

House of Representatives

Supplementary Order Paper

Tuesday, 2 November 2004

Misuse of Drugs Amendment Bill (No 3)

Proposed amendments

Hon Jim Anderton, in Committee, to move the following amendments:

New clause 32

To add (after line 16 on page 17) the following clause:

32 New Part 3 and Schedule added

The principal Act is amended by adding the following Part and Schedule:

“Part 3

“Restricted Substances

“42 Misuse of Drugs Act 1975 called principal Act in this Part

In this **Part**, any reference to the principal Act is a reference to the Misuse of Drugs Act 1975.

“43 Commencement of this Part

This **Part** comes into force on a date to be appointed by the Governor-General by Order in Council.

“44 Interpretation

In this **Part**, unless the context otherwise requires,—

“advertising—

“(a) means any words, whether written, printed, or spoken, and any pictorial representation or design, used or appearing to be used to promote the sale of a substance (including, without limitation, any sign, publication, or leaflet); and

“(b) includes any matter referred to in **paragraph (a)** that is represented in an electronic or digital medium

“**advertising requirement** means a requirement prescribed by regulations made under this **Part** relating to the manner, way, medium, or form in which a restricted substance may be advertised

“**advertising restriction** means a restriction imposed by regulations made under this **Part** relating to the manner, way, medium, or form in which a restricted substance may be advertised

“**age restriction** means a restriction imposed by regulations made under this **Part** prohibiting the sale, or prohibiting the supply, or both, of a restricted substance to a person younger than a specified age (which may be 18 years, 16 years, or any other age specified for the purpose under regulations made under this **Part**)

“**enforcement officer** means an officer appointed under **section 58**

“**labelling requirement** means a requirement prescribed by regulations made under this **Part** relating to the information that must be on a container holding a restricted substance and the manner, way, medium, or form in which it must be presented

“**labelling restriction** means a restriction imposed by regulations made under this **Part** relating to the manner, way, medium, or form in which a container holding a restricted substance may be labelled

“**requirement**, in relation to a restricted substance, means an advertising requirement, labelling requirement, or signage requirement

“**restricted substance** means a substance specified or described in the **Schedule**

“**restriction**, in relation to a substance, means an age restriction, advertising restriction, or labelling restriction

“**sale**, in relation to a restricted substance, includes every method of disposition for valuable consideration, including, without limitation,—

“(a) bartering; and

“(b) offering or attempting to sell or having in possession for sale, or exposing, sending, or delivering for sale, or causing or allowing to be sold, offered, or exposed for sale

“**signage requirement** means a requirement prescribed by regulations made under this **Part** requiring a seller of a restricted substance to display a sign in a prescribed manner, way, medium, or form

“**substance**—

“(a) means any mixture, preparation, or article that can be administered, ingested, inhaled, or injected in order to induce a psychoactive response; but

“(b) does not include any alcohol or tobacco

“**supply** means distribute or give, but does not include sell.

“Restricted substances: Restrictions and requirements

“45 Restricted substances: restrictions and requirements

“(1) A restricted substance may be subject to the following restrictions:

“(a) an age restriction:

“(b) an advertising restriction:

“(c) a labelling restriction.

“(2) A restricted substance may be subject to the following requirements:

“(a) an advertising requirement:

“(b) a labelling requirement:

“(c) a signage requirement.

“Functions of Expert Advisory Committee on Drugs under this Part

“46 Functions of Expert Advisory Committee on Drugs under this Part

The functions of the Expert Advisory Committee on Drugs (as established under section 5AA of the principal Act) in relation to this **Part** are—

“(a) to carry out evaluations of substances to assess whether they should be restricted substances; and

“(b) to consider the practical consequences of any proposed restrictions or requirements in relation to a restricted substance; and

“(c) to make, in accordance with **section 49(2)**, recommendations to the Minister, about—

“(i) whether a substance should or should not be restricted; and

“(ii) if in its view a substance should be restricted, the kind of restrictions or requirements (if any) that should be applied to the substance; and

“(d) to increase public awareness of the Committee’s work in relation to restricted substances, by (for instance) the timely release of papers, reports, and recommendations.

Compare: 1975 No 116 s 5AA(2)

*“Scheduling restricted substances***“47 Amendment to Schedule**

- “(1) The Governor-General may, by Order in Council, in accordance with a recommendation of the Minister, amend the **Schedule** by doing any of the following:
- “(a) adding the name or description of any substance to the **Schedule**, in order that it become a restricted substance:
 - “(b) removing the name or description of any substance from the **Schedule**, in order that it no longer be a restricted substance:
 - “(c) specifying which, if any, kind of age restriction applies to a substance added to the **Schedule**:
 - “(d) altering or removing any kind of age restriction applied to a substance under **paragraph (c)**:
 - “(e) specifying which, if any, kind of advertising restriction or requirement or both applies to a substance added to the **Schedule**:
 - “(f) altering or removing any advertising restriction or requirement or both applied to a substance under **paragraph (e)**:
 - “(g) specifying which, if any, kind of labelling restriction or requirement or both applies to a substance added to the **Schedule**:
 - “(h) altering or removing any labelling restriction or requirement or both applied to a substance under **paragraph (g)**:
 - “(i) specifying which, if any, kind of signage requirement applies to a substance added to the **Schedