own regulation. Some of these countries also do not allow animal testing of recreational drugs. If they choose to follow the model developed in this bill as it stands they will adapt it to fit their bans on animal testing of recreational drugs.

NZAVS gave evidence gained from an Official Information Act request of correspondence between the chair of the National Animal Welfare Advisory Committee and her equivalent in the United King-

dom that showed the UK ban on animal testing would also apply to psychoactive substances.

Animal testing is ethically and morally questionable

One submission from an animal rescue organisation, Helping You Help Animals (HUHA), talked about the pain and discomfort that these sorts of tests inflict on animals. Their organisation was involved with rescuing dogs from an animal testing facility and they witnessed serious damage and harm to those animals.

They spoke about their experiences of working with some people who carry out animal testing who had been overexposed to animal suffering and had lost their empathy when it came to the animals under their care.

Submitters told the hearings that unless it was ruled out in the bill, then animal testing would most likely be carried out in other countries, some of which have no animal welfare regulations and so the conditions can be assumed to be worse.

A number of countries already ban non-medical animal testing from an ethical standpoint. Toxicity testing is particularly painful experimentation. Submitters argued that the consideration of this bill is the chance for New Zealand to draw an ethical line on this issue.

Cost implications of non-animal testing

The cost of alternatives to animal testing is significantly higher. Because the cost of safety testing for a product will be carried by the manufacturers, not the Government, submitters argued that this higher cost of non-animal testing creates an incentive for animal testing to be used.

In fact, the point was made that if the bill does not rule out the use of data from animal testing then the cost difference will ensure that manufacturers use the cheapest method to provide evidence, and that will be animal testing regardless of the quality of that evidence.

Submitters spoke about the dominance of animal testing in the industry in New Zealand—it is the norm, rather than a last resort. Evidence was received to show that this is also the case in some countries such as China where a large amount of contract animal testing is undertaken.

There was evidence presented by submitters that, if data from animal testing is ruled out, businesses will adapt their practices and the cost of non-animal testing will drop as demand for these tests increases and capacity to undertake these tests develops.

Recommendation

The Green Party recommends that an amendment should be made to the Psychoactive Substances Bill to exclude the use of new information gained through animal testing as evidence in determining the safety of an application.

New Zealand First Party minority view

New Zealand First does not support the use of the many dangerous psychoactive substances that are legally available for purchase.

We know that these synthetic drugs are devastating the lives of many of our young people and unfortunately, research into the consumption of these on a long term basis has not been carried out.

New Zealand First accepts that this bill is the beginning of some control upon psychoactive drug manufacturers and distributors. We would advise that New Zealand closely monitor overseas jurisdictions where this issue is also being reviewed.

New Zealand First believes that these substances should be banned.

Appendix

Committee process

The Psychoactive Substances Bill was referred to the Health Committee on 9 April 2013. The closing date for submissions was 1 May 2013. We received and considered 122 submissions from interested groups and individuals. We heard 27 submissions in Wellington. We received advice from the Ministry of Health, the Ministry for

We received advice from the Ministry of Health, the Ministry for Justice, and the New Zealand Police. The Regulations Review Committee reported to the committee on the powers contained in clauses 81, 82, and 83.

Committee membership

Dr Paul Hutchison (Chairperson) Shane Ardern

Paul Foster-Bell

Kevin Hague

Hon Annette King

Iain Lees-Galloway

Scott Simpson

Barbara Stewart

Louisa Wall

Dr Jian Yang

Key to symbols used in reprinted bill

As reported from a select committee

text inserted unanimously text deleted unanimously

Hon Tony Ryall

Psychoactive Substances Bill

Government Bill

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	Schedule 1 83 Transitional provision
	Schedule 2 85 Consequential amendments and revocation
The P	Parliament of New Zealand enacts as follows:
1	Title This Act is the Psychoactive Substances Act 2013.
2	Commencement This Act comes into force on 4 August 2013 on the day after the date on which it receives the Royal assent.
	Part 1
	Preliminary provisions Subpart 1—Preliminary matters
3	Purpose The purpose of this Act is to regulate the availability of psychoactive substances in New Zealand to protect the health of, and minimise harm to, individuals who use psychoactive substances.
4	Principles In performing functions or duties or exercising powers (either individually or collectively) under this Act, a person or body must take into account the following principles to the extent that they are relevant to those functions, duties, or powers:
	(a) a psychoactive product that is approved for use by individuals should pose no more than a low risk of harm to individuals <u>using</u> <u>who use</u> it:
	 (b) before a psychoactive product can be approved for use by individuals, the degree of harm posed by the product to individuals who use it should be assessed by the Authority on the basis of— (i) the advice of an expert advisory committee; and
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(ii) evidence, including the results of preclinical and clinical trials:
 (ba) a psychoactive product that poses no more than a low risk of harm to individuals who use the product should be approved:

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- (c) a psychoactive product that poses more than a low risk of harm to individuals using the product who use the product should be prohibited:
- (d) a psychoactive product that has not been approved by the Authority should be prohibited, on a precautionary 10 basis, until it has been assessed by the Authority and the Authority is satisfied that it poses no more than a low risk of harm to individuals who use it.

5 Application of Act

- (1) This Act applies to the importation, manufacture, sale, supply, or possession of a psychoactive substance for the primary purpose of inducing a psychoactive effect in an individual using who uses the substance.
- (2) **Schedule 1** contains a transitional provision that affects this Act's other provisions as from time to time amended, repealed, or repealed and replaced (*see* **section 88**).

6 Overview

- (1) In this Act,—
 - (a) this Part—
 - (i) sets out the purpose of this Act and the principles 25 on which it is based:
 - (ii) provides that this Act binds the Crown:
 - (iii) defines terms used in this Act, including the key term psychoactive substance:
 - (iv) establishes the Psychoactive Substances Regulatory Authority and the Psychoactive Substances
 Expert Advisory Committee:
 - (b) **Part 2** authorises the Authority to issue licences for the importation, manufacture, and sale of psychoactive substances and to approve psychoactive products and 35 also deals with related matters, including—

- (i) creating offences relating to the importation, manufacture, sale, and supply of psychoactive substances without a licence or in breach of licence conditions:
- (ii) a requirement for the Authority to issue a code of 5 manufacturing practice relating to psychoactive substances:
- (iii) the process for appeals against decisions of the Authority:
- (c) **Part 3** relates to the control of approved products, creates offences relating to the sale and supply of psychoactive substances that are not approved products, and <u>also</u> deals with other regulatory matters, including—
 - (i) age restrictions and place-of-sale restrictions on 15 the sale of approved products:
 - (ii) advertising, labelling, and packaging restrictions and requirements for approved products:
 - (iii) health-warning requirements for approved products:
 - (iv) signage, storage, and display restrictions and requirements for approved products:
 - (v) <u>creating</u> offences relating to the sale of approved products by or to persons under the age of 18 years and the possession of psychoactive substances without a licence:
 - (vi) the relationship between this Act and other enactments:
 - (vii) authorising the Authority to recall approved products in certain circumstances: 30
 - (viii) requiring the Ministry of Health to conduct a review of the policy and operation of this Act after 5 years no later than 5 years after the commencement of this Act:
 - (ix) providing for the circumstances in which psychoactive substances that were being lawfully sold throughout the period of 6 months before the commencement of this Act may continue to be sold if certain conditions are met:

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25

		(x) amending other enactments.	
(2)	and	section is only a guide a guide only to the general scheme effect of this Act and does not limit or affect the other isions of this Act.	
7	Act	binds the Crown	5
,		Act binds the Crown.	5
		Subpart 2—Interpretation	
		General	
8	Inte	rpretation	
		is Act, unless the context otherwise requires,—	10
		erse reaction means—	
	(a)	an unwanted or harmful reaction experienced by an in-	
		dividual who has used a psychoactive substance or an	
		approved product; and	
	<u>(b)</u>	that is suspected to have arisen from, or be related to,	15
		the use of the substance or product	
		ertising—	
	(a)	means any words, whether written, printed, or spoken,	
		and any pictorial representation or design, used or ap-	20
		pearing to be used to promote the sale of an approved	20
		product (for example, a sign, publication, or leaflet); and	
	(b)	includes any matter referred to in paragraph (a) that is	
	()	represented in an electronic or digital medium	
		sory committee means the Psychoactive Substances Ex-	25
		Advisory Committee established by section 11	
		hol has the same meaning as in section 5(1) of the Sale	
		Supply of Alcohol Act 2012	
		eals committee means the Psychoactive Substances Aps Committee established by section 42	30
		roved evidence of age document has the same meaning section 5(1) of the Sale and Supply of Alcohol Act 2012	
	appı	roved evidence of age system has the same meaning as in	
	secti	on 5(1) of the Sale and Supply of Alcohol Act 2012	

approved product means a product approved by the Authority under section 35 that is or contains 1 or more psychoactive substances		
Authority means the Psychoactive Substances Regulatory Authority established by section 10	5	
code of manufacturing practice or code means a code of practice, relating to the manufacture of psychoactive substances, issued under section 27		
constable has the same meaning as in section 4 of the Policing Act 2008	10	
Customs officer has the same meaning as in section 2(1) of the Customs and Excise Act 1996		
distributor means a person engaged in the business of selling approved products otherwise than at retail only		
district, in relation to a territorial authority, has the same meaning as in section 5(1) of the Local Government Act 2002	15	
enforcement officer means a person appointed by the Authority under section 68		
evidential material has the same meaning as in section 3(1) of the Search and Surveillance Act 2012		
hazardous substance has the same meaning as in section 2(1) of the Hazardous Substances and New Organisms Act 1996		
<u>individual</u> means a natural person, other than a deceased natural person		
importation and importer have the same meanings as in section 2(1) of the Customs and Excise Act 1996		
Internet sale , in relation to an approved product, means a sale (whether by retail or <u>by</u> wholesale) of the approved product pursuant to a contract that—		
(a) has been entered into using the Internet <u>and</u> between— (i) a seller whose business is or includes offering the product for sale (whether by retail or wholesale); and	30	
(ii) a person (whether the purchaser or a person acting on the purchaser's behalf) who is at a distance from the seller's place of business; and	35	

(b)	contains a term providing for the product to be delivered by or on behalf of the seller to, or to a place or person chosen by, the purchaser	
labe	l includes any written, pictorial, or other descriptive mat-	
	nat—	5
(a)	relates to an approved product; or	
(b)	appears on, is attached to, or is associated with the ap-	
	proved product	
licen	ce means the following licences:	
(a)	a licence to manufacture:	10
(b)	a licence to import:	
(c)	a licence to sell	
	nce to import, licence to manufacture, and licence to sell n, in each case, a licence granted under section 15	
	ice means a licence granted under section 15 that is in	15
force		
man	ufacture , in relation to a psychoactive substance or an	
	oved product,—	
(a) (b)	means to make up, prepare, produce, or process the substance or product for the purpose of sale; and includes packaging the substance or product for the purpose of sale	20
turer	ufacturer includes any company with which a manufacis associated within the meaning of subpart YB of the me Tax Act 2007	25
Prim	ister means the Minister who is, with the authority of the e Minister, for the time being responsible for the adminition of this Act	
thori	istry means the department of State that is, with the auty of the Prime Minister, for the time being responsible administration of this Act	30
<u>min</u>	or means a person under the age of 18 years	
	Zealand resident has the same meaning as in section 1 or YD 2 of the Income Tax Act 2007	
	e includes any building, conveyance, craft, land, or struc-	35

possess , in relation to a psychoactive substance, includes a psychoactive substance that is subject to a person's control but that is in the custody of another person				
prescribed monitoring agency means the agency specified in				
the regulations as the agency to whom adverse reactions must be reported	5			
private premises has the same meaning as in section 3(1) of				
the Search and Surveillance Act 2012				
psychoactive effect, in relation to an individual who is using				
or has used a psychoactive product, means the effect of the	10			
product on the individual's mind				
psychoactive product or product means a finished product				
packaged and ready for retail sale that is a psychoactive sub-				
stance or that contains 1 or more psychoactive substances				
psychoactive substance has the meaning given in section 9	15			
public health has the same meaning as in section 6(1) of the New Zealand Public Health and Disability Act 2000				
regulations means regulations made under this Act				
retailer means a person engaged in any business that includes				
the sale of approved products at by retail				
retail premises means premises for which a licence to sell				
approved products by retail has been granted				
sell includes every method of disposition for valuable consid-				
eration, for example,—	25			
(a) bartering:(b) offering or attempting to sell or having in possession	23			
(b) offering or attempting to sell or having in possession for sale, or exposing, sending, or delivering for sale, or				
causing or allowing to be sold, offered, or exposed for				
sale:				
(c) retailing:	30			
(d) wholesaling				
special consultative procedure has the same meaning as in				
section 5(1) of the Local Government Act 2002				
supply—				
(a) includes distribute or give; but	35			
(b) does not include sell				

af +1a	torrar e	authority has the same meaning as in section 5(1)		
or m	e Local	l Government Act 2002		
use,	in relat	tion to a psychoactive substance,—		
(a) means use by an individual; and				
(b)	includes—			
	(i)	ingesting, inhaling, injecting, or being administered the psychoactive substance:		
	(ii)	any other method of inducing an a psychoactive effect from the psychoactive substance.		
unde used	r a per for the	ans any conveyance that is capable of being moved rson's control, whether or not the conveyance is carriage of persons or goods, and includes a motor craft, train, ship, or bicycle	1	
		means a person engaged in any business that in-		
		ale of approved products by wholesale.	1	
	1.7			
	Me	aning of psychoactive substance		
Mea	ning of	f psychoactive substance		
In th	is Act,	unless the context otherwise requires, psychoac-		
		diffess the content other was requires, psycholic		
tive :	substa			
tive :	substa mean or thi	nce— is a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect	4	
	mean or thi	nce— is a substance, mixture, preparation, article, device, ing that is capable of inducing a psychoactive effect iny means) in an individual who uses the psychoac-	2	
(a)	mean or thi (by ar tive s	ns a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect ny means) in an individual who uses the psychoactubstance; and	2	
	mean or thi (by an tive s	nce— is a substance, mixture, preparation, article, device, ing that is capable of inducing a psychoactive effect ny means) in an individual who uses the psychoactive substance; and des—		
(a)	mean or thi (by ar tive s	ns a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect ny means) in an individual who uses the psychoactubstance; and		
(a)	mean or thi (by a tive s inclu- (i)	ns a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect my means) in an individual who uses the psychoactubstance; and des— an approved product: a substance, mixture, preparation, article, device,		
(a)	mean or thi (by a tive s inclu- (i)	ns a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect my means) in an individual who uses the psychoactubstance; and des— an approved product: a substance, mixture, preparation, article, device, or thing that is, or that is of a kind or belonging to		
(a)	mean or thi (by a tive s inclu- (i)	ns a substance, mixture, preparation, article, device, ng that is capable of inducing a psychoactive effect ny means) in an individual who uses the psychoactubstance; and des— an approved product: a substance, mixture, preparation, article, device, or thing that is, or that is of a kind or belonging to a class that is, declared by the Governor-General	2	
(a)	mean or thi (by ar tive s inclus (i) (ii)	is a substance, mixture, preparation, article, device, ing that is capable of inducing a psychoactive effect my means) in an individual who uses the psychoactubstance; and des— an approved product: a substance, mixture, preparation, article, device, or thing that is, or that is of a kind or belonging to a class that is, declared by the Governor-General by Order in Council made under section 81 to be a psychoactive substance for the purposes of	2	
(a) (b)	mean or thi (by ar tive s inclus (i) (ii)	is a substance, mixture, preparation, article, device, ing that is capable of inducing a psychoactive effect my means) in an individual who uses the psychoactubstance; and des— an approved product: a substance, mixture, preparation, article, device, or thing that is, or that is of a kind or belonging to a class that is, declared by the Governor-General by Order in Council made under section 81 to be a psychoactive substance for the purposes of this Act; but	,	

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(iii)	a medicine as defined in section 3 of the Medicines Act 1981 or a related product as de-	
	fined in section 94 of that Act:	
(iv)	a herbal remedy (as defined in section 2(1) of the Medicines Act 1981):	5
(v)	a dictary supplement (as defined in regulation 2A of the Dictary Supplements Regulations 1985):	J
(vi)	any food (as defined in section 2 of the Food Act 1981):	
(vii)	any alcohol (as defined in section 5(1) of the Sale and Supply of Alcohol Act 2012), unless the alcohol contains a psychoactive substance within the meaning of paragraph (a) or (b) that is not	10
	alcohol:	
(viii)		15
	(b) that is not tobacco:	
(ix)	a substance, mixture, preparation, article, device, or thing that is, or that is of a kind or belonging to a class that is, declared by the Governor-General	20
	by Order in Council made under section 81 not	
	to be a psychoactive substance for the purposes	
	of this Act.	25
Compare: 200	5 No 81 s 31	
Maaning	f narrahaaatirra arrhatanaa	

Meaning of psychoactive substance

<u>9</u> (1) In this Act, unless the context otherwise requires, psychoactive substance means a substance, mixture, preparation, article, device, or thing that is capable of inducing a psychoactive 30 effect (by any means) in an individual who uses the psychoactive substance.

