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**MISUSE OF DRUGS (DRUG PARAPHERNALIA)
AMENDMENT**

ANALYSIS

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A BILL INTITULED

An Act to amend the Misuse of Drugs Act 1975 to make further provision for the prevention of the use and sale of drug paraphernalia

5 BE IT ENACTED by the Parliament of New Zealand as follows:

1. **Short Title and commencement**—(1) This Act may be cited as the Misuse of Drugs (Drug Paraphernalia) Amendment Act 1992, and shall be read together with and deemed part of the Misuse of Drugs Act 1975 (hereinafter referred to as the principal Act).
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(2) This Act shall come into force on the date on which it receives the Royal assent.

2. **Interpretation**—Section 2(1) of the principal Act is hereby amended by inserting, after the definition of the term
15 “dependent”, the following definition:

“Drug paraphernalia” means any equipment, product, or material of any kind (not being a needle or syringe) which may reasonably be used in manufacturing, compounding, converting, concealing, producing,
20 processing, preparing, injecting, ingesting, inhaling or otherwise administering any controlled drug or for

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the preparation of any controlled drug to be administered.”.

3. Miscellaneous offences—(1) Section 13 (1) of the principal Act is hereby amended by repealing paragraph (a) (as substituted by section 3 of the Misuse of Drugs Amendment Act (No. 2) 1987), and substituting the following paragraphs: 5

“(a) Has in that person’s possession any drug paraphernalia for the purpose of the commission of an offence against this Act; or

“(aaa) Offers to deliver or sell, possesses with intent to deliver or sell, or manufactures with intent to deliver or sell drug paraphernalia which may be used for the purpose of the commission of an offence against this Act; or”.

(2) Section 13 of the principal Act is hereby further amended by repealing subsection (3), and substituting the following subsection: 15

“(3) Every person who commits an offence against this section is liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding \$5,000 or to both.” 20

4. Matters that may be considered in determining what is drug paraphernalia—The principal Act is hereby amended by inserting, after section 13, the following section:

“13A. In determining whether an object is drug paraphernalia for the purposes of sections 13 and 22 of this Act any court may consider— 25

“(a) Any statement made by the owner or anyone in control of the object:

“(b) The existence of any residue of a controlled drug on the object: 30

“(c) The whereabouts of the object when an offence involving a controlled drug occurs:

“(d) Any instructions provided with the object concerning its use:

“(e) Any descriptive materials accompanying the object which explain or depict its use: 35

“(f) Any advertising concerning the use of the object:

“(g) The manner in which the object is displayed for sale:

“(h) The existence and scope of legitimate uses for the object in the community: 40

“(i) Such other factors as the court may consider relevant.”

- 5. Power of Minister to prohibit import or supply of drug paraphernalia**—(1) Section 22 (1A) of the principal Act (as inserted by section 4 (1) of the Misuse of Drugs Amendment Act (No. 2) 1987) is hereby amended by omitting the words
- 5 “pipe or other utensil, not being a needle or syringe, that may be used for administering any controlled drug or in the preparation of any controlled drug to be administered,”, and substituting the words “drug paraphernalia”.
- (2) Section 22 (2) of the principal Act (as amended by section
- 10 4 (2) of the Misuse of Drugs Amendment Act (No. 2) 1987) is hereby amended by omitting the words “pipe or other utensil”, and substituting the words “drug paraphernalia”.