

## MISUSE OF DRUGS AMENDMENT BILL (NO. 2)

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### EXPLANATORY NOTE

THIS Bill amends the Misuse of Drugs Amendment Act 1978 to clarify 2 provisions in respect of which some doubt has arisen.

*Clause 1* relates to the Short Title.

*Clause 2* amends section 25 (1) of the Misuse of Drugs Amendment Act 1978. That provision is designed to prevent the admission of evidence obtained directly or indirectly by the unlawful use of a listening device, or by the unlawful disclosure of any information so obtained. However, as the provision stands at present, it is arguable that, where a communication is wrongfully intercepted, no evidence of that communication, even although obtained from any source other than a listening device, may be admitted. Thus, for example, even a party to the communication could not give evidence of its substance.

The amendments make it clear that the prohibition applies only to evidence obtained directly or indirectly by the unlawful use of a listening device.

*Clause 3* amends section 34 (1) of the Misuse of Drugs Amendment Act 1978. That provision excludes certain provisions of the Summary Proceedings Act 1957, consequent upon section 30 of the Misuse of Drugs Amendment Act 1978, which provides that persons charged with or convicted of certain drug offences may be granted bail only by a Judge.

By excluding section 46 of the Summary Proceedings Act 1957, it is arguable that a Magistrate's power to remand in custody has been taken away with his power to grant bail. The amendment makes it clear that only the power to grant bail is excluded.

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*Hon. Mr McLay*

**MISUSE OF DRUGS AMENDMENT (NO. 2)**

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ANALYSIS

Title  
1. Short Title

2. Inadmissibility of evidence of private communications unlawfully intercepted  
3. Application of certain provisions of Summary Proceedings Act 1957

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**A BILL INTITULED**

**An Act to amend the Misuse of Drugs Act 1975**

BE IT ENACTED by the General Assembly of New Zealand in Parliament assembled, and by the authority of the same,  
5 as follows:

1. **Short Title**—This Act may be cited as the Misuse of Drugs Amendment Act (No. 2) 1979, and shall be read together with and deemed part of the Misuse of Drugs Act 1975\*

10 2. **Inadmissibility of evidence of private communications unlawfully intercepted**—Section 25 (1) of the Misuse of Drugs Amendment Act 1978 is hereby amended—

\*1975, No. 116; 1978, No. 65

No. 18—1

- (a) By inserting, after the words “no evidence” where they first occur, the words “so acquired”:
- (b) By inserting, after the words “and no”, the word “other”.

**3. Application of certain provisions of Summary Proceedings Act 1957**—Section 34 of the Misuse of Drugs Amendment Act 1978 is hereby amended by repealing subsection (1), and substituting the following subsection: 5

“(1) Nothing in section 46 of the Summary Proceedings Act 1957 so far as it authorises a Court or Justice to allow a defendant to go at large, or in sections 49 (1), 51 to 54, 56, 125, 126, and 153 (d), (f), and (g) of that Act, shall apply in respect of any person charged with or convicted of a drug dealing offence.” 10