



Drug and Substance Checking Legislation Bill

J.17

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The Drug and Substance Checking Legislation Bill is an omnibus Bill which will amend Misuse of Drugs Act 1975 and the Psychoactive Substances Act 2013. It will reduce harm from illicit drugs by enabling drug checking services to operate with legal certainty.

Drug and substance checking services check the composition of drugs and substances and provide information and harm reduction advice to help individuals make informed decisions about drug and substance use. If after testing a drug or substance is discovered not to be as presumed, the individual can make the potentially life-saving decision not to consume it.

There is no provision for drug checking under either the Misuse of Drugs Act or the Psychoactive Substances Act. This puts people who carry out drug checking at risk of prosecution. People who host drug checking services are also at risk of prosecution under the Misuse of Drugs Act, because the presence of drug checking services could indicate that the host is knowingly allowing a place to be used to commit an offence under the Act.

In order to enable drug and substance checking services to operate with legal certainty over the summer of 2020/21, this Bill enables the Director-General of Health to appoint, by notice in the Gazette, a drug and substance checking service provider to carry out the following functions:

- provide information and harm reduction advice to help members of the public make informed decisions about drug and psychoactive substance use:
- test any drug or substance, or sample of a drug or substance, (which may be a controlled drug or psychoactive substance) that a member of the public presents for checking to ascertain the composition and likely identity of the drug or substance:
- advise the member of the public who presented a sample of a drug or substance for testing the outcome of the testing:
- arrange for a sample of a drug or substance to be tested by an approved laboratory:
- dispose of any sample of a controlled drug or substance used in testing:
- dispose of, or arrange for the disposal of, any drug or substance surrendered by any member of the public for disposal.

The Bill defines a drug and substance checking service provider as a person appointed as a drug checking service provider by the Director-General of Health. Amendments to the Misuse of Drugs Act 1975 and the Psychoactive Substances Act 2013 are made to enable service providers to handle controlled drugs and unapproved psychoactive substances for the purposes of performing the above functions without committing any offence under those Acts.

The amendments also permit event organisers and other hosts to allow a drug and substance checking service to operate on their premises without committing an offence under the Misuse of Drugs Act 1975.

Possession of controlled drugs and unapproved psychoactive substances by members of the public will continue to be illegal. However the results of testing by drug and substance checking service providers will not be admissible in criminal proceedings against the person who supplied any controlled drug or unapproved psychoactive substance for testing.

The Bill creates offences for a drug and substance checking service provider to breach any terms or conditions of their appointment and for a person to operate a drug and substance checking service without being appointed to do so. The penalty for these offences is a fine not exceeding \$5,000.

The amendments to the Misuse of Drugs Act 1975 and the Psychoactive Substances Act 2013 are temporary and will be repealed 12 months after their date of commencement. This Bill will also be repealed 12 months after its commencement.