Misuse of Drugs Amendment Act 2000

Public Act 2000 No 47
Date of assent 14 November 2000
Commencement see section 2

Contents

The Parliament of New Zealand enacts as follows:

1 Title

(1) This Act is the Misuse of Drugs Amendment Act 2000.

(2) In this Act, the Misuse of Drugs Act 1975 is called "the principal Act".

2 Commencement

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

3 New section 3A inserted

The principal Act is amended by inserting, after section 3, the following section:

"3A **Classification of drugs**

The classification of a drug under this Act is based on the risk of harm the drug poses to individuals, or to society, by its misuse; and accordingly—

"(a) drugs that pose a very high risk of harm are classified as Class A drugs; and

"(b) drugs that pose a high risk of harm are classified as Class B drugs; and

"(c) drugs that pose a moderate risk of harm are classified as Class C drugs."

4 New sections 4 to 4B substituted

The principal Act is amended by repealing sections 4 and 4A, and substituting the following sections:

"4 **Amendment of schedules that identify controlled drugs and precursor substances**

"(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend the First Schedule, the Second Schedule, the Third Schedule, and Schedule 4, by doing any 1 or more of the following to any 1 or more of those schedules:

"(a) adding the name or description of any substance, preparation, mixture, or article to a schedule; or

"(b) removing the name or description of any substance, preparation, mixture, or article from a schedule; or

"(c) moving the name or description of any substance, preparation, mixture, or article from 1 schedule, or Part or clause of a schedule, and inserting that name or description in another schedule, or Part or clause of a schedule.

"(2) An Order in Council made under subsection (1) may not come into force except in accordance with a commencement order made under section 4A.

"(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to any Order in Council made under subsection (1).

"(4) The Governor-General may, by Order in Council,—

"(a) amend the name or description of any substance, preparation, mixture, or article named or described in the First Schedule, the Second Schedule, or the Third Schedule, if the amendment is necessary for the purpose

of rendering that name or description consistent with international scientific usage:

"(b) update the First Schedule, the Second Schedule, or the Third Schedule, if the update is necessary for the purpose of clarifying content or correcting drafting errors:

"(c) add to, or remove from, Schedule 4 the name or description of any substance included in that schedule, if the amendment is necessary for the purpose of giving effect to any changes to the Annex to the Vienna Convention.

"(5) No Order in Council may be made under paragraph (a) or paragraph (b) of subsection (4) if it has the effect of classifying, changing the classification of, or declassifying any substance, preparation, mixture, or article.

"4A Procedure for bringing Order in Council made under section 4(1) into force

"(1) Subject to subsection (2), the Governor-General may, by Order in Council, make a commencement order bringing any Order in Council made under section 4(1) into force.

"(2) The commencement order may be made only after the Order in Council made under section 4(1) has been approved by resolution of the House of Representatives.

"(3) A resolution of the House of Representatives approving an Order in Council made under section 4(1) may be made at any time after—

"(a) the date that is 28 days after the date on which notice that the Order in Council has been made is given in the *Gazette*; or

"(b) if the *Gazette* notice is given during the period commencing on 24 December in 1 year and ending on 15 January in the following year, 15 February of that following year.

"(4) An Order in Council made under section 4(1) lapses if—

"(a) a motion to approve the Order in Council is defeated; or

"(b) no motion to approve the Order in Council is agreed to within 1 year of its date of making.

"4B Matters to which Minister must have regard before recommending Order in Council under section 4(1)

"(1) Before recommending to the Governor-General that an Order in Council be made under section 4(1), the Minister must, in

respect of each substance, preparation, mixture, or article (**drug**) referred to in the proposed Order in Council,—

"(a) consult with, and consider any advice given by, the Expert Advisory Committee on Drugs established under section 5AA, about the drug; and

"(b) have regard to the matters set out in subsection (2).

"(2) The matters that the Minister must have regard to, and on which the Expert Advisory Committee on Drugs must give advice, are—

"(a) the likelihood or evidence of drug abuse, including such matters as the prevalence of the drug, levels of consumption, drug seizure trends, and the potential appeal to vulnerable populations; and

"(b) the specific effects of the drug, including pharmacological, psychoactive, and toxicological effects; and

"(c) the risks, if any, to public health; and

"(d) the therapeutic value of the drug, if any; and

"(e) the potential for use of the drug to cause death; and

"(f) the ability of the drug to create physical or psychological dependence; and

"(g) the international classification and experience of the drug in other jurisdictions; and

"(h) any other matters that the Minister considers relevant."

5 New section 5AA inserted

The principal Act is amended by inserting, immediately before section 5A, the following section:

"5AA **Expert Advisory Committee on Drugs**

"(1) The Minister must establish an Expert Advisory Committee on Drugs to advise the Minister on drug classification matters.

"(2) The functions of the Committee are—

"(a) to carry out medical and scientific evaluations of controlled drugs, and any other narcotic or psychotropic substances, preparations, mixtures, or articles; and

"(b) to make recommendations to the Minister about—

"(i) whether and how controlled drugs or other substances, preparations, mixtures, or articles should be classified; and

"(ii) the level at which any presumption for supply, as provided for in section 6(6), should be set for any substance, preparation, mixture, or article that is,

or is proposed to be classified as, a controlled drug; and

"(c) to increase public awareness of the Committee's work, by (for instance) the timely release of papers, reports, and recommendations.

"(3) The Committee must comprise—

"(a) up to 5 people who, between them, have appropriate expertise in—

"(i) pharmacology:

"(ii) toxicology:

"(iii) drug and alcohol treatment:

"(iv) psychology:

"(v) community medicine; and

"(b) up to 3 people employed in the Public Service (as defined in section 27 of the State Sector Act 1988) who between them have appropriate expertise in—

"(i) public health:

"(ii) the appropriateness and safety of pharmaceuticals and their availability to the public:

"(iii) border control; and

"(c) 1 member of the police; and

"(d) 1 person representing the views of consumers of drug treatment services.

"(4) The Minister must appoint 1 member as chairperson of the Committee.

"(5) Subsections (2) and (3) of section 5 apply to the Expert Advisory Committee on Drugs as if it were a committee established under section 5."

6 New section 5B inserted

The principal Act is amended by inserting, after section 5A, the following section:

"5B **Functions of Minister**

For the purposes of this Act, the functions of the Minister include the provision and publication of reports, information, and advice concerning the misuse of drugs and the treatment of persons suffering from the misuse of drugs."

7 Dealing with controlled drugs

(1) Section 6(6) of the principal Act is amended by inserting, after paragraph (ca), the following paragraph:

"(cb) 5 grams or more of MDMA, MDEA, or MDA, or 100 or more flakes, tablets, capsules, or other drug forms containing any one or more of MDMA, MDEA, or MDA:".

(2) Section 6 of the principal Act is amended by adding the following subsection:

"(7) Subsection (6) does not apply to any substance mentioned in any of paragraphs (a) to (e) of that subsection unless the substance mentioned is named or described in the First Schedule, Second Schedule, or Third Schedule, or is a controlled drug analogue."

8 Exemptions from sections 6 and 7

Section 8(2) of the principal Act is amended by adding the following paragraph:

"(l) a person may, while entering or leaving New Zealand, possess a controlled drug required for treating the medical condition of the person or any other person in his or her care or control, if the quantity of drug is no greater than that required for treating the medical condition for one month, and the drug was—

"(i) lawfully supplied to the person by a medical practitioner, designated prescriber (as defined in section 2(1) of the Medicines Act 1981), or dentist in New Zealand; or

"(ii) prescribed by a medical practitioner, designated prescriber (as defined in section 2(1) of the Medicines Act 1981), or dentist, and lawfully supplied to the person in New Zealand; or

"(iii) lawfully supplied to the person overseas and supplied for the purpose of treating a medical condition."

9 Treatment of persons dependent on controlled drugs

(1) Section 24 of the principal Act is amended by repealing subsection (2), and substituting the following subsection:

"(2) A medical practitioner may prescribe, administer, or supply any controlled drug for or to any such person if the medical practitioner—

"(a) is for the time being a medical practitioner approved by the Minister under subsection (5)(a) and is acting in

accordance with any general or specific directions imposed by the Minister under that approval; or

"(b) is working in a place specified under subsection (5)(b) and is authorised, by a medical practitioner approved under subsection (5)(a) who is working in the same place, to prescribe controlled drugs; or

"(c) is acting in the medical practitioner's capacity as a medical officer employed in a place specified under subsection (5)(b), and is authorised in writing by the chief executive of the organisation that runs that place (acting under the general or specific direction of a Medical Officer of Health) to prescribe controlled drugs; or

"(d) is acting in relation to a particular patient during the period prescribed in, and in accordance with the terms and conditions of, a permission in writing given by an approved medical practitioner (as described in paragraph (a)) or an authorised medical officer (as described in paragraph (c))."

(2) Section 24(3) of the principal Act is amended by omitting the word "specified", and substituting the word "approved".

(3) Section 24 of the principal Act is amended by repealing subsection (5), and substituting the following subsection:

"(5) The Minister may from time to time, by notice in the *Gazette*, do any 1 or more of the following:

"(a) approve any medical practitioner as a medical practitioner who may, subject to any general or specific conditions imposed by the Minister on the recommendation of the Director-General of Health, prescribe, administer, or supply controlled drugs for the purpose of this section:

"(b) specify by name or description any licensed hospital (within the meaning of the Hospitals Act 1957), or any health centre, clinic, or similar place, as a place at which controlled drugs may be prescribed, administered, or supplied for the purpose of this section:

"(c) revoke any approval or specification under this section."

10 Third Schedule amended

Part II of the Third Schedule of the principal Act is amended by omitting from the item relating to Dihydrocodeine the

expression "Part IV", and substituting the expression "Part VI".

11 Consequential repeals

The following provisions are repealed:

(a) section 2 of the Misuse of Drugs Amendment Act 1982 (1982 No 151):

(b) section 3 of the Misuse of Drugs Amendment Act 1998 (1998 No 14).

Legislative history

5 October 1999	Introduction, first reading, second reading and referral to Health Committee (Bill 325–1)
26 June 2000	Reported from Health Committee (Bill 325–2)
26 July 2000	Consideration of report
7 November 2000	Committee of the whole House, third reading
14 November 2000	Royal assent

This Act is administered in the Ministry of Health.