(2) Psychoactive substance includes—

- an approved product: (a)
- (b) a substance, mixture, preparation, article, device, or 35 thing that is, or that is of a kind or belonging to a class that is, declared by the Governor-General by Order in

<u>(3)</u>

	does	not include—	
	(a)	a controlled drug specified or described in Schedule 1,	5
		2, or 3 of the Misuse of Drugs Act 1975:	
	<u>(b)</u>	a precursor substance specified or described in Schedule	
		4 of the Misuse of Drugs Act 1975:	
	<u>(c)</u>	a medicine within the meaning of section 3 of the	
		Medicines Act 1981 or a related product within the	10
		meaning of section 94 of that Act:	
	<u>(d)</u>	a herbal remedy (within the meaning of section 2(1) of	
		the Medicines Act 1981):	
	<u>(e)</u>	a dietary supplement (within the meaning of regulation	
		2A of the Dietary Supplements Regulations 1985):	15
	<u>(f)</u>	any food (within the meaning of section 2 of the Food	
		<u>Act 1981):</u>	
	<u>(g)</u>	any alcohol, unless the alcohol contains a psychoactive	
		substance as defined in subsection (1) or (2) that is	
		not alcohol:	20
	<u>(h)</u>	any tobacco product (within the meaning of section 2(1)	
		of the Smoke-free Environments Act 1990), unless the	
		tobacco product contains a psychoactive substance as	
		defined in subsection (1) or (2) that is not tobacco:	
	<u>(i)</u>	a substance, mixture, preparation, article, device, or	25
		thing that is, or that is of a kind or belonging to a class	
		that is, declared by the Governor-General by Order in	
		Council made under section 81 not to be a psychoac-	
		tive substance for the purposes of this Act.	2.0
	Compa	are: 2005 No 81 s 31	30
		Subpart 3—Key regulatory roles	
10	Psycl	hoactive Substances Regulatory Authority	
(1)	This	section establishes the Psychoactive Substances Regula-	
	tory A	Authority.	

The Authority is the Director-General of Health.

The office of the Authority must be administered by the Min-

35

Council made under **section 81** to be a psychoactive

Despite subsections (1) and (2), psychoactive substance

substance for the purposes of this Act.

(2)

(3)

istry.

11	Psyc	hoactive Substances Expert Advisory Committee	
(1)	This section establishes the Psychoactive Substances Expert		
	Advi	sory Committee.	
(2)	The f	functions of the advisory committee are—	
` /	(a)	to evaluate, with regard to the results of preclinical and	5
		clinical trials, psychoactive products to assess whether	
		they should be approved for use by individuals; and	
	(b)	to advise the Authority about whether a psychoactive	
		product should or should not be approved for use by	
		individuals; and	10
	(c)	to increase public awareness of the advisory commit-	
		tee's work in relation to psychoactive substances, for	
		example, by the timely release of papers, reports, and	
		recommendations.	
(2A)	For the	he purposes of subsection (2)(b) , the matters that advi-	15
		committee must have regard to in advising the Authority	
	inclu		
	<u>(a)</u>	the specific effects of the product, including pharmaco-	
		logical, psychoactive, and toxicological effects; and	
	<u>(b)</u>	the risks, if any, to public health; and	20
	<u>(c)</u>	the potential for use of the product to cause death; and	
	<u>(d)</u>	the ability of the product to create physical or psycho-	
	()	logical dependence; and	
	<u>(e)</u>	the likelihood of misuse of the product; and	2.5
	<u>(f)</u>	the potential appeal of the product to vulnerable popu-	25
	(a)	lations; and	
(2)	(g)	any other matters that the Authority considers relevant.	
(3)		advisory committee may comprise up to 6 members who	
		een them must have appropriate expertise in—	20
	(a)	pharmacology: and	30
	(b)	toxicology÷; and neurosciences÷; and	
	(c) (d)	medicine; and	
	(u) (e)	any other areas the Authority considers relevant.	
(4)	` '	•	25
(4)		Authority may appoint members of the advisory commit-	35
(5)		n any terms and conditions that the Authority thinks fit.	
(5)		Authority must appoint 1 member as chairperson of the	
	advis	ory committee.	

(6)		Authority must consult the Minister before making an apment to the advisory committee.	
(7)	The A	Authority may give terms of reference— on for the advice that the advisory committee provides to the Authority:	5
	(b)	on for the use of external experts to assist the advisory committee.	
(8)	The a	advisory committee may, subject to any provision of this	
	Act o	or regulations, determine its own procedure.	
<u>(9)</u>		rforming its functions under this Act, the advisory come must—	10
	(a)	act independently; and	
	<u>(b)</u>	comply with the principles of natural justice.	
<u>11A</u>		of advisory committee relating to use of animals	
		evaluating psychoactive product for approval	15
<u>(1)</u>		rforming the function set out in section 11(2)(a), the	
		ory committee must, having particular regard to the	
		iple in section 4(a) and the likelihood for psychoactive	
		acts to be used by young adults, comply with subsec-	20
(2)		s (2) and (3).	20
<u>(2)</u>		advisory committee must ensure that any preclinical or	
		eal tests (whether undertaken in New Zealand or over-	
		that relate to a psychoactive product do not rely on any	
		rch, testing, or teaching that involves the use of an animal	25
(2)		table alternatives exist.	25
<u>(3)</u>		advisory committee must ensure that, if any preclinical	
		or clinical trials (whether undertaken in New Zealand	
		erseas) that relate to a psychoactive product include re-	
		h, testing, or teaching that involves the use of an animal,	30
		are based on the relevant International Conference on	30
	<u>(a)</u>	are based on the relevant International Conference on Harmonisation Guidelines (as amended from time to	
		time); and	
	(b)	if undertaken in New Zealand, comply with the restric-	
	<u>(U)</u>	tions on the use of animals in research, testing, or teach-	35
		ing set out in Part 6 of the Animal Welfare Act 1999; and	

if undertaken overseas, comply with restrictions on the

<u>(c)</u>

		use o	f animals in research, testing, or teaching that are	
		<u>equiv</u>	valent to or exceed those set out in Part 6 of the	
		Anim	nal Welfare Act 1999; and	
	<u>(d)</u>	are p	eriodically reviewed to ensure there is up to date	5
		<u>analy</u>	sis of available alternatives with an aim to—	
		<u>(i)</u>	reducing the number of animals used in research,	
			testing, and teaching to the minimum necessary;	
			<u>and</u>	
		<u>(ii)</u>	refining the techniques used in any research, test-	10
			ing, and teaching so that any harm caused to ani-	
			mals is minimised; and	
		<u>(iii)</u>	replacing animals as subjects for research and	
			testing of psychoactive products as further in-	
			formation becomes available (whether in New	15
			Zealand or overseas).	
<u>(4)</u>			on, animal has the same meaning as in section 2(1)	
	of the	Anim	nal Welfare Act 1999.	
			Part 2	
	Ps	sycho	active substances and approved	20
		•	products	
	Sub	nart 1	L—Licences to import, manufacture,	
		-	n, and sell psychoactive substances	
			Applications for licence	
12	Annl	ication	1 for licence	25
(1)			who is a New Zealand resident may apply to the	23
(1)	-		or 1 or more of the following licences:	
	(a)	-	ence to import a psychoactive substance:	
	(b)		nee to manufacture a psychoactive substance:	
	(c)		nee to sell a psychoactive substance that is not an	30
	(0)		oved product.	50
<u>(1)</u>	A nei		who is a New Zealand resident may apply to the	
(1)	_		or 1 or more of the following licences:	
	(a)	-	ence to import psychoactive substances:	
	(b)		ence to manufacture psychoactive substances:	35
	(c)		ence to research psychoactive substances:	
	\		, , , , , , , , , , , , , , , , , , , ,	

		icence to sell psychoactive substances that are not	
		proved products:	
		cence to sell approved products by retail:	
(2)		cence to sell approved products by wholesale.	_
(2)		cation must—	5
		made to the Authority in a form or manner approved the Authority; and	
	(b) be	accompanied by—	
	(i)	any particulars, information, documents, or other material required by the Authority and prescribed in the regulations; and	10
	(ii)	the prescribed fee (if any).	
13 (1)	The Auth	y may refuse to process application for licence ority may refuse to process an application for a lihe application does not comply with section 12.	15
(2)		1.	13
(2)		thority refuses to process an application under sub- (1), the Authority must give the applicant written no-	
	•	e refusal and the reasons for it.	
	tice of the	refusar and the reasons for it.	
14	Authority	y may request further information, etc	
(1)	The Author further pa	ority may request an applicant for a licence to supply articulars, information, documents, or other material ciding whether or not to grant a licence.	20
(2)		ation for a licence lapses if the <u>further</u> particulars, in- a, documents, or other material requested is not sup- nin—	25
	(a) 30	days after the date of the request; or	
		further time that the Authority may allow by written ice to the applicant.	
		Granting of licence	
15	Grounds	for granting licence	30
(1)		ority must grant a licence if the Authority is satisfied	
	that,—		
	` '	the application has been made in the form or man- required by section 12 ; and	

misleading information; and

(b)

(c)

that the application does not contain materially false or

that the applicant is a fit and proper person to hold the

	licence.	
<u>(c)</u>	for an application made by an individual, the applicant	5
(d)		
	the body corporate is of good repute.	
In det	termining under subsection (1)(c) whether an applicant	
		10
take i	nto account—	
(a)	whether the applicant has been convicted of a relevant	
	offence; and	
(b)		
		15
(c)	· · · · · · · · · · · · · · · · · · ·	
	11 1	
(4)		20
	·	20
	~	
(D)		25
		25
(a)	· · · · · · · · · · · · · · · · · · ·	
(6)		
	of the Crimes Act 1901).	
	Conditions of licence	
Com	-	30
		30
	· · · · · · · · · · · · · · · · · · ·	
		35
(0)		33
	z.mee to de importes, unu	
	21	
	(d) In det is a fit take is (a) (b) (c) (d) For t mean (a) (b) (c) Complete is a must,	is a fit and proper person to hold the licence; and (d) for an application made on behalf of a body corporate, the body corporate is of good repute. In determining under subsection (1)(c) whether an applicant is a fit and proper person to hold a licence, the Authority must take into account— (a) whether the applicant has been convicted of a relevant offence; and (b) whether there has in the past been a serious or repeated failure by the applicant to comply with any requirement of this Act; and (c) whether there are other grounds for considering that the applicant is likely in the future to fail to comply with any requirement of this Act; and (d) any other matter that the Authority considers relevant. For the purposes of subsection (2)(a), relevant offence means— (a) an offence against this Act; or (b) an offence against the Misuse of Drugs Act 1975 or the Misuse of Drugs Amendment Act 2005 or any regulations made under those Acts; or (c) a crime involving dishonesty (as defined in section 2(1) of the Crimes Act 1961). Conditions of licences It is a condition of a licence to import that the licence holder must, before each importation of a psychoactive substance by the licence holder, advise the Authority of the importation; and (b) provide to the Authority particulars of— (i) the name and quantity of the psychoactive substance to be imported; and

	(ii) the intended date of the importation.	
(2)	It is a condition of a licence to manufacture that the licence holder must comply with the code of manufacturing practice at all times.	
(3)	It is a condition of a licence to sell that the licence holder must not sell or supply a psychoactive substance that is not an approved product in New Zealand except to a person who holds a licence to manufacture.	5
<u>(3)</u>	It is a condition of a licence to sell psychoactive substances that are not approved products that the licence holder may only sell psychoactive substances in New Zealand to a person who holds a licence to manufacture psychoactive substances.	10
(4)	It is a condition of every licence that the licence holder must— (a) keep, in some place of security at the licence holder's place of business, any records required to be kept by the licence holder by the regulations; and	15
	(b) retain those records for the period of time prescribed in the regulations.	
<u>(5)</u>	It is a condition of every licence that the licence holder must, before any exportation of a psychoactive substance by the licence holder,— (a) advise the Authority of the exportation; and (b) provide to the Authority particulars of—	20
	(i) the name and quantity of the psychoactive substance to be exported; and (ii) the intended date of the exportation.	25
17	Discretionary conditions of licence	
(1)	The Authority may, when granting a licence, impose any other conditions on the licence in addition to a relevant condition specified in section 16 that the Authority thinks fit.	30
(2)	If a licence holder asks the Authority for the reasons for im-	

posing conditions on the licence under **subsection (1)**, the Authority must, as soon as practicable, provide written rea-

sons.

Duration of licence

18 Duration of licence

A licence remains in force for 3 years after the date that it is granted unless—

- (a) the Authority specifies a shorter period for the licence; 5 or
- (b) it is sooner cancelled or surrendered under this subpart.

Licence not transferable

19 Licence may not be transferred

A licence may not be transferred to, or vest by operation of 10 law in, a person other than the person who applied for <u>and was</u> granted the licence.

Refusal of licence

20 Refusal to grant licence

- (1) If the Authority proposes to refuse to grant a licence, the Authority must give the applicant—
 - (a) written notice that clearly informs the applicant of the grounds for the proposed refusal; and
 - (b) a reasonable opportunity to make written submissions.
- (2) If, after considering any submissions provided by the applicant 20 under **subsection (1)(b)**, the Authority decides to refuse to grant the licence, the Authority must, as soon as practicable, give the applicant written notice of—
 - (a) the decision and the reasons for it; and
 - (b) the applicant's right to appeal the decision under **sec-** 25 **tion 43**.

Suspension, cancellation, and surrender of licence

21 Suspension or cancellation of licence

- (1) The Authority may suspend or cancel a licence if the Authority is satisfied, at any time after the licence has been granted, that—
 - (a) the licence holder supplied information in the application for the licence that is materially false or misleading:

(2)

(3)

(4)

22 (1)

(2)(3)

23

(1)

(b) the licence holder has breached any conditions of the licence:	
(c) the licence holder is failing, or has failed, to comply with any relevant requirement of this Act or any regu-	
lations made under this Act the regulations: (d) the licence holder has ceased to be a fit and proper person to hold the licence.	5
The Authority may suspend a licence under subsection (1),	
for a period of time that is reasonable in the circumstances, to	
enable the Authority to consider whether to cancel the licence.	10
The Authority may cancel a licence under subsection (1)	
only after—	
(a) giving the licence holder a reasonable opportunity to be heard; and	
(b) considering any evidence provided by the licence holder; and	15
(c) considering submissions made to it by the licence holder.	
If a licence holder asks the Authority for the reasons for the suspension or cancellation of the licence, the Authority must, as soon as practicable, provide written reasons. Compare: 1981 No 118 s 51(6), (7)	
Surrender of licence	
If a licence holder ceases to undertake the activity to which a licence relates, the licence holder must, within 30 days of ceasing to undertake the activity, surrender the licence to the Authority.	25
•	
A licence holder may surrender a licence at any other time.	
On receiving a licence under subsection (1) or (2) , the Authority must cancel the licence.	30
Offences relating to licences	
Offence relating to application for licence	
A person commits an offence in respect of an application for	

a licence if the person provides information that the person knows, or ought to have known, is false or misleading in any 35

material respect.

(2)	A person who commits an offence against subsection (1) is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding \$500,000, or both.	
24	Offence relating to importation of psychoactive substance without licence	5
(1)	A person must not, without reasonable excuse, import a psychoactive substance without a licence to import.	
(2)	 A person who contravenes subsection (1) commits an offence and is liable on conviction,— (a) in the case of an individual, to a term of imprisonment not exceeding 2 years: (b) in the case of a body corporate, to a fine not exceeding \$500,000. 	10
25 (1)	Offence relating to manufacture of psychoactive substance without licence A person must not, without reasonable excuse, manufacture a psychoactive substance without a licence to manufacture.	15
(2)	A person who contravenes subsection (1) commits an offence and is liable on conviction,— (a) in the case of an individual, to a term of imprisonment not exceeding 2 years: (b) in the case of a body corporate, to a fine not exceeding \$500,000.	20
26	Offence relating to import, manufacture, sale, or supply of psychoactive substance in breach of licence conditions	25
(1)	A person must not import a psychoactive substance in breach of any conditions of a licence to import.	
(2)	A person must not manufacture a psychoactive substance in breach of any conditions of a licence to manufacture.	
(3)	A person must not sell or supply a psychoactive substance that is not an approved product in breach of any conditions of a licence to sell.	30

A person who contravenes subsection (1), (2), or (3) commits an offence and is liable on conviction to a term of im-

(4)

prisonment not exceeding 3 months or a fine not exceeding \$500,000 or both

Offence relating to importation, manufacture, research,	
or sale in breach of licence conditions	
A person who holds a licence to import psychoactive sub-	5
stances must not import a psychoactive substance in breach	
of any conditions of the licence.	
A person who holds a licence to manufacture psychoactive	
substances must not manufacture a psychoactive substance in	
breach of any conditions of the licence.	10
A person who holds a licence to research must not conduct	
any research activity with a psychoactive substance in breach	
of any conditions of the licence.	
A person who holds a licence to sell approved products by	
retail must not sell an approved product in breach of any con-	15
ditions of the licence.	
A person who holds a licence to sell approved products by	
wholesale must not sell an approved product in breach of any	
conditions of the licence.	
A person who holds a licence to sell psychoactive substances	20
that are not approved products must not sell a psychoactive	
substance in breach of any conditions of the licence.	
A person who contravenes subsection (1), (2), (3), (4), (5),	
or (6) commits an offence and is liable on conviction to a	
term of imprisonment not exceeding 3 months or a fine not	25
exceeding \$500,000, or both.	
Further provisions relating to manufacture of psychoactive substances	
Code of manufacturing practice	
The Authority must issue a code of manufacturing practice relating to the manufacture of psychoactive substances.	30
The code must come into force no later than 1 year 6 months	
after the commencement of this Act.	
In developing the code and any amendments to it, the Authority must—	35

be guided by the principles of this Act:

consult with persons or organisations that the Authority

(a)

(b)

	(-)	considers to be representative of the interests of persons likely to be affected by the code or the proposed amendments to it.	5
(4)		Authority must ensure that the code, and any amendment e code,—	
	(a) (b)	specifies the date on which it takes effect: is published on an Internet site maintained by, or on behalf of, the Authority:	10
	(c)	is available for purchase in hard copy, at a reasonable cost, from the Authority.	
28	Audi	it of manufacturing facilities	
(1)	choa	section applies to a manufacturing facility in which a psyctive substance is being manufactured under a licence to afacture.	15
(2)	ity co	he purpose of assessing whether the manufacturing facil- omplies with the code and, if applicable, any conditions e licence to manufacture, the Authority may do 1 or both e following: conduct an audit of the manufacturing facility at any	20
	(b)	time: to the extent that the Authority considers applicable, recognise an audit of the manufacturing facility con- ducted by another person under another enactment or for any other purpose.	25
(3)	in an	Authority may conduct an audit under subsection (2)(a) y manner that the Authority considers is appropriate and istent with the principles of this Act.	
29 (1)	The ato en hours	Authority may authorise a person (an authorised person) ater a manufacturing facility during the normal business of the facility and <u>to</u> exercise any power set out in this on for the purpose of—	30
	(a)	assessing an application for a licence to manufacture; or	35
		27	

	(b)	assessing whether the manufacturing facility is complying with the code of manufacturing practice or any conditions of a licence to manufacture.	
(2)	For t	the purpose of subsection (1)(a) or (b), an authorised	
	perso	on may—	5
	(a)	open containers and packages and inspect the contents:	
	(b)	request, gather, or secure evidence, take samples of any psychoactive substances, and test or analyse or arrange for the testing or analysis of such samples:	
	(c)	inspect, inquire about, or copy any documents or other records (including documents or other records in an electronic form) relating to the obligations imposed under this Act or the regulations:	10
	(d)	remove any documents or other records (including documents or other records in an electronic form) from the manufacturing facility for the purpose of taking copies of the documents or records.	15
(3)	An a	uthorised person must provide—	
	(a)	evidence of his or her authorisation to the person in charge of the manufacturing facility at the time when the person first enters the facility, and at any later time at the request of the person in charge; and	20
	(b)	to the person in charge of the manufacturing facility a list of any items that have been removed from the facility.	25
(4)	The A	Authority must ensure that—	
	(a)	any items (except a sample) that have been removed from the facility under this section are retained only for as long as is necessary to achieve the purpose for which they were removed; and	30
	(b)	any property (except a sample) that has been removed is maintained, cared for, and secured during the period of its removal.	
(5)	An at speci	uthorisation under subsection (1) must be in writing and ify—	35
	(a)	a reference to this section; and	
	(b)	the full name of the authorised person; and	
	(c)	a statement of the powers conferred on that the authorised person under this section; and	

	(d) the reasons for the audit of the manufacturing facility.	
(6)	For the purposes of subsection (1) , enter a manufacturing facility includes to go on, into, under, or over the manufacturing facility.	
30	Authority may issue compliance notice The Authority may issue a compliance notice to any person	5
	whose manufacturing facility has been audited under section 29 that requires the person to do, or refrain from doing, within a specified time, a particular thing that affects the person's compliance with the code of manufacturing practice or any	10
	condition of the person's licence to manufacture.	
	Subpart 2—Approved products	
	Applications for approval	
31	Application for approval	
(1)	A person who is a New Zealand resident may apply to the Authority for approval of a psychoactive product as an approved product.	15
(2)	The application must—	
(-)	(a) be made to the Authority in a form or manner approved	
	by the Authority; and	20
	(b) be accompanied by—(i) any particulars, information, documents, sam-	
	ples, or other material required by the Authority	
	and prescribed in the regulations; and	
	(ii) the prescribed fee (if any).	25
32	Authority may refuse to process application for approval	
(1)	The Authority may refuse to process an application for ap-	
	proval of a product if the applicant does not provide an application that complies application does not comply with sec-	
	tion 31.	30
(2)	If the Authority refuses to process an application under subsection (1) , the Authority must give the applicant written notice of the refusal and the reasons for it.	

33	Authority	may	request	further	information	etc

- (1) The Authority may request an applicant to supply further particulars, information, documents, samples, or other material before deciding whether or not to approve a psychoactive product as an approved product.
- (2) An application for approval of a product lapses if the requested <u>further</u> particulars, information, documents, samples, or other material is not supplied within—
 - (a) 30 days of the date of the request; or
 - (b) any further time that the Authority may allow by written 10 notice to the applicant.

5

30

34 Authority must protect confidential supporting information relating to application for approval

- (1) This section applies if the Authority has received an application for approval of a psychoactive product under **section 31** 15 that includes confidential supporting information specified in, or given in relation to, the application.
- (2) The Authority—
 - (a) must, during the protected period, take reasonable steps to ensure that the confidential supporting information is 20 kept confidential to the Authority; and
 - (b) must not use that confidential supporting information for the purposes of deciding whether to grant any other application for approval of a psychoactive product.
- (3) Despite **subsection (2)**, the Authority may, during the protected period, disclose the confidential supporting information referred to in **subsection (1)**
 - (a) to 1 or more of the following:
 - (i) the World Health Organization:
 - (ii) the Food and Agriculture Organization:
 - (iii) any regulatory agency of a WTO country:
 - (iv) any person or organisation or class of persons or organisations approved by the regulations; and
 - (b) to 1 or more of the following persons or organisations if the Authority is satisfied that the person or organisation will take reasonable steps to ensure that the confidential supporting information is kept confidential:
 - (i) the advisory committee:

(ii)	the Expert Advisory Committee on Drugs established under section 5AA of the Misuse of Drugs Act 1975:
(iii)	any adviser for the purpose of obtaining advice about the psychoactive substance to which the confidential supporting information relates:
(iv)	a government department or statutory body for the purposes of the government department or statutory body.
s secti	on,—
1 4.	1 4 • 6 4• • 1 1

(4) In this section,—

10

5

confidential supporting information includes—

- (a) trade secrets; and
- (b) information that has commercial value that would be, or would be likely to be, diminished by disclosure

protected period means, in relation to confidential supporting information, the date that is 5 years after the application for approval to which that information relates was received by the Authority

protected period means, in relation to confidential supporting information, a period beginning on the date on which the Authority receives that information and ending on the day that is 5 years after the date on which the Authority received the application for approval to which the information relates

WTO country means a country that is a party to the Agreement <u>establishing</u> <u>Establishing</u> the World Trade Organization 25 adopted at Marrakesh on 15 April 1994.

Compare: 1981 No 118 ss 23A-23C

Granting of approval

35 Grounds for approving product

The Authority may approve a psychoactive product as an approved product only if the Authority is satisfied that—

- (a) the application relating to the product—
 - (i) complies with the requirements of **section 31**; and
 - (ii) does not contain any materially false or misleading information; and

(b) the degree of harm that the product poses to individuals using the product is no more than a low risk of harm.

Conditions of approval

36	Conditions	of approval
-----------	------------	-------------

- (1) The Authority may, when approving a psychoactive product, 5 impose conditions on the approval as the Authority thinks fit.
- (2) If the applicant asks the Authority for the reasons for imposing conditions under **subsection (1)**, the Authority must, as soon as practicable, provide written reasons.

Refusal and revocation of approval

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37 Refusal to grant approval

- (1) If the Authority proposes to refuse to approve a psychoactive product as an approved product, the Authority must give the applicant—
 - (a) written notice that clearly informs the applicant of the 15 grounds for the proposed refusal; and
 - (b) a reasonable opportunity to make written submissions.
- (2) If, after considering any submissions provided by the applicant under **subsection (1)(b)**, the Authority decides to refuse to approve the product, the Authority must, as soon as practicable, give the applicant written notice of—
 - (a) the decision and the reasons for it; and
 - (b) the applicant's right to appeal the decision under **section 43**.

38 Revocation of approval

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- (1) The Authority may, at any time, by notice in the *Gazette*, revoke an approval of a psychoactive product granted under **section 35** if the Authority considers on reasonable grounds that the product poses more than a low risk of harm to individuals using the product.
- (2) If the Authority revokes an approval, the Authority—
 - (a) must notify the person who applied for approval of the product:

(b)	may issue a recall order in relation to for the product
	under section 78.

Compare: 1981 No 118 s 35

	Offences relating to approvals	
39 (1)	Offence relating to application for approval A person commits an offence in respect of an application for approval of a psychoactive product if the person—	5
	 (a) provides information that the person knows, or ought to have known, is materially false or misleading; or (b) fails, without reasonable excuse, to provide any relevant information relating to— (i) the ingredients of the product; or (ii) the effect of the product on individuals using the product. 	10
(2)	A person who commits an offence against subsection (1) is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding \$500,000, or both.	15
40 (1)	Offence relating to breach of conditions of approval A person commits an offence if, without reasonable excuse, the person imports, manufactures, or sells an approved product in breach of any conditions of the approval imposed by the Authority under section 36 .	20
(2)	A person who commits an offence against subsection (1) is liable on conviction to a term of imprisonment not exceeding 3 months or a fine not exceeding \$500,000, or both.	25
	Register of approved products	
41 (1)	Register of approved products The Authority must keep and maintain a register of approved products.	
<u>(1)</u>	The Authority must keep and maintain a register of— (a) approved products; and (b) psychoactive products the Authority has refused to approve.	30
(2)	The purpose of the register is—	

(a)

(b)

(ii)

to obtain information about approved products;

to confirm whether a psychoactive product is an

to assist any person in the performance of the person's

5

to enable a member of the public—

approved product:

functions or duties, or the exercise of the perso powers, under this Act or any other enactment.	n's
The Authority must publish the register of approved produ on an Internet site maintained by, or on behalf of, the Auth ity.	
This section is subject to section 34 .	
Subpart 3—Appeals against Authority	
Psychoactive Substances Appeals Committee	
This section establishes the Psychoactive Substances Appe Committee.	als 15
The function of the appeals committee is to determine appeagainst decisions of the Authority made by or under this A	
The appeals committee must consist of 3 members, each a pointed by the Minister on any terms and conditions that Minister thinks fit.	
One member of the appeals committee must be a lawyer defined in section 6 of the Lawyers and Conveyancers A 2006) of not less than 7 years' legal experience.	`
The appeals committee may, subject to any provision in regulations relating to the conduct of its proceedings of the Act or the regulations, regulate its own procedure.	
<u>In performing its functions or exercising its powers under t</u> <u>Act, the appeals committee must—</u>	<u>his</u>
(a) act independently; and(b) comply with the principles of natural justice.	30
Appeals against Authority's decisions	
A person may appeal to the appeals committee against a decision of the Authority—	.ny
(a) to refuse to approve a psychoactive product as an a proved product:	.p- 35

	(b)	to impose a condition on the approval of a psychoactive product:	
	(c)	to revoke an approval in relation to an approved product:	
	(d)	to refuse to grant the person a licence:	5
	(e)	to impose a condition on a licence:	
	(f)	to suspend or cancel a licence.	
<u>(1)</u>	A per	rson who has applied for a licence under section 12 or	
		granted a licence under section 15 may appeal to the	
		als committee against any decision of the Authority—	10
	(a)	to refuse to grant the person a licence:	
	(b)	to impose a condition on the person's licence:	
	(c)	to suspend or cancel the person's licence.	
(1A)	A per	rson who has applied for the approval of a psychoactive	
		act under section 31 may appeal to the appeals commit-	15
		gainst any decision of the Authority—	
	(a)	to refuse to approve the psychoactive product:	
	(b)	to impose a condition on the approval of the psychoac-	
		tive product:	
	<u>(c)</u>	to revoke the approval of a psychoactive product:	20
	<u>(d)</u>	to issue a recall order for an approved product.	
(2)	The	appeal under subsection (1) or (1A) must be made	
	withi	n 60 days after the decision appealed against is given,	
	or wi	thin such further period that the appeals committee may	
	allow	<i>I</i> .	25
(3)		cision of the Authority against which an appeal is lodged nues in force unless the appeals committee orders other-	
(4)	An a	ppeal under subsection (1) or (1A) is by way of rehear-	
	ing.		30
(5)	On h	earing the appeal, the appeals committee may—	
` /	(a)	confirm, reverse, or modify the decision appealed	
	. /	against:	
	(b)	make any other decision that the Authority could have	
		made.	35
(6)	The a	appeals committee must not review—	
. /	(a)	any part of a decision not appealed against; or	
	(b)	any decision not appealed against at all.	

44	Appeals committee may refer appeals back for reconsideration	
(1)	The appeals committee may in any case, instead of determining any appeal under section 43 , direct the Authority to reconsider, either generally or in respect of any specific matter, the whole or any part of the matter to which the appeal relates.	5
(2)	In giving any direction under subsection (1) , the appeals committee must—	
	 (a) advise the Authority of its reasons for so doing; and (b) give to the Authority any other directions it thinks just as to the whole or any part of the matter that is referred back for reconsideration. 	10
(3)	In reconsidering any matter referred back to it under subsection (1) , the Authority must have regard to the appeals committee's directions and the appeals committee's reasons for giving the directions.	15
	Further appeals	
45	Appeal to High Court on questions question of law An appeal against a determination of the appeals committee on a question of law only may be made to the High Court in accordance with the rules of court.	20
	Part 3	
	Control of approved products and other matters	
	Subpart 1—Control of approved products	25
	Age restrictions	
46	Restriction on persons under 18 years buying approved	

(1) A person under the age of 18 years commits an offence if the person buys, or possesses any psychoactive substance, including an approved product.

products or possessing psychoactive substance (including

(2) **Subsection (1)** does not apply to a person who buys <u>a psy-choactive substance or</u> an approved product at the request of a constable acting in the course of his or her duties.

(3)

A person who commits an offence against **subsection (1)** is liable on conviction to a fine not exceeding \$500.

47	Restriction on selling approved products to persons under 18 years	
(1)	A person must not sell an approved product to a person who is under the age of 18 years.	5
(2)	A person who contravenes subsection (1) commits an offence and is liable on conviction,— (a) in the case of an individual, to a fine not exceeding \$5,000; and: (b) in the case of a body corporate, to a fine not exceeding \$10,000.	10
(3)	It is a defence to a charge under subsection (1) if the defendant proves that— (a) the sale to the person aged under 18 years occurred without the defendant's knowledge; and	15
	(b) the defendant took reasonable precautions and exercised due diligence in order to prevent the sale.	
(4)	Without limiting subsection (3), the defendant has a defence if the defendant proves that he or she— (a) had sighted an approved evidence of age document indicating that the person buying the approved product was aged 18 years or over; and	20
	(b) reasonably believed that the approved evidence of age document— (i) was valid; and (ii) related to the person to whom the approved product was sold.	25
<u>(3)</u>	It is a defence to a charge under subsection (2) if the defendant proves that he or she had reasonable grounds to believe that the person to whom the approved product was sold was 18 years or over.	30
(4)	Without limiting subsection (3) , reasonable grounds exist for the purposes of that subsection if the defendant proves that, before or at the time of the sale of the approved product— (a) there was produced to the defendant a document purporting to be an approved evidence of age document	35
	37	

and the defendant believed on reasonable grounds that

the document—

(i) was in fact an approved evidence of age docu-

			ment; and	
		<u>(ii)</u>	related to the person to whom the approved prod-	5
			uct was sold; and	
		<u>(iii)</u>	indicated that the person to whom the approved	
			product was sold was 18 years or over:	
	<u>(b)</u>	the d	defendant verified the person's age using an ap-	
		prove	ed evidence of age system in the approved manner.	10
(5)	It is r	not a de	efence to a charge under subsection (1) (2) that—	
	(a)	the p	erson to whom the approved product was sold was	
		buyir	ng it for, or on behalf of, or as agent for, a person	
		aged	18 years or over; or	
	(b)	the d	efendant believed on reasonable grounds that the	15
		perso	on to whom the approved product concerned was	
		sold	was buying it for, or on behalf of, or as agent for,	
		a per	son aged 18 years or over.	
	Comp	are: 200	5 No 81 ss 36, 37	
48			on supplying approved products to persons	20
			ears <u>in public place</u>	
(1)		rson m	nust not, in a public place (within the meaning of	
		on 2 of	f the Summary Offences Act 1981), supply an ap-	
	prove	on 2 of ed proc	duct to a person—	
		on 2 of ed proc who	duct to a person— is under the age of 18 years; or	25
	prove	on 2 of ed proc who with	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi-	25
	prove (a)	on 2 of ed proc who with	duct to a person— is under the age of 18 years; or	25
(2)	prove (a) (b)	on 2 of ed prod who with rectly	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi-	25
(2)	prove (a) (b) A pe	on 2 of ed prod who with rectly	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years.	
(2)	prove (a) (b) A pe	on 2 of ed prod who with rectly erson we and is	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of-	25
(2)	(a) (b) A per fence \$2,00	on 2 of ed production who with rectly erson we and is 00.	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of-	
` '	(a) (b) A perfence \$2,00	on 2 of ed process who with rectly erson we and is 00.	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- is liable on conviction to a fine not exceeding \$500	
` '	(a) (b) A per fence \$2,00 It is a dant	on 2 of ed process who with rectly erson we and is 00.	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- is liable on conviction to a fine not exceeding \$500 ace to a charge under subsection (2) if the defen-	
` '	(a) (b) A per fence \$2,00 It is a dant that the	on 2 of ed process who with rectly erson we and is 00. The provess the per	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- s liable on conviction to a fine not exceeding \$500 ace to a charge under subsection (2) if the defen- s that he or she had reasonable grounds to believe	
` '	A per fence \$2,00 It is a dant that the was a	on 2 of ed production with rectly erson we and is 00. The defense proves the per aged 13	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- is liable on conviction to a fine not exceeding \$500 ace to a charge under subsection (2) if the defen- is that he or she had reasonable grounds to believe is son to whom the approved product was supplied	
(3)	A per fence \$2,00 It is a dant that the was a With	on 2 of ed process who with rectly erson we and is 00. The process the peraged 13 out limits out limits and the process the peraged 15 out limits out limi	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- s liable on conviction to a fine not exceeding \$500 ace to a charge under subsection (2) if the defen- to that he or she had reasonable grounds to believe rson to whom the approved product was supplied 8 years or over.	30
(3)	A per fence \$2,00 It is a dant that the was a With	on 2 of ed process who with rectly erson we and is 00. The process the peraged 13 out limits out limits and the process the peraged 15 out limits out limi	duct to a person— is under the age of 18 years; or the intention that it be supplied (directly or indi- y) to a person who is under the age of 18 years. who contravenes subsection (1) commits an of- is liable on conviction to a fine not exceeding \$500 ace to a charge under subsection (2) if the defen- is that he or she had reasonable grounds to believe rson to whom the approved product was supplied 8 years or over. Thirting subsection (3) , the defendant has a defence	30

	(a)	dicati	sighted an approved evidence of age document in- ing that the person to whom the approved product supplied was aged 18 years or over; and	
	(b)		mably believed that the approved evidence of age	
	(0)	docu		5
		(i)	was valid; and	•
		(ii)	related to the person to whom the approved product was supplied.	
4)	With	out lim	niting subsection (3) , reasonable grounds exist for	
<u>.,</u>			es of that subsection if the defendant proves that,	10
			the time of the supply of the approved product,—	
	(a)		was produced to the defendant a document pur-	
			ng to be an approved evidence of age document	
			he defendant believed on reasonable grounds that	
		the d	ocument—	15
		<u>(i)</u>	was in fact an approved evidence of age docu-	
			ment; and	
		<u>(ii)</u>	related to the person to whom the approved prod-	
			uct was supplied; and	
		<u>(iii)</u>	indicated that the person to whom the approved product was supplied was 18 years or over:	20
	<u>(b)</u>	the d	lefendant verified the person's age using an ap-	
			ed evidence of age system in the approved manner.	
5)	It is	not a de	efence to a charge under subsection (2) that—	
	(a)		erson to whom the approved product was supplied	25
			acquiring the product for, on behalf of, or as an t for a person aged 18 years or over; or	
	(b)	_	efendant believed on reasonable grounds that the	
	(0)		on to whom the approved product was supplied was	
			iring the product for, or on behalf of, or as an agent	30
			person aged 18 years or over.	50
6)	Subs	sectio	ns (1) and (2) do not apply to a person who is	
	actin	g in pe	rformance or exercise of a function, duty, or power Act or any other enactment.	
7)			n (1)(2) applies irrespective of any liability that	35
,,	may	attach	to a person who has sold the approved product	30
			to any other person. 0 No 108 s 30AA(1), (5); 2005 No 81 ss 39, 40	
	Comp	are. 1990	u 110 100 8 30AA(1), (3), 2003 110 81 88 39, 40	

49	Restriction on employing persons under 18 years to sell approved products			
(1)	A person must not employ a person under the age of 18 years to sell (including by Internet sale) an approved product on behalf of the person.	5		
(2)	A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding \$2,000.			
	Other restrictions, prohibitions, and requirements relating to approved products	10		
50	Restrictions and prohibitions on place of sale of approved			
	products			
(1)	This section applies to an approved product to which a pre- scribed restriction or prohibition relating to place of sale ap- plies.	15		
(2)	A person must not sell an approved product from a place or an Internet site that does not comply with the prescribed restriction or prohibition.			
(3)	A person who contravenes subsection (2) commits an of- fence and is liable on conviction,—	20		
	(a) in the case of an individual, to a fine not exceeding \$5,000; and			
	(b) in the case of a body corporate, to a fine not exceeding \$10,000.			
	Compare: 2005 No 81 s 41	25		
<u>50</u>	Prohibitions and restrictions on place of sale of approved			
	products			
<u>(1)</u>	A person must not sell an approved product from any of the			
	following:			
	(a) a shop commonly thought of as a dairy:	30		
	(b) a shop commonly thought of as a convenience store:			
	(c) a grocery store or a supermarket:			
	(d) any premises where the principal business carried on is—			
	(i) the sale of automotive fuels; or	35		

		(ii) the repair and servicing of motor vehicles and the	
	<u>(e)</u>	sale of automotive fuels: any premises where alcohol is sold or supplied under a licence issued under the Sale and Supply of Alcohol	_
	<u>(f)</u>	Act 2012: any premises that are not a fixed permanent structure, for example, a tent or marquee:	5
	<u>(g)</u>	any vehicle or other conveyance (for example, a mobile street cart):	
	<u>(h)</u>	any other place or premises specified or described in the regulations.	10
<u>(2)</u>		rson who contravenes subsection (1) commits an of- e and is liable on conviction,— in the case of an individual, to a fine not exceeding \$10,000: in the case of a body corporate, to a fine not exceeding	15
		\$50,000. are: 2005 No 81 s 41	
51		rictions and requirements relating to Internet sales	20
(1)	This Interr	section applies to an offer of an approved product for net sale to which a prescribed restriction or prescribed rement applies.	20
(2)	A per in a v	rson must not offer an approved product for Internet sale way that does not comply with the prescribed restriction escribed requirement.	25
(3)	A per	rson who contravenes subsection (2) commits an of- and is liable on conviction,— in the case of an individual, to a fine not exceeding \$5,000; and in the case of a body corporate, to a fine not exceeding \$10,000.	30
52		ibition on free-of-charge distribution and rewards	
(1)	A ma	anufacturer, importer, distributor, wholesaler, or retailer approved product must not—distribute an approved product free of charge; or	35
	()	and all approved product free of charge, of	

	(b)	supply an approved product to a person free of charge for the purpose of subsequent distribution; or	
	(c)	in the case of a retailer, supply an approved product to a person free of charge for the purpose of that retailer's business.	5
(2)		anufacturer, importer, distributor, wholesaler, or retailer	
		approved product must not—	
	(a)	offer any gift or cash rebate, or the right to participate in any contest, lottery, or game, to the purchaser of an	
		approved product in consideration for the purchase of	10
		that approved product, or to any person in consideration	
		for the provision of evidence of a purchase of that kind; or	
	(b)	offer, to any retailer, a gift or cash rebate, or the right	
	(0)	to participate in any contest, lottery, or game, as an in-	15
		ducement or reward in relation to—	
		(i) the purchase or sale of an approved product by that retailer; or	
		(ii) the advertising of an approved product inside that retailer's place of business; or	20
		(iii) the display of an approved product in a particular part of that retailer's place of business.	
(3)	Subs	section (2) does not apply to a payment or reward to any	
	perso	on who purchases or attempts to purchase an approved	
	produ		25
	(a)	with the consent of the Authority, the Commissioner of Police, or some other person authorised for the purpose	
		by the Authority or the Commissioner; and	
	(b)	for the purpose of monitoring compliance with the provisions of this Part Act.	30
(4)	-	rson who contravenes subsection (1) or (2) commits an	
		ice and is liable on conviction,—	
	(a)	in the case of an individual, to a fine not exceeding \$5,000; and:	
	(b)	in the case of a body corporate, to a fine not exceeding \$10,000.	35

Compare: 2005 No 81 s 42

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52A Prohibition on sponsoring activity involving use of trade mark, etc, of approved product

- (1) A person must not sponsor an organised activity that is to take place, is taking place, or has taken place, in whole or in part, in New Zealand, and that involves the use, in the name of that activity, or on or through any thing other than an approved product, of all or any of the following:
 - (a) an approved product trade mark:
 - (b) all or any part of a company name included in an approved product trade mark:
 - (c) 1 or more words, logos, colours, shapes, sounds, smells, or other elements of an approved product trade mark that, as those 1 or more elements are used in the name, or on or through the thing, are likely to cause a person exposed to the name or thing to believe that the 1 or more elements are used in, on, or through it only or mainly for the purpose of advertising the product.
- (2) A person sponsors an activity for the purposes of **subsection**(1) if the person does all or any of the following:
 - (a) organises or promotes, before the activity is to take 20 place, or during the time that it takes place, some or all of the activity:
 - (b) makes, before the activity is to take place, or during or after the time that it takes place, any financial or non-financial contribution towards some or all of the activity: 25
 - (c) makes, before the activity is to take place, or during or after the time that it takes place, any financial or non-financial contribution to any other person in respect of the organisation or promotion, by that other person, of, or the participation, by that other person, in, some or all of the activity.
- (3) A person who contravenes **subsection (1)** commits an offence and is liable on conviction,—
 - (a) in the case of an importer, manufacturer, or wholesaler of an approved product, to a fine not exceeding \$50,000:
 - (b) in the case of a retailer of an approved product, to a fine not exceeding \$10,000.

Compare: 1990 No 108 s 25

53		nibitions, restrictions, and requirements relating to	
(1)		rtising approved products	
(1)		rson must not advertise an approved product—	
	(a)	on television or on radio; or	_
	(b)	in any newspaper or other periodical publication printed and published in New Zealand; or	5
	(e)	on an Internet site (other than an Internet site maintained for the primary purpose of the Internet sale of approved products); or	
	(d)	on or in any other medium prescribed in the regulations.	10
(2)	a pre	erson must not advertise an approved product to which escribed restriction or prescribed requirement relating to extrising applies in a way that does not comply with that existing or requirement.	
(3)	-	rson who contravenes subsection (1) or (2) commits an	15
	offen	nce and is liable on conviction,—	
	(a)	in the case of an importer or a manufacturer of a psychoactive substance, to a fine not exceeding \$50,000; and	
	(b)	in the case of any other person, to a fine not exceeding	20
		\$10,000.	
	Comp	are: 2005 No 81 s 43	
<u>53</u>		nibitions, restrictions, and requirements relating to	
		ertising of approved products	
<u>(1)</u>	A pe	rson must not advertise an approved product—	25
	<u>(a)</u>	on television or on radio; or	
	<u>(b)</u>	in any newspaper or other periodical publication printed	
		and published in New Zealand; or	
	<u>(c)</u>	on an Internet site (except an Internet site maintained	
		for the primary purpose of the Internet sale of approved	30
		products); or	
	<u>(d)</u>	on or in any other medium prescribed in the regulations.	
<u>(2)</u>	A pe	rson must not advertise an approved product—	
	(a)	in a way that conveys that the product is safe:	
	(b)	in a way that contain themes that are, or are likely to be,	35
		particularly appealing to minors:	
	<u>(c)</u>	where the advertising is accompanied by incentives that	
		are designed to encourage persons to buy an approved	

		product (for example, a promotional gift or the free-of-	
		charge supply of an approved product).	
<u>(3)</u>	Adve	rtising for an approved product (except a product sold by	
	Interr	net sale)—	
	<u>(a)</u>	may appear only in premises where the approved prod-	5
		uct is sold; and	
	<u>(b)</u>	must be confined to the inside of the premises; and	
	<u>(c)</u>	must not be easily visible or audible from outside the	
		premises; and	
	<u>(d)</u>	must be limited to material that communicates objective	10
		information about the product, including (without limi-	
		tation)—	
		(i) the active ingredients of the product and the ap-	
		propriate quantitative ingredients of each active	
		ingredient:	15
		(ii) the price of the product.	
<u>(4)</u>		son must not advertise an approved product in a way that	
	does	not comply with subsection (3).	
<u>(5)</u>	A per	son who contravenes subsection (1), (2), or (4) com-	
	mits a	an offence and is liable on conviction,—	20
	<u>(a)</u>	in the case of an importer, manufacturer, or wholesaler	
		of an approved product, to a fine not exceeding \$50,000:	
	<u>(b)</u>	in the case of a retailer of an approved product, to a fine	
		not exceeding \$10,000.	
	Compa	re: 2005 No 81 s 43	25
<u>53A</u>		ciction on retailer's name using words, expressions,	
	_	ademarks etc, associated with approved products	
<u>(1)</u>	This:	section applies to a retailer of an approved product.	
<u>(2)</u>	The r	etailer of an approved product may display the retailer's	
	name	or trade name at the outside of the retail premises from	30
		n approved products are sold but only if that name is not	
	and d	oes not include either or both of the following:	
	<u>(a)</u>	any word or expression signifying that any approved	
		product is available inside the premises for purchase:	
	<u>(b)</u>	the trade mark of an approved product or the company	35
		name of an approved products manufacturer.	

<u>(3)</u>

A person who contravenes subsection (1) commits an

	offen \$10,0	ce and is liable on conviction to a fine not exceeding 000.	
54		rictions and requirements relating to labelling oved products	5
(1)	a pre	rson must not sell or supply an approved product to which scribed restriction or prescribed requirement relating to ling applies with a label that does not comply with that etion or requirement.	
(2)	fence (a)	rson who contravenes subsection (1) commits an of- e and is liable on conviction,— in the case of an individual, to a fine not exceeding \$5,000:	10
	(b)	in the case of a body corporate, to a fine not exceeding \$10,000. are: 2005 No 81 s 44	15
<u>54</u>		rictions and requirements relating to labelling of	
(1)		oved products	
<u>(1)</u>		el for an approved product must not be designed in such a her, way, medium, or form to appeal, or be likely to appeal,	20
<u>(2)</u>	A lab	pel for an approved product must include the following mation in a prominent position on the label:	
	<u>(a)</u>	a list of the active ingredients of the product and the quantitative particulars of each active ingredient; and	25
	<u>(b)</u>	the appropriate health warning relating to the product; and	
	<u>(c)</u>	the contact details of the importer, manufacturer, wholesaler, or retailer of the product; and	
	<u>(d)</u>	the telephone number of the National Poisons Centre information service or any other telephone service prescribed in the regulations:	30
(2)	<u>(e)</u>	any other information prescribed by the regulations.	
<u>(3)</u>		rson must not sell an approved product with a label that not comply with subsection (1) or (2) .	35

<u>(2)</u>	A person who contravenes subsection (1) or (2) commits an			
	offence and is liable on conviction,— (a) in the case of an individual, to a fine not exceeding \$5,000:			
	(b) in the case of a body corporate, to a fine not exceeding \$10,000.	5		
	Compare: 2005 No 81 s 44			
55	Restrictions and requirements relating to packaging approved products			
(1)	A person must not sell or supply an approved product to which a prescribed restriction or prescribed requirement relating to packaging applies in a package that does not comply with that restriction or requirement.	10		
(2)	A person who contravenes subsection (1) commits an offence and is liable on conviction,— (a) in the case of an individual, to a fine not exceeding \$5,000; and:	15		
	(b) in the case of a body corporate, to a fine not exceeding \$10,000.	20		
	Compare: 2005 No 81 s 45	20		
56 (1)	Requirement relating to health warnings A person must not sell or supply an approved product to which a prescribed requirement relating to a health warning applies without a health warning that complies with that requirement.			
<u>(1)</u>	A person must not sell an approved product without an appropriate health warning relating to the product on the label.	25		
<u>(1A)</u>	For the purposes of subsection (1) , the health warning must contain the information prescribed in the regulations.			
(2)	A person who contravenes subsection (1) commits an offence and is liable on conviction,— (a) in the case of an individual, to a fine not exceeding \$5,000; and: (b) in the case of a body corporate, to a fine not exceeding	30		
	\$10,000. Compare: 2005 No 81 s 46	35		

57 Requirement to display signage

- (1) A person must not sell an approved product to which a prescribed requirement relating to signage applies without displaying signage that complies with that requirement.
- (2) A person who contravenes **subsection (1)** commits an 5 offence and is liable on conviction to a fine not exceeding \$2,000.

Compare: 2005 No 81 s 47

58 Restrictions and requirements relating to storage and display of approved products

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(1) A person who sells or supplies an approved product to which a prescribed restriction or prescribed requirement relating to storage or display applies must not store or display the product in a way that does not comply with that restriction or requirement.

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- (2) A person who contravenes **subsection (1)** commits an offence and is liable on conviction.—
 - (a) in the case of an individual, to a fine not exceeding \$5,000; and:
 - (b) in the case of a body corporate, to a fine not exceeding 20 \$10,000.

Compare: 2005 No 81 s 49

59 Restrictions and requirements relating to disposal of psychoactive substances

- (1) An importer, manufacturer, or seller of a psychoactive substance to which a prescribed restriction or <u>prescribed</u> requirement relating to disposal applies must not dispose of the substance in a way that does not comply with that restriction or requirement.
- (2) A person who contravenes **subsection (1)** commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding \$5,000; and:
 - (b) in the case of a body corporate, to a fine not exceeding \$10,000.

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60	Requirement to keep records relating to psychoactive
	substances and approved products

- (1) A person who, in the course of any business, imports, prepares, processes, manufactures, packs, stores, earries, delivers, or sells any approved product holds a licence under this Act in respect of psychoactive substances or approved products must—
 - (a) keep, in some place of security at that person's place of business, any records required to be kept by that person by the regulations; and
 - (b) retain those records for the period of time prescribed in the regulations.
- (2) A person who fails to comply with **subsection (1)** commits an offence and is liable on conviction,—
 - (a) in the case of an individual, to a fine not exceeding 15 \$5,000; or:
 - (b) in the case of a body corporate, to a fine not exceeding \$10,000.

Compare: 2005 No 81 s 53

Prohibitions and restrictions on convicted persons selling approved products

Prohibitions and restrictions on convicted persons selling approved products

- (1) This section applies if a person has been convicted of any offence under this Act and, within 2 years of being sentenced for that offence, the person is convicted of another offence under this Act
- (2) In imposing the sentence for the second or subsequent offence, the court may (in addition to any sentence it might impose and any other order in the nature of a penalty it might make) make 30 an order—
 - (a) prohibiting any or all either or both of the following:
 - (i) the sale of any approved products or approved products of a specified kind by or on behalf of the person (including by Internet sale):
 - (ii) the sale of any approved products or approved products of a specified kind at the place or on

	the premises at which the second or subsequent offence occurred: (b) imposing any conditions or restrictions (or both) the court thinks fit on any or all_either or both of the following: (i) the sale of approved products by or on behalf of the person (including by Internet sale): (ii) the sale of approved products at the place or on the premises at which the second or subsequent offence occurred.	5
(3)	The order must state—	
	(a) the date that it takes effect (which may be the date on	
	which it is made or a later date); and	
	(b) the date that it expires (which must be a date at least 4 weeks and not more than 3 months after the date that it	15
	takes effect).	10
(4)	A person who contravenes an order made under subsection	
	(2) commits an offence and is liable on conviction to a fine not	
	exceeding \$50,000. Compare: 1990 No 108 s 30AB; 2005 No 81 s 54	20
	•	
	Local approved products policies	
<u>61A</u>	Territorial authority may have local approved products	
	policy	
<u>(1)</u>	Any territorial authority may have a policy relating to the sale	25
<u>(2)</u>	of approved products within its district. A local approved products policy may—	23
(2)	(a) provide differently for different parts of its district; and	
	(b) apply to only part (or 2 or more parts) of its district; and	
	(c) apply differently to premises for which licences of dif-	
	ferent kinds are held or have been applied for.	30
<u>(3)</u>	No territorial authority is required to have a local approved	
	products policy.	
61B	Territorial authorities may adopt joint local approved	
	products policy	
<u>(1)</u>	Two or more territorial authorities may adopt a single local	35
	approved products policy for their districts.	

If subsection (1) applies, the 2 or more territorial authorities
are to be treated as if they were a single territorial authority
with a single district.

61C Content of local approved products policy

- A local approved products policy may include policies on any or all of the following matters:
- (a) location of premises from which approved products may be sold by reference to broad areas within the district:
- (b) location of premises from which approved products may be sold by reference to proximity to premises or facilities of a particular kind or kinds within the district (for example, kindergartens, early childhood centres, schools, places of worship, or other community facilities).

61D Adoption and review of local approved products policy

- (1) A territorial authority that wishes to have a local approved products policy must adopt the policy in accordance with the special consultative procedure in section 83 of the Local Government Act 2002.
- (2) A local approved products policy may be amended or replaced only in accordance with the special consultative procedure, and this section applies to that amendment or replacement.
- (3) A territorial authority must, as soon as practicable after adopting or amending a local approved products policy, provide a copy of the policy to the Authority.
- (4) A territorial authority must complete a review of a local approved products policy within 5 years after the policy is adopted and then at intervals of not more than 5 years.
- (5) A local approved products policy does not cease to have effect because it is due for review or is being reviewed.

Subpart 2—Offences relating to psychoactive substances that are not approved products

62		nces relating to psychoactive substance that is not roved product	5		
(1)		rson commits an offence if the person, without reasonable			
(-)	excuse,—				
	(a)	sells or supplies a psychoactive substance that is not an approved product to any person; or			
	(b)	offers to sell or supply a psychoactive substance that is not an approved product to any person; or	10		
	(c)	possesses a psychoactive substance that is not an approved product with the intent to sell or supply the psychoactive substance to any person.			
(2)	Sub	section (1) does not apply to a person who holds a licence	15		
		Il psychoactive substances that are not approved products applies to the psychoactive substance.			
(3)	A pe	erson who commits an offence against subsection (1) is e on conviction,—			
	(a)	in the case of an individual, to a term of imprisonment	20		
	()	not exceeding 2 years:			
	(b)	in the case of a body corporate, to a fine not exceeding \$500,000.			
63		nce relating to personal possession of psychoactive			
(1)		tance that is not approved product	25		
(1)	-	rson commits an offence if the person has a psychoactive tance that is not an approved product in his or her posses-			
(2)		section (1) does not apply to a person who holds a licence spect of the psychoactive substance.	30		
(3)		erson who commits an offence against subsection (1) is e on conviction to a fine not exceeding \$500.			
		Infringement offences			
64	Inte	rpretation			
		is subpart,—	35		

infringement fee,	in relation to a	an infringement offence,
means an amount	not exceeding	\$500 prescribed for the
purposes of this sec	tion in the regula	ations

infringement offence means an offence against-

- (a) **section 46** (which relates to a person under the age of 5 18 years buying an approved product):
- (b) **section 48** (which relates to supplying an approved product to a person under the age of 18 years):
- (c) **section 63** (which relates to personal possession of a psychoactive substance that is not an approved product).

65 Proceedings for infringement offence

A person who is alleged to have committed an infringement offence may either—

- (a) be proceeded against by the filing of a charging document under section 14 of the Criminal Procedure Act 2011: or
- (b) be served with an infringement notice as provided for in **section 66**.

66 Infringement notices

- (1) If an enforcement officer or a constable observes a person committing an infringement offence, or has reasonable grounds to believe that such an offence is being or has been committed by the person, the officer or constable may serve an infringement notice in respect of the offence on the person.
- (2) An enforcement officer or a constable (not necessarily the person who issued the notice) may deliver the infringement notice (or a copy of it) to the person alleged to have committed an infringement offence personally or by post addressed to that person's last known place of residence.
- (3) An infringement notice (or a copy of it) sent to a person under **subsection (2)** is to be treated as having been served on that person when it was posted.
- (4) An infringement notice must be in the prescribed form and must contain the following particulars: 35

20

25

Part 3 cl 67	Psychoactive Substances Bill
(a)	such details of the alleged infring

(a)	such details of the alleged infringement offence as are sufficient fairly to inform a person of the time, place,	
<i>(</i> 1.)	and nature of the alleged offence; and	
(b)	the amount of the infringement fee; and	_
(c)	the address of the place at which the infringement fee may be paid; and	5
(d)	the time within which the infringement fee must be paid; and	
(e)	a summary of the provisions of section 21(10) of the Summary Proceedings Act 1957; and	10
(f)	a statement that the person served with the notice has a	10
(1)	right to request a hearing; and	
(g)	a statement of what will happen if the person served	
(0)	with the notice neither pays the infringement fee nor	
	requests a hearing; and	15
(h)	any other particulars that may be prescribed.	
If an i	infringement notice has been issued under this section,	
	ocedure under section 21 of the Summary Proceedings	
	957 may be used in respect of the offence to which the	
	gement notice relates and, in that case, the provisions of	20
that se	ection apply with all necessary modifications.	
D		
-	ent of infringement fees fringement fees paid in respect of infringement offences	
	be paid into a Crown bank account.	
iiiusi i	se pard into a Crown bank account.	
	Subpart 3—Enforcement	25
	Enforcement officers	
Enfor	cement officers	
The A	authority may appoint enforcement officers to enforce	
this A	ct.	

(1)

A person appointed as an enforcement officer may be— (2) 30 a person appointed by name; or the holder for the time being of a particular position.

A person appointed under **subsection (1)** is not by virtue of (3) that appointment alone—

an officer or employee of the Public Service; or 35

(5)

- ernment Superannuation Fund Act 1956 applies. **(4)** The Authority must not appoint a person under subsection (1) unless the Authority is satisfied that the person is suitably qualified and trained and is a fit and proper person for appoint- 5 ment as an enforcement officer. The Authority may do any or all of the following:
- (5)

(b)

- appoint persons to enforce only some of the provisions of this Act:
- (b) appoint persons to exercise only some of the powers 10 conferred on enforcement officers by this Act:

a person to whom the State Sector Act 1988 or the Gov-

- appoint persons subject to limitations or restrictions on (c) their exercise of enforcement powers.
- An enforcement officer must have an instrument of ap-(6) pointment identifying the holder as an enforcement officer 15 appointed under this section.
- An enforcement officer's instrument of appointment must **(7)**
 - (a) that the officer is appointed to enforce
 - all the provisions of this Act; or (i)

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- (ii) only specified provisions of this Act; or
- all the provisions of this Act except certain spe-(iii) cified provisions; and
- that the officer is appointed to exercise— (b)
 - all enforcement powers; or (i)

25

- (ii) only specified enforcement powers; or
- all enforcement powers other than except certain specified powers; and
- (c) all limitations and restrictions (if any) that are imposed on the person's exercise of enforcement powers under 30 subsection (5)(c).

Compare: 1990 No 108 s 14; 2005 No 81 s 55

Enforcement powers

69 Warrantless power to enter and search

(1) An enforcement officer or a constable may enter a place if 35 the enforcement officer or constable has reasonable grounds to believe that-

- (a) there is a psychoactive substance at the place; and
- (b) an offence has been, is being, or will be committed against any of section 24, 25, or 62 in relation to that substance in that place.
- (2) Subsection (1) does not apply to a dwellinghouse or other 5 residential accommodation.
- (3) An enforcement officer or a constable who enters a place under subsection (1) may—
 - (a) use any force in respect of the place that is reasonable for the purposes of earrying out the search and any lawful seizure:
 - (b) inspect the place:
 - (c) take photographs or videos of the place:
 - (d) eopy any documents or records (of any kind) relating to a psychoactive substance:

- (e) seize anything that is the subject of the search or anything else that may be lawfully seized:
- (f) inspect any article or material (for example, advertising material and display signage) in relation to which a restriction or requirement is imposed by or under this Act. 20
- (4) Subsection (2) does not prevent an enforcement officer or a constable from entering a dwellinghouse or other residential accommodation and exercising the powers referred to in subsection (3)—
 - (a) under authority conferred by or under an enactment (in- 25 cluding another provision of this Act); or
 - (b) with the occupier's consent.
- (5) An enforcement officer or constable who is exercising powers under this section in respect of or in a place, must,—
 - (a) if a person in charge of the place is present on initial 30 entry, identify himself or herself to the person in charge as an enforcement officer or a constable; and
 - (b) in the case of an enforcement officer who is asked by a person in charge to do so, produce to the person evidence of identity; his or her instrument of appointment as an enforcement officer, or both; and
 - (e) explain to the person in charge that the authority to enter is under this section.

Compare: 2005 No 81 s 56

Warrantless power to enter and search

<u>(1)</u>	A CO	nstable may enter and search a place (except private	
	prem	ises), vehicle, or other thing without a warrant if the	
	const	able has reasonable grounds—	
	<u>(a)</u>	to believe that it is not practicable to obtain a warrant;	5
		and	
	<u>(b)</u>	to believe that there is a psychoactive substance in or on	
		the place, vehicle, or other thing; and	
	<u>(c)</u>	to suspect that in or on the place, vehicle, or other thing	
		an offence against any of section 24, 25, or 62 has	10
		been, is being committed, or is about to be committed	
		in respect of that substance; and	
	<u>(d)</u>	to believe that, if the entry and search is not carried	
		out immediately, evidential material relating to the sus-	
		pected offence will be destroyed, concealed, altered, or	15
		damaged.	
<u>(2)</u>	The p	provisions of Part 4 (except subpart 3) of the Search and	
	Surve	eillance Act 2012 apply.	
	Compa	are: 2012 No 24 s 20	
<u>69A</u>	Powe	er to enter and search retail premises	20
<u>69A</u> (1)		er to enter and search retail premises nforcement officer or a constable may at any reasonable	20
	An er		20
	An entime of	ises) to ascertain whether the licence holder is comply-	20
	An entime of	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any	
	An entime of	ises) to ascertain whether the licence holder is comply- with the provisions of this Act and the conditions of the	20
	An entime of preming whicence	ises) to ascertain whether the licence holder is comply- with the provisions of this Act and the conditions of the	
<u>(1)</u>	An entime of preming will be license. For the	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is complywith the provisions of this Act and the conditions of the ce.	
<u>(1)</u>	An entime of preming will be license. For the	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the ce. The purposes of subsection (1) , an enforcement officer or	
<u>(1)</u>	An entime of preming whicenous Forth a con	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is complywith the provisions of this Act and the conditions of the interest of subsection (1), an enforcement officer or stable may—	
<u>(1)</u>	An entime of preming whicenous Forth a con	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is complywith the provisions of this Act and the conditions of the interest of subsection (1), an enforcement officer or stable may— require the production of any licence or records that is	
<u>(1)</u>	An entime of preming whicenous Forth a con	nforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the ce. The purposes of subsection (1) , an enforcement officer or stable may— The require the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to	25
<u>(1)</u>	An er time of preming we licence For the a condition (a)	nforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the ce. The purposes of subsection (1) , an enforcement officer or stable may— Trequire the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to be in charge of the retail premises (or any part of the	25
<u>(1)</u>	An er time of preming we licence For the a condition (a)	nforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the ce. The purposes of subsection (1) , an enforcement officer or stable may— The require the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to	25
<u>(1)</u>	An er time of preming we licence For the a condition (a)	nforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the ce. The purposes of subsection (1) , an enforcement officer or stable may— Trequire the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to be in charge of the retail premises (or any part of the	25
<u>(1)</u>	An er time of preming we licence For the a condition (a)	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is complywith the provisions of this Act and the conditions of the entered the purposes of subsection (1), an enforcement officer or stable may— require the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to be in charge of the retail premises (or any part of the premises) to provide any information or assistance reasonably required by an enforcement officer or a constable relating to any matter within the duties of the li-	25
<u>(1)</u>	An er time of preming we licence For the a condition (a)	nforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is comply-with the provisions of this Act and the conditions of the entered the purposes of subsection (1), an enforcement officer or stable may— require the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to be in charge of the retail premises (or any part of the premises) to provide any information or assistance reasonably required by an enforcement officer or a con-	25 30
<u>(1)</u>	An er time of preming we licence For the a con (a)	inforcement officer or a constable may at any reasonable enter and inspect any retail premises (or any part of any ises) to ascertain whether the licence holder is complywith the provisions of this Act and the conditions of the entered the purposes of subsection (1), an enforcement officer or stable may— require the production of any licence or records that is required by this Act to be kept, and examine and make copies of them; and require the licence holder or any person appearing to be in charge of the retail premises (or any part of the premises) to provide any information or assistance reasonably required by an enforcement officer or a constable relating to any matter within the duties of the li-	25 30

- (a) refuse or fail to admit to any retail premises any enforcement officer or constable who demands entry under subsection (1); or
- (b) <u>delay unreasonably in admitting to any retail premises</u> any enforcement officer or constable who demands entry under **subsection (1)**.
- (4) The licence holder or any other person appearing to be in charge of the retail premises (or any part of the premises) must not, without reasonable excuse, refuse or fail—
 - (a) to produce the licence or any records when required to do so under **subsection (2)(a)**; or
 - (b) to provide any assistance or information when required to do so under **subsection (2)(b)**.
- (5) A person who contravenes subsection (3) or (4) commits an offence and is liable on conviction to a fine not exceeding \$2,000.

 Compare: 2012 No 120 s 267

Warranted power to enter and search

- (1) An issuing officer (within the meaning of section 3(1) of the Search and Surveillance Act 2012) may issue a search warrant 20 in relation to a place, vehicle, or other thing if, on application made by an enforcement officer or a constable in the manner provided in subpart 3 of Part 4 of that Act, he or she is satisfied that there are reasonable grounds—
 - (a) to suspect that an offence has been, is being, or will 25 committed, or is about to be committed against this Act; and
 - (b) to believe that the search will find evidential material in respect of the offence in <u>or on</u> the place, vehicle, or other thing.

- (2) The provisions of Part 4 of the Search and Surveillance Act 2012 apply.
- (3) Despite **subsection (2)**, sections 118 and 119 of the Search and Surveillance Act 2012 apply only in respect of a constable.

71 Power to demand information where offence against section 47 suspected

- (1) **Subsection (2)** applies to an enforcement officer or a constable who, at any time, has reasonable eause grounds to suspect that within the previous 14 days an approved product was 5 sold to a person under the age of 18 years at a place in contravention of **section 47**.
- (2) The enforcement officer or constable may,—
 - (a) if he or she has reasonable grounds to believe that the person who sold the approved product is at the place, require that person to give the enforcement officer or constable his or her name and address and date of birth; or
 - (b) if the person who is believed to have sold the approved product is not present at the place, require any other person appearing to be in charge of the place (or any part of the place) to give the officer or constable the name and address and date of birth of the person who the enforcement officer or constable has reasonable grounds to believe sold the product.
- (3) An enforcement officer or a constable who suspects that a person referred to in **subsection (2)(a)** is under the age of 17 years must not require that person to give the officer or constable his or her name and address and date of birth unless—
 - (a) there is no other person who appears to be in charge of 25 the place; or
 - (b) there is another person who appears to be in charge of the place, but the enforcement officer or constable suspects that the that other person is also under the age of 17 years.
- (4) If an enforcement officer or a constable suspects that a person referred to in **subsection (2)(b)** is under the age of 17 years, the enforcement officer or constable must not require that person to give the name and address and date of birth of any other person if the other person is in the place concerned and appears 35 to be of or over the age of 17 years.
- (5) The powers conferred by this section must be used only for, and only to the extent necessary for, finding out the name and address of (or, if the address is not within the knowledge of the

person asked, the name and any other identifying information
within the that person's knowledge and relating to) a person
the enforcement officer or constable believes to have sold an
approved product to a person under the age of 18 years.

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Compare: 2005 No 81 s 58

72 Power to demand information and arrest where offence against section 63 suspected

- (1) A constable who has reasonable cause to suspect that a person has committed, is committing, or is attempting to commit an offence against **section 63** may require the person to provide particulars of his or her full name and address and date of birth.
- (2) A constable who believes on reasonable grounds that any particulars provided under **subsection (1)** are false may require the person concerned to provide satisfactory evidence of the particulars.
- (3) If a person, without reasonable excuse, refuses or fails to provide any particulars or evidence when required to do so by a constable under this section, and persists in refusing or failing after being cautioned by the constable, he or she may be arrested, without warrant, by any constable.

73 Forfeiture

- (1) A constable may seize and remove a psychoactive substance or an approved product if the constable has reasonable grounds to believe that an offence against this Act has been, is being, or will be committed in respect of the psychoactive substance 25 or approved product.
- (2) If a person is found guilty of an offence against this Act in respect of a psychoactive substance or an approved product seized under **subsection (1)**, the psychoactive substance or approved product is forfeit to the Crown.
- (3) A psychoactive substance or an approved product is forfeit to the Crown if—
 - (a) it is seized by the Police from a person under the age of 18 years who is issued with an infringement notice in respect of an offence against **section 46, 48 or 63**; 35 and

(4)	If a persor choactive tion in relation in relation in relation in relation in the control of the	infringement fee is later paid. In is acquitted of an offence against this Act, the psysubstance or approved product seized under this sectation to the offence— If you be collected from the relevant police station within days of the acquittal by or on behalf of the person or, are person is under the age of 18 years, by the person's cent or guardian; and ot collected within that time, may be disposed of in manner the Commissioner of Police directs.	5
		Offences relating to enforcement	
74 (1) (2)	A person (a) will person (b) who tion or poug	ing enforcement officer or constable commits an offence if the person—fully obstructs an enforcement officer or a constable forming any function or duty or exercising any vers under this Act; or en required under section 71 or 72 to give information, intentionally fails to comply with that requirement provides any information that the person knows, or that to have known, is false or misleading in any matal respect. who commits an offence against subsection (1) is	15 20
	3 months Compare: 20	conviction to a term of imprisonment not exceeding or a fine not exceeding \$500. 205 No 81 s 60 206 ional controlled delivery of psychoactive	25
75	Internatio	substances onal controlled delivery of psychoactive	
	substance	es	
(1)	officer of a is an agree who is inv (a) doe	ement officer, a constable, a Customs officer, or an a relevant law enforcement agency with which there ement of the kind referred to in subsection (3)(a) volved in an international controlled delivery—s not commit an offence under this Act by reason of ang part in the international controlled delivery; and	30

	(b)	unless he or she is acting in bad faith, is not subject to any criminal or civil liability as a result of taking part in the international controlled delivery.	
(2)		section (1) does not affect the liability of any person ged with an offence under this Act.	5
(3)	In thi	is section, international controlled delivery means al-	
		ng a psychoactive substance to pass through or into the	
		ory of 1 or more countries—	
	(a)	with the agreement of the relevant law enforcement	
		agencies of the countries which the substance is to pass	10
		through or into; and	
	(b)	with a view to identifying persons involved in the com-	
		mission of an offence under this Act that would, if done	
		or committed in New Zealand, be an offence under this	
		Act.	15
	<u>(b)</u>	with a view to identifying persons involved in—	
		(i) the commission of an offence under this Act; or	
		(ii) an act that would, if done or committed in New	
		Zealand, be an offence under this Act.	
	C	105037 (5. 105	20
	Compa	are: 1978 No 65 s 12D	20
<u>75A</u>		ility of principals and directors	20
75A (1)	Liab		20
	Liab If a p	ility of principals and directors	20
	Liab If a p	ility of principals and directors person (the agent) commits an offence against this Act	20
	Liab If a p while	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee	25
	Liab If a p while	ility of principals and directors person (the agent) commits an offence against this Act e acting as an agent (including a contractor) or employee other person (the principal), the principal commits the	
	Liab If a p while of an same	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved—	
	Liab If a p while of an same	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with	
	Liab If a p while of an same (a)	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or	
	Liab If a p while of an same (a)	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected	
	Liab If a p while of an same (a)	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being	25
(1)	Liab If a p while of an same (a) (b)	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to pre-	25
	Liab If a p while of an same (a) (b)	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to pre- vent or stop it. ody corporate commits an offence against this Act, every	25
(1)	Liab If a p while of an same (a) (b) If a b direc	ility of principals and directors person (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to pre- vent or stop it.	25
(1)	Liab If a p while of an same (a) (b) If a b direc	cerson (the agent) commits an offence against this Act eacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it. ody corporate commits an offence against this Act, every tor and every person concerned in the management of the	25
(1)	Liab If a p while of an same (a) (b) If a b direct body	cerson (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it. ody corporate commits an offence against this Act, every tor and every person concerned in the management of the corporate commits the same offence, if it is proved—that the act that constituted the offence took place with	25
(1)	Liab If a p while of an same (a) (b) If a b direct body	cerson (the agent) commits an offence against this Act exacting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it. ody corporate commits an offence against this Act, every tor and every person concerned in the management of the corporate commits the same offence, if it is proved—	25
(1)	Liab If a p while of an same (a) (b) If a b direc body (a)	cerson (the agent) commits an offence against this Act acting as an agent (including a contractor) or employee other person (the principal), the principal commits the offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or that he or she knew, or could reasonably be expected to have known, that the offence was to be or was being committed and failed to take all reasonable steps to prevent or stop it. ody corporate commits an offence against this Act, every tor and every person concerned in the management of the corporate commits the same offence, if it is proved— that the act that constituted the offence took place with his or her authority, permission, or consent; or	25

committed and failed to take all reasonable steps to prevent or stop it. Compare: 2012 No 118 s 40

		Subpart 4—Other powers of Authority	
76		nority may declare recognised authorities	5
(1)		Authority may, by notice in the <i>Gazette</i> , declare a person	
		ody to be a recognised authority—	
	(a)	for a specified purpose under this Act or a provision of this Act; and	
	(b)	for a specified period or not.	10
(2)	Befo	re declaring a person or body to be a recognised authority	
		specified purpose under this Act or a provision of this	
	Act,	the Authority must be satisfied that the person or body	
	(whe	ther in New Zealand or overseas)—	
	(a)	makes decisions in respect of psychoactive substances	15
		that require the person or body to assess conformity	
		against, or compliance with, criteria that are equivalent	
	<i>a</i> >	to or more robust than those under this Act; or	
	(b)	is engaged in an area of work that requires the person or	20
		body to assess conformity against, or compliance with,	20
		criteria that are equivalent to or more robust than those under this Act.	
	(a)	makes decisions, or is engaged in an area of work, in	
	<u>(a)</u>	respect of psychoactive substances; and	
	<u>(b)</u>	is required, in making those decisions or engaging in	25
	(0)	that area of work, to assess conformity or compliance	23
		with criteria that are equivalent to or more robust than	
		those under this Act.	
77		roved laboratories	
(1)		Authority may from time to time, by notice in the <i>Gazette</i> ,	30
(0)		ove a laboratory for the purposes of this Act.	
(2)		approval under subsection (1) may be granted on the	
		s and conditions (if any) that the Authority thinks fit and	
		are specified in the notice approving the laboratory.	35
	Comp	are: 1975 No 116 s 5A	33

78 Recall orders

- (1) The Authority may issue an order of the kind referred to in subsection (2) (a recall order) to—
 - (a) the importer or manufacturer of an approved product; or
 - (b) a retailer of an approved product that is known to the Authority.
- (2) The recall order is an order directing the recall of an approved product or requiring the destruction of an approved product because the Authority has reasonable grounds to believe that the approved product poses more than a low risk to individuals using the product.
- (3) On receipt of a recall order, the importer or manufacturer of the approved product must
 - a) advise the Authority of the details of the manner in 15 which that person intends to comply with the order; and
 - (b) advise the Authority in writing when the recall order has been complied with; and
 - (c) advise any retailer of the approved product known to the importer or manufacturer that a recall order has been 20 issued in respect of the approved product.
- (4) A person who fails to comply, in any respect, with a recall order issued under subsection (1) or any requirement of subsection (3) commits an offence and is liable on conviction.
 - (a) in the case of a retailer of an approved product, to a fine 25 not exceeding \$100,000:
 - (b) in the case of an importer or manufacturer of an approved product, to a fine not exceeding \$500,000.

Compare: 2005 No 81 s 52

78 Recall orders

- (1) The Authority may issue a recall order to the importer, manufacturer, wholesaler, or retailer of an approved product.
- (2) On receipt of a recall order, the importer, manufacturer, whole-saler, or retailer of the approved product must—
 - (a) advise the Authority of the details of the manner in which that person intends to comply with the order; and
 - (b) advise the Authority in writing when the recall order has been complied with.

(3)	An in	mporter, manufacturer, wholesaler, or retailer who fails to	
	comp	oly, in any respect, with a recall order issued under sub-	
	sect	ion (1) or any requirement under subsection (2) com-	
	mits	an offence and is liable on conviction,—	
	<u>(a)</u>	in the case of a retailer, to a fine not exceeding \$100,000:	5
	<u>(b)</u>	in the case of an importer, manufacturer, or wholesaler	
		to a fine not exceeding \$500,000.	
<u>(4)</u>	<u>In thi</u>	s section, recall order means an order directing the recall	
		approved product or requiring the destruction of an ap-	
	prove	ed product because the Authority has reasonable grounds	10
		lieve that the approved product poses more than a low	
		o individuals using the product.	
	Compa	are: 2005 No 81 s 52	
79	-	ort certificates	
(1)		rson may apply to the Authority for an export certificate	15
		ation to an approved product.	
(2)	_	pplication for an export certificate must—	
	(a)	be made to the Authority in a form or manner approved	
		by the Authority; and	• •
	(b)	be accompanied by the prescribed fee (if any).	20
(3)		xport certificate is a written statement that the Authority	
		isfied that the approved product poses no more than a low	
		of harm to individuals using the approved product.	
(4)		Authority may determine the form and content of the ex-	
		certificate.	25
(5)		Authority may withdraw the export certificate at any time	
		approval of the product is revoked under section 38 or	
		authority is satisfied that—	
	(a)	approval of the product was incorrectly or inappropri-	• •
	(1.)	ately granted; or	30
	(b)	events or circumstances occurring since the approval was granted mean that the approval—	
		(i) no longer applies; or	
		(ii) is misleading.	
(6)	An ex	xport certificate is not a guarantee that the approved prod-	35
	uct—	-	

- (a) meets any requirements that might apply to such products outside New Zealand:
- poses no more than a low risk to individuals using the (b) approved product.

Subpart 4A—Cost recovery

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79A Costs to be recovered

The Minister and the Authority must take all reasonable steps to ensure that the direct and indirect costs of administering this Act that are not provided for by money appropriated by Parliament for the purpose are recovered under this subpart, 10 whether by way of fees, levies, or otherwise.

79B Principles of cost recovery

In determining the most appropriate method of cost recovery (1) under **section 79A**, the Minister and the Authority must, as far as is reasonably practicable, have regard to the following 15 principles:

equity, in that funding for a particular function, power, (a) or service (or a particular class of function, power, or service) should generally, and to the extent practicable, be sourced from the users or beneficiaries of the relevant 20 functions, powers, or services at a level commensurate with their use of or benefit from the function, power, or service:

(b) efficiency, in that the allocation of costs should generally be allocated and recovered in order to ensure that 25 maximum benefits are delivered at minimum cost:

justifiability, in that costs should generally be recovered (c) to meet only the actual and reasonable costs (including indirect costs) of the provision of or exercise of the relevant function, power or service:

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(d) transparency, in that costs should generally be identified, and allocated as closely as practicable to, tangible service provision in the recovery period in which the service is provided:

ease of administration, in that the costs of collection 35 (e) should generally be kept as low as possible.

<u>(2)</u>	Costs (a)	should not be recovered under this subpart unless— there has been appropriate consultation with persons or organisations that the Authority considers representative of the interests of persons likely to be substantially	
	<u>(b)</u>	affected by the exercise of the power; and the persons involved have been given sufficient time and information to make an informed contribution.	5
<u>(3)</u>	to spe	ection (2) does not require consultation in relation ecific fees or charges, or the specific levels of fees or es, as long as the fees or charges are set reasonably in the scope of any general consultation.	10
<u>(4)</u>		ty of any regulations made for the purposes of this sub-	
<u>(5)</u>	costs	section does not require the strict apportionment of the that are to be recovered for a particular function or ser- pased on usage.	15
<u>(6)</u>		out limiting the way in which fees and charges may be set this subpart, a fee or charge may be set at a level or in a hat— is determined by calculations that involve an averaging of costs or potential costs: takes into account costs or potential costs of services (that are not directly to be provided to the person who pays the fee or charge but which are an indirect or potential cost) arising from the delivery of the service to a class of persons or all persons who use the service.	20
<u>79C</u>	The r	nethods by which costs may be recovered made under ubpart are as follows: fixed fees or charges: fees or charges based on a scale or formula or at a rate determined on a time-unit basis: the recovery by way of fee or charge of actual and reasonable costs expended in, or associated with, the performance of a service or function: fees or charges based on estimated costs and paid before the provision of the service, followed by reconciliation	30
		/5	

provision of the service or function:

and an appropriate further payment or refund after the

	<u>(e)</u>	refundable or non-refundable deposits paid before the	
		provision of the service or function:	
	<u>(f)</u>	fees or charges imposed on all users of services, classes	5
		of users of services, all beneficiaries of services, or	
		classes of beneficiaries of services:	
	<u>(g)</u>	levies:	
	(h)	any combination of the above.	
	(11)	way comemwan of the weeks.	
<u>79D</u>	Cost	recovery to relate generally to financial year	10
<u>(1)</u>	Exce	pt as provided in subsection (2) , any regulations under	
	this s	ubpart that set a fee, charge, or levy that applies in any	
	financ	cial year—	
	(a)	must have been made before the start of that financial	
		year; but	15
	(b)	except as the regulations may otherwise provide, apply	
		in that year and all subsequent years until revoked or	
		replaced.	
<u>(2)</u>	Subs	ection (1) does not prevent the alteration or setting dur-	
		ny financial year of a fee, charge, or levy payable in that	20
		if either—	
	(a)	the fee, charge, or levy is reduced, removed, or restated	
		without substantive alteration; or	
	<u>(b)</u>	in the case of an increase or a new fee, charge, or levy,—	
		(i) appropriate consultation has been carried out	25
		with persons or representatives of persons sub-	
		stantially affected by the alteration or setting;	
		and	
		(ii) the Minister is satisfied that those persons, or	
		their representatives, agree or substantially agree	30
		with the alteration or setting.	
<u>(3)</u>	Subs	ection (1) does not prevent the amendment of any regu-	
<u></u>		setting a fee, charge, or levy if any substantive alteration	
		ted by the amendment is for the purpose of correcting an	
	error.		35
(4)		very may be made in any financial year of any shortfall	
7.7		st recovery for any of the preceding 4 financial years, and	
		rance may be made for any over-recovery of costs in those	
	anow	and may be made for any over-recovery of costs in those	
68			

25

years (including any estimated shortfall or over-recovery for the immediately preceding financial year).

79E Three-yearly review of cost recovery

- (1) The Minister must review the levels and methods of cost recovery in relation to any class of psychoactive substance or approved products, persons, or other matter at least once in every 3-year period occurring since the original setting of, or latest change to, the cost recovery of those things.
- (2) The Minister must ensure that appropriate consultation takes place in relation to any such review.
- (3) A review may make provision for recovery in any relevant financial year of any shortfall in cost recovery for any of the preceding 4 financial years, or make allowance for any over-recovery of costs in those years (including any estimated shortfall or over-recovery for the immediately preceding financial 15 year)

(4) Subsection (1) does not—

- (a) require all areas of cost recovery to be reviewed at the same time:
- (b) impose any time limit on the making of regulations to implement the results of a review.

79F Regulations prescribing fees and charges

- (1) The Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations prescribing—
 - (a) fees or charges of a kind or kinds described in **section** 79C(a) to (f):
 - (b) the persons liable for the payment of the fees or charges:
 - (c) the persons or class of persons, if any, exempt from paying the fees or charges.
- (2) If an exemption is provided under **subsection (1)(c)**, the reasons for it must be set out in the regulations' explanatory note.

<u> 79G</u>	Regu	<u>ilations imposing levies</u>			
<u>(1)</u>	The Governor-General may, by Order in Council made on the				
	recon	mmendation of the Minister, make regulations providing			
	for tl	ne payment of a levy.			
<u>(2)</u>	The regulations may—				
	(a)	prescribe different levies for different classes of per-			
		sons:			
	<u>(b)</u>	specify the amount of the levy:			
	<u>(c)</u>	provide for the method by which the levy will be calcu-			
		<u>lated:</u>	10		
	<u>(d)</u>	specify the criteria and other requirements by and			
		against which the levy will be set or reset:			
	<u>(e)</u>	provide for the payment and collection of the levy:			
	<u>(f)</u>	exempt any person or class or persons from paying the			
		<u>levy:</u>	15		
	<u>(g)</u>	provide for waivers or refunds of the whole or any part			
		of the levy:			
	<u>(h)</u>	provide for any other matters necessary or desirable to			
		set, calculate, administer, collect, and enforce the levy.	20		
<u>(3)</u>	If an exemption is provided under subsection (2)(f), the rea-				
	sons	for it must be set out in the regulations' explanatory note.			
<u> 79H</u>		ire to pay fee, charge, or levy			
<u>(1)</u>		section applies if a fee, charge, or levy imposed by regu-			
		ns made under section 79F or 79G is wholly or partly			
	<u>unpa</u>	id 20 working days after a request for payment.	25		
<u>(2)</u>	The A	Authority may recover a fee, charge, or levy from a person			
	respo	onsible for paying it as a debt due in a court of competent			
	juris	diction.			
		Subpart 5—Other matters			
		Duty to notify adverse reactions	30		
80	•	of specified persons to notify Authority about			
(1)		erse reactions			
(1)		rson specified in subsection (2) must, as soon as is rea-			
		bly practicable, notify the Authority if the person becomes	2.7		
	awar	e of any adverse reaction arising from the use of a psy-	35		

		etive substance or an approved product by any individual ther in New Zealand or overseas).			
(2)	The r	persons are—			
	(a)	a person who holds a licence in respect of the psychoactive substance:	5		
	(b)	the person who applied for approval of the approved product under section 31 .			
(3)	A notification under subsection (1) must include—				
()	<u>(aa)</u>	the name of the psychoactive substance or approved product as far as it is known to the person; and	10		
	(a)	the nature of the adverse reaction as far as it is known to the person; and			
	(b)	the circumstances in which the adverse reaction arose as far as they are known to the person.			
(4)	-	rson commits an offence if the person <u>who</u> contravenes ection (1) <u>commits an offence</u> .	15		
(5)	liable	rson who commits an offence against subsection (1) is e on conviction to a term of imprisonment not exceeding nths or to a fine not exceeding \$500,000, or both.			
(6)	ful re tive s	s section, adverse reaction means an unwanted or harmaction experienced by an individual using the psychoacubstance that is suspected to have arisen from, or be reto, use of the substance.	20		
		Regulations			
81	Regu	llations relating to psychoactive substances	25		
(1)	The Crecon	Governor-General may, by Order in Council made on the numendation of the Minister, make regulations declaring, ame or description,—			
	(a)	a substance, mixture, preparation, article, device, or thing to be or not to be a psychoactive substance for the purposes of this Act:	30		
	(b)	any kinds or class of substances, mixtures, preparations, articles, devices, or things to be or not to be psychoactive substances for the purposes of this Act.			
(2)		re making a recommendation under subsection (1) , the ster must—	35		

	(a)	be satisfied that the regulations are reasonably necessary or expedient for achieving the purposes of this Act; and	
	<u>(a)</u>	be satisfied that the proposed regulations are reasonably necessary for achieving the purpose of this Act; and	5
	<u>(ab)</u>	seek, and have regard to, the advice of the advisory committee in respect of the proposed regulations; and	
	(b)	consult with any person or organisation that the Minister considers to be representative of the interests of per-	
		sons likely to be substantially affected by the <u>proposed</u> regulations.	10
82		tlations relating to fees and charges	
(1)	the fo	Governor-General may, by Order in Council made on the mmendation of the Minister, make regulations prescribing ees or charges payable to enable the recovery of the direct indirect costs of the Authority, the advisory committee,	15
		he appeals committee incurred in—	
	(a)	administering this Act:	
	(b)	enforcing and monitoring compliance with this Act:	20
	(c)	publicising and informing people about this Act:	20
(a)	(d)	doing anything else authorised or required by this Act.	
(2)		nples of the costs that may be recovered include—	
	(a)	the cost of processing applications:	
	(b)	the costs of issuing licences or export certificates:	25
	(c)	the costs of funding enforcement officers:	25
	(d)	the costs of providing, operating, and maintaining systems, registers, or other processes in connection with the administration of this Act:	
	(e)	the costs of services provided by third parties to the Authority (for example, laboratories).	30
(3)	Regu	tlations made under subsection (1) may specify—	
	(a)	the matters in respect of which fees or charges are payable:	
	(b)	the amounts of fees or charges or the method or rates by which they are to be assessed:	35
	(c)	the persons or classes of persons liable for payment of the fees or charges:	

(4)

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83 (1)

(d)	the particular products or classes of products or particular licences or classes of licences to which the fees or charges apply:				
(e)	the circumstances in which a penalty for default in payment is payable or in which the payment of the whole or a part of those fees or charges may be remitted or waived:	5			
(f)	the manner in which the fees or charges are to be paid.				
Befo	re making a recommendation under subsection (1), the				
	ster must consult with any person or organisation that the	10			
	ster considers to be representative of the interests of per-				
sons	likely to be substantially affected by the regulations.				
Regu	llations relating to infringement offences				
	Governor-General may, by Order in Council, make regu-				
	ns for 1 or more of the following purposes:	15			
<u>(a)</u>	prescribing the infringement fees payable for infringe-				
	ment offences:				
<u>(b)</u>	prescribing the form of infringement notices and re-				
	minder notices for infringement offences and any other				
	particulars to be contained in an infringement notice and	20			
	reminder notice.				
	er regulations				
	Governor-General may, by Order in Council made on the				
	mmendation of the Minister, make regulations for 1 or				
more	of the following purposes:	25			
	Applications for licences and approval				
(a)	prescribing, in relation to an application for a licence or				
	approval of a psychoactive product,—				
	(i) any particulars, information, documents, sam-				
	ples, or other material that must accompany or	30			
	be contained in the application:				
	(ii) any matter that the Authority must take into ac-				
	count when deciding the application:				

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-	eribing restrictions or prohibitions, or both, on the
-	es or premises from which approved products may
	old, for example,—
(i)	restricting or prohibiting the sale of approved products from places or premises of a specified kind (for example, an Internet site or non-fixed premises such as a vehicle):
(ii)	restricting or prohibiting the sale of approved
	products from certain types of retail premises (for example, premises where alcohol is sold):
(iii)	restricting or prohibiting the sale of approved
	products from, or in proximity to, places where
	children or minors gather (for example, schools
	or recreational facilities):
	e-of-sale restrictions or prohibitions cribing restrictions or prohibitions, or both, on the
	es or premises from which approved products may
be so	
Inter	net sales restrictions or requirements
	rnet sales restrictions or requirements cribing restrictions and requirements relating to the
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preso locat prov ampl	cribing restrictions and requirements relating to the tion, manner, way, medium, or form in which apped products are offered for Internet sale, for ex-le,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved
preso locat prov ampl (i)	cribing restrictions and requirements relating to the cion, manner, way, medium, or form in which apped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved products with youth culture:
preso locat prov ampl (i)	cribing restrictions and requirements relating to the cion, manner, way, medium, or form in which apped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved products with youth culture: requiring that certain information (such as the
preso locat prov ampl	cribing restrictions and requirements relating to the cion, manner, way, medium, or form in which aped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved products with youth culture: requiring that certain information (such as the ingredients contained in the approved prod-
preso locat prov ampl (i)	cribing restrictions and requirements relating to the cion, manner, way, medium, or form in which apped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved products with youth culture: requiring that certain information (such as the ingredients contained in the approved product) be visible on the Internet site when people
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preso locat prov ampl (i)	cribing restrictions and requirements relating to the cion, manner, way, medium, or form in which aped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved products with youth culture: requiring that certain information (such as the ingredients contained in the approved product) be visible on the Internet site when people browse, enter, or otherwise access the site, or a requirement that measures are taken to ensure
preso locat prov ampl (i)	cribing restrictions and requirements relating to the tion, manner, way, medium, or form in which apped products are offered for Internet sale, for extle,— restricting the offer of approved products on Internet sites containing material designed to appeal to children or that associate approved

restricting the offer of approved products on Internet sites that contain material that is de-

<u>(i)</u>

signed in such a manner, way, medium, or form to appeal, or be likely to appeal, to minors:

browse, enter, or otherwise access the site: (iii) requiring prescribed measures to be taken to ensure that minors cannot enter, browse, or otherwise access the Internet site: Advertising restrictions or requirements prescribing restrictions or requirements relating to the location, manner, way, medium, or form in which (i) approved products are advertised: (ii) advertising of approved products, if undertaken, is to appear, for example, a requirement that advertising for approved products include certain information (such as the ingredients contained in the approved product): prescribing restrictions or requirements relating to the manner, way, medium, or form in which approved products are advertised: Labelling restrictions or requirements prescribing restrictions or requirements relating to the manner, way, medium, and form in which approved products are labelled, for example— (i) approved products are labelled, for example, restrictions relating to labelling designed to appeal to children or that associates approved products with youth culture: (i) restrictions relating to labelling designed to appeal to minors: (ii) requirements that labelling for an approved product comply with any prescribed requirements (such as requirements relating to plain packag-	5
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to children or that associates approved products with youth culture: (i) restrictions relating to labelling designed to appeal to minors: (ia) requirements that labelling for an approved product comply with any prescribed requirements (such as requirements relating to plain packag-	25
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(i) restrictions relating to labelling designed to appeal to minors: (ia) requirements that labelling for an approved product comply with any prescribed requirements (such as requirements relating to plain packag-	25
peal to minors: (ia) requirements that labelling for an approved product comply with any prescribed requirements (such as requirements relating to plain packag-	25
(ia) requirements that labelling for an approved prod- uct comply with any prescribed requirements (such as requirements relating to plain packag-	25 30
uct comply with any prescribed requirements (such as requirements relating to plain packag-	
(such as requirements relating to plain packag-	
ing):	
(ii) the labelling of approved products must appear	30
for the purposes of sale or supply, or both, for	
example, a requirement that the inner and outer	30

packages for approved products both carry labels specifying certain prescribed information:

Packaging restrictions or requirements

- (f) prescribing restrictions or requirements relating to the size and type of packaging for approved products for 5 the purpose of sale or supply, or both, for example, that the packaging must be tamper-proof or child-proof:
- prescribing restrictions or requirements relating to— (g)
 - (i) the type of material and the medium or form of the material that may be inserted in packages that 10 contain approved products for the purpose of sale or supply, or both, for example, restrictions relating to the inclusion of written material of a certain kind (such as material that associates approved products with youth culture):
 - (ii) the content of any material required to be inserted in packages that contain approved products for the purpose of sale or supply, or both, for example, a requirement that certain material be inserted in the package (such as information leaflets 20 about contraindications for use of the approved product):
 - (iii) the material and the medium or form of the material that is to be inserted in packages that contain approved products for the purpose of sale or 25 supply, or both, for example, a requirement that material be presented in a certain way (such as a requirement for material to be printed in a certain size or manner):

Health warnings

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- (h) prescribing requirements—
 - (i) that health warnings accompany approved products for the purposes of sale or supply, or both, and the information that must be specified or included in the warnings:
 - (ii) as to the manner, way, medium, or form in which health warnings are, if required, to accompany approved products (such as a requirement that the

	of a package containing an approved product):
(h)	prescribing, for the purposes of section 56 , the infor-
	mation that must be specified or included in the health
	warning for an approved product:
(ha)	prescribing requirements as the manner, way, medium,
	or form in which health warnings must appear on the
	label for the product or must appear in an advertisement
	relating to the approved product:

health warning is to be on the label or advertising

Signage requirements

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- prescribing requirements— (i)
 - relating to signage that is to be displayed when approved products are sold:
 - as to the manner, way, medium, and form in (ii) which signage, if required, is to be displayed 15 when approved products are sold, for example, a requirement that a person selling an approved product display a sign of a particular size stating that the approved product may not be sold to a person under the age of 18 years or stating a rec- 20 ommended maximum dosage:

Quantity, dosage, form, and serving restrictions or requirements

- prescribing restrictions or requirements relating to— (j)
 - the quantity or form of approved products that 25 (i) may be sold or supplied together at any one time:
 - the maximum dosage or serving of an approved (ii) product that may be sold or supplied at any one time:

Storage, display, and disposal restrictions or 30 requirements

- prescribing restrictions or requirements relating to— (k)
 - the storage of psychoactive substances, for example, a restriction on the maximum amount of any psychoactive substance that may be stored 35 in any premises at any one time or a requirement that the psychoactive substance must be stored at or below a certain temperature:

<u>(ka)</u>

<u>(kb)</u>

(1)

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	sychoactive Substances Din	
` /	manner of disposal of psychoactive sub-	
	storage of approved products for the purposes ale or supply, or both, for example, a restric-	
	on the maximum amount of any approved	4
	duct that may be stored in any premises at any	٠
	time or a requirement that sellers of an ap-	
	ved product must store it at or below a certain	
_	pperature:	
	display of approved products for the purposes	1
` /	tale or supply, or both, for example, a restric-	
tion	that an approved product must not be dis-	
pla :	yed in a particular place or a requirement re-	
	ng to the position in a shop where approved	
pro	ducts are visible from the street:	
	display of approved products inside retail	
· ·	mises for the purposes of sale, for example, re-	
	ctions on approved products being displayed	
	my particular place or a requirement that ap-	
<u>pro</u>	ved products not be visible from the street:	2
<u>Prescribir</u>	ng telephone service or monitoring agency	
	g any telephone service for the purposes of	
section 5		
	g a monitoring agency for the purposes of	
section 8	<u>80A:</u>	2
Infringem	ent offences	
prescribin	g the infringement fee payable for an infringe-	
ment offer		
	g the form of infringement notices and a re-	
	tice for infringement offences, and any other	-
	s contained in infringement notices and re-	
minder no	vtices:	
Procedure		

prescribing the procedure of the advisory committee

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and the appeals committee:

those records must be retained:

(o)

Record-keeping requirements
prescribing requirements for specified persons to keep
records under this Act and the period of time for which

	(p)	General providing for any other matters contemplated by this Act, necessary for its administration, or necessary for giving it full effect.	5
(2)	Minis Minis	re making a recommendation under subsection (1) , the ster must consult with any person or organisation that the ster considers to be representative of the interests of perlikely to be substantially affected by the <u>proposed</u> regulas.	10
(3)	Regu (a)	lations made under this section may— apply to psychoactive substances or approved products generally or to a particular class or description of psy- choactive substances or approved products specified or described in the regulations:	15
	(b)	make different provision for apply differently to different classes or descriptions of psychoactive substances or approved products, or on any other differential basis. are: 2005 No 81 s 62	20
	De	elegation of Authority's functions, duties, or powers	
84 (1)	The any p	gation of Authority's functions, duties, or powers Authority may, as the Authority thinks fit, delegate to erson any of the Authority's functions, duties, or powers r this Act.	25
(2)	(a)(b)(c)	may be made subject to any terms or conditions that the Authority thinks fit: may be made generally or in any particular case: does not prevent the Authority from exercising any power, or performing any function or duty:	30
	(d) (e)	does not affect the responsibility of the Authority for the actions of any person acting under <u>a</u> delegation: may be revoked at any time by notice to the delegate.	35
		79	

(3)	A person who is delegated to whom any functions, duties, or powers are delegated under subsection (1)—			
	(a) may, with the prior written consent of the Authority, delegate those functions, duties, or powers to any other person:	5		
	(b) may, subject to any terms or conditions, carry out or exercise those functions, duties, or powers in the same manner and with the same effect as if they had been conferred on that person directly by this Act and not by delegation.	10		
(4)	A person purporting to act under any delegation under subsection (1) is, in the absence of proof to the contrary, presumed to be acting in accordance with the terms of the delegation.			
	Protection from civil and criminal liability	15		
<u>84A</u>	<u>Immunities</u>			
<u>(1)</u>	This section applies to the following:			
	(a) the Authority:			
	(b) a member of the advisory committee:	20		
(2)	(c) a member of the appeals committee.	20		
<u>(2)</u>	The person is protected from civil and criminal liability for any act that the person does or omits to do in the carrying out or intended carrying out of the person's functions or duties or			
	the exercise or intended exercise of the person's powers under			
	this Act, done—	25		
	(a) in good faith; and			
	(b) with reasonable cause.			
	Relationship with other enactments			
85	Relationship with Hazardous Substances and New			
	Organisms Act 1996	30		
(1)	This section applies to a psychoactive substance that is also a hazardous substance within the meaning of the Hazardous Substances and New Organisms Act 1996 (the HSNO Act).			
(2)	Nothing in this Act affects the application of the HSNO Act in relation to the psychoactive substance.	35		
(3)	However, in the event of any inconsistency—			

- (a) between the provisions of this Act and the provisions of the HSNO Act, the provisions of this Act prevail:
- (b) between the provisions of regulations made under this Act and the provisions of regulations made under the HSNO Act, the provisions of regulations made under 5 this Act prevail.

Compare: 1981 No 118 ss 5A, 110

86 Application of Customs and Excise Act 1996

The provisions of the Customs and Excise Act 1996, except sections 209 and 231 to 235C section 209 of that Act, apply 10 to a psychoactive substance that is not an approved product (or part of an approved product) as if it were prohibited goods under that Act-, unless the person importing the psychoactive substance—

- (a) holds a licence to import; and
- (b) <u>has notified the Authority of the importation in accordance with section 16(1).</u>

Review of Act

87 Ministry must review Act

- (1) The Ministry must, no later than 5 years after the commence- 20 ment of this Act,—
 - (a) conduct a review of the policy and operation of this Act; and
 - (b) prepare for the Minister a report of on the review.
- (2) As soon as practicable after receiving the report, the Minister 25 must present a copy to the House of Representatives.

Transitional provision

88 Transitional provision

The transitional provision set out in **Schedule 1** has effect for the purposes of this Act.

Amendments to Search and Surveillance Act 2012

89	Amendments to Search and Surveillance Act 2012	
(1)	This section amends the Search and Surveillance Act 2012.	
(2)	In section 45(1)(b), after "Arms Act 1983", insert "; or".	5
(3)	After section 45(1)(b), insert:	
	"(c) against section 24, 25, or 62 of the Psychoactive Substances Act 2013 ."	
(4)	In section 45(2)(b), after "Arms Act 1983", insert "; or".	
(5)	After section 45(2)(b), insert:	10
	"(c) against section 24, 25, or 62 of the Psychoactive Substances Act 2013 ."	
	Amendments to Children, Young Persons, and Their Families Act 1989	
90	Amendments to Children, Young Persons, and Their	15
	Families Act 1989	
(1)	This section amends the Children, Young Persons, and Their Families Act 1989.	
(2)	After section 272(3)(b), insert:	
	"(ba) an infringement offence against the Psychoactive Substances Act 2013 ; or".	20
(3)	In section 272(5), replace "subsection (3)(c), where a young person is charged with" with "subsection (3)(ba) or 3(c), where a young person is charged with an infringement offence re-	
	ferred to in subsection 3(ba) or".	25
	Consequential amendments and revocation	
91	Consequential amendments and revocation Amend or revoke the enactments specified in Schedule 2 as	

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set out in that schedule.

Schedule 1 ss 5(2), 88 Transitional provision

1	Transitional	provision	for	products	sold	before
	commencem	ent of Act				

- (1) This section applies to a psychoactive product that was being 5 lawfully sold throughout the period of 6 months before the commencement of this Act.
- (2) The psychoactive product may continue to be sold after the commencement of this Act, but only if,—
 - (a) no later than 30 days after the commencement of this
 Act, an application has been made to the Authority
 under section 31 for approval of the product; and
 - (b) the Authority has accepted the application.
- (1) This clause applies to a psychoactive product that was lawfully being sold throughout the period of 3 months before the commencement of this Act.
- (2) The psychoactive product may continue to be sold after the commencement of this Act only if,—
 - (a) within 30 days after that commencement, an application is made to the Authority under section 31 for the approval of the product; and
 - (b) the Authority accepts the application.
- (2A) A person may continue to sell the psychoactive product by retail only if,—
 - (a) within 30 days after that commencement, the person applies to the Authority under section 12 for a licence to sell approved products by retail; and
 - (b) the Authority accepts the application.
- (2B) Subpart 1 of Part 3 applies to a psychoactive product that may continue to be sold under this clause as if it were an approved product.

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- (3) The Authority may, at any time, if it is satisfied that the continued sale or supply of the psychoactive product poses more than a low risk of harm to individuals using the product, recall a product to which this section clause applies under section 35 78 as if it were an approved product, and that section applies with any necessary modifications to the recall of the product.

- (4) To avoid doubt, this section <u>clause</u> does not authorise the sale of psychoactive product for which an approval—
 - (a) is granted under **section 35**; or
 - (b) is refused under **section 37**.

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Schedule 2

Schedule 2 s 91 Consequential amendments and revocation

Part 1

Amendments to Acts

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Corrections Act 2004 (2004 No 50)

Repeal section 23(3)(c).

Misuse of Drugs Act 1975 (1975 No 116)

In section 2(1), repeal the definitions of **temporary class drug** and **temporary class drug notice**.

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In section 2(1), definition of **controlled drug analogue**, paragraph (b), after "Medicines Act 1981", insert "; or".

In section 2(1), definition of **controlled drug analogue**, after paragraph (b), insert:

"(c) an approved product within the meaning of the Psy- 15 choactive Substances Act **2013**".

Repeal sections 4C to 4E.

Misuse of Drugs Amendment Act 2005 (2005 No 81)

Repeal Part 3.

Repeal Schedule 4.

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Ombudsmen Act 1975 (1975 No 9)

In the Schedule, Part 2, insert in their appropriate alphabetical order "Psychoactive Substances Expert Advisory Committee" and "Psychoactive Substances Appeals Committee".

Part 1—continued

Search and Surveillance Act 2012 (2012 No 24)

In the Schedule, insert in its appropriate alphabetical order:

	Act Psychoactive Substances Ac 2013	Section 70 et	Brief description of power Enforcement officer may obtain and execute search warrant to search for evidence of offences against Psychoactive Substances Act 2013	Which provisions in Part 4 apply All (except sections 118 and 119 apply to constables only)				
Summary Proceedings Act 1957 (1957 No 87)								
	In section 2(1), definition of infringement notice , insert after paragraph (j): "(ja) section 66 of the Psychoactive Substances Act 2013 ; or".							
Part 2								
Amendments to regulations								
Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001 (SR 2001/112) Replace regulation 4(2) with:								
	"(2) This regulation is subject to regulations 5, 6, and 6A ."							
	After regulation 6, insert: "6A Psychoactive substances							
	"(1) A psychoactive substance is not hazardous for the purposes of the Act if—							
	"(a) "(b)	the substance "(i) meets subcla	the minimum degree of har use 2(1)(s) of Schedule 4;	zard specified in and	20			
	"(ii) only meets the minimum degree of hazard spe-							

cified in subclause 2(1)(s) of Schedule 4 because

of its psychoactive properties; and

Part 2—continued

Hazardous Substances (Minimum Degrees of Hazard) Regulations 2001 (SR 2001/112)—continued

- "(iii) does not meet any other minimum degree of hazard of the intrinsic hazardous substance properties specified in regulation 7.
- "(2) In this regulation,—
 - "approved product has the same meaning as in section 8 of 5 the Psychoactive Substances Act 2013
 - "psychoactive substance has the same meaning as in section 9 of the Psychoactive Substances Act 2013."

Part 3 Regulations revoked

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Misuse of Drugs (Restricted Substances) Regulations 2008 (SR 2008/373)

Revoke.

Legislative history

26 February 2013 9 April 2013 Introduction (Bill 100–1)
First reading and referral to Health Committee