Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018

Public Act	2018 No 54
Date of assent	17 December 2018
Commencement	see section 2

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Misuse of Drugs Act 1975 (the **principal Act**).

4 Section 2 amended (Interpretation)

(1) In section 2(1), insert in their appropriate alphabetical order:

CBD product has the meaning given in section 2A

non-psychoactive THC analogue means a substance that—

(a) occurs naturally in cannabis; and

(b) is not capable of inducing more than a minor psychoactive effect, by any means, in a person; and

(c) has a structure substantially similar to that of—

(i) a tetrahydrocannabinol; or

(ii) an isomer, ester, or ether of a tetrahydrocannabinol; or

(iii) an ester or ether of an isomer of a tetrahydrocannabinol; or

(iv) a salt of any substance described in subparagraphs (i) to (iii)

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

(d) a non-psychoactive THC analogue

(3) After section 2(1A), insert:

(1B) In this Act, a person **requires palliation** if, in the opinion of a medical practitioner or nurse practitioner, the person has an advanced progressive life-limiting condition and is nearing the end of their life.

5 New section 2A inserted (Meaning of CBD product)

After section 2, insert:

2A Meaning of CBD product

(1) **CBD product** means a product that—

(a) contains cannabidiol; and

(b) either—

(i) does not contain a specified substance; or

(ii) contains specified substances in an amount that is no more than 2% of the sum of the amount of cannabidiol and the amount of specified substances in the product; and

(c) does not contain any other controlled drug; and

(d) does not contain any other psychoactive substance (as defined in section 9 of the Psychoactive Substances Act 2013).

(2) In this section, **specified substance** means a substance that—

(a) naturally occurs in cannabis; and

(b) is—

(i) a tetrahydrocannabinol; or

(ii) an isomer, ester, or ether of a tetrahydrocannabinol; or

(iii) an ester or ether of an isomer of a tetrahydrocannabinol; or

(iv) a salt of any substance described in subparagraphs (i) to (iii); or

(v) a substance that has a structure substantially similar to that of any substance described in subparagraphs (i) to (iv); and

(c) for substances listed in paragraph (b)(ii) to (v), is capable of inducing more than a minor psychoactive effect, by any means, in a person.

6 Section 7 amended (Possession and use of controlled drugs)

(1) After section 7(3), insert:

(3A) In any proceedings for an offence against subsection (1)(a) in respect of possessing or using any plant or plant material of the genus *Cannabis* or any cannabis preparation, the defendant has a defence if, at the time of the possession or use, the defendant had been diagnosed by a medical practitioner or nurse practitioner as requiring palliation.

(2) In section 7(4), replace "subsection (3)" with "subsection (3) or (3A)".

7 Section 8 amended (Exemptions from sections 6 and 7)

After section 8(6), insert:

(6A) Despite section 7(1)(a), a person who has a certificate from a medical practitioner or nurse practitioner certifying that the person requires palliation may procure, possess, consume, smoke, or otherwise use any plant or plant material of the genus *Cannabis* or any cannabis preparation.

8 Section 13 amended (Miscellaneous offences)

After section 13(1), insert:

(1A) However, in any proceedings for an offence against subsection (1)(a) of possessing a pipe or other utensil (not being a needle or syringe) for the purpose of possessing or using any plant or plant material of the genus *Cannabis* or any cannabis preparation, the defendant has a defence if, at the time of possessing

the pipe or other utensil, the defendant had been diagnosed by a medical practitioner or nurse practitioner as requiring palliation.

9 New section 35E inserted (Review and report on operation of sections 7(3A), 8(6A), and 13(1A))

After section 35D, insert:

Review of certain provisions

35E Review and report on operation of sections 7(3A), 8(6A), and 13(1A)

(1) The Minister must, not later than 2 years after the commencement of this section, require the Ministry of Health—

(a) to commence a review of the operation of sections 7(3A), 8(6A), and 13(1A) since the commencement of those subsections; and

(b) to prepare a report on the review for the Minister.

(2) The review and report required under subsection (1) must be completed within 12 months of the review commencing.

(3) As soon as practicable after receiving the report, the Minister must present a copy of it to the House of Representatives.

(4) The report on the review must include recommendations to the Minister on—

(a) the implementation of the exception and defences provided by sections 7(3A), 8(6A), and 13(1A) for people who require palliation; and

(b) whether any amendments to those provisions are necessary or desirable.

10 New section 37A inserted (Regulations setting minimum quality standards)

After section 37, insert:

37A Regulations setting minimum quality standards

(1) Without limiting section 37, the Governor-General may, by Order in Council made on the recommendation of the Minister, make regulations to prescribe the minimum quality standard that must be met by a product or class of product—

(a) that contains a controlled drug; and

(b) that may be cultivated, manufactured, produced, imported, or supplied under a licence granted under this Act.

(2) Regulations made under this section may prescribe minimum quality standards for the product or for the processes by which the product is cultivated, manufactured, produced, imported, or supplied.

(3) Regulations made under this section may—

(a) apply generally to a product or class of products; or

(b) apply to a product or class of products only if specified criteria are met.

(4) Regulations made under this section that relate to products that contain any part of any plant of the genus *Cannabis*, cannabis fruit, or cannabis seed must not require that the variety of plant contained in the product was brought into New Zealand with authorisation, if the variety is established in New Zealand at the time the product is manufactured or produced.

(5) The Minister must, no later than 1 year after the date on which the Misuse of Drugs (Medicinal Cannabis) Amendment Act 2018 comes into force, recommend the making of regulations under this section that relate to products that contain any part of any plant of the genus *Cannabis*, cannabis fruit, or cannabis seed.

11 Schedule 2 amended

(1) In Schedule 2, Part 1, clause 1,—

(a) in the item relating to cannabis preparations, after "processing", insert "(but does not include a CBD product)":

(b) in the item relating to tetrahydrocannabinols, after "controlled drug", insert "or a CBD product".

(2) In Schedule 2, Part 1, clause 2, after "designation", insert ", except for isomers of tetrahydrocannabinols if the isomers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person".

(3) In Schedule 2, Part 1, clause 3, after "possible", insert ", except for esters and ethers of tetrahydrocannabinols or of isomers of tetrahydrocannabinols if the esters and ethers naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person".

(4) In Schedule 2, Part 1, clause 4, after "clause 3", insert ", except for the salts of tetrahydrocannabinols or the salts of the substances excluded from clauses 2 and 3 if the salts naturally occur in cannabis and are not capable of inducing more than a minor psychoactive effect, by any means, in a person".

Consequential amendments to Misuse of Drugs Regulations 1977

12 Regulations amended

(1) This section amends the Misuse of Drugs Regulations 1977.

(2) In regulation 2, revoke the definition of **CBD product**.

(3) Revoke regulation 14A (which relates to the authority to import CBD products).

(4) Revoke regulation 22(2)(c) (which relates to the approval of a CBD product).

(5) Revoke regulation 28(4)(f) (which provides an exception for CBD products from certain custody requirements).

(6) Revoke regulation 29(1A) (which exempts the supply of CBD products from certain prescription requirements).

(7) In regulation 31A(2), delete "or, in the case of a CBD product, 3 months".

(8) Revoke regulation 48(3) (which disapplies Part 6 in relation to CBD products).

Legislative history

20 December 2017	Introduction (Bill 12–1)
30 January 2018	First reading and referral to Health Committee
25 July 2018	Reported from Health Committee
29 November 2018	Second reading
5 December 2018	Committee of the whole House (Bill 12–2)
11 December 2018	Third reading
17 December 2018	Royal assent

This Act is administered by the Ministry of Health.

Wellington, New Zealand:
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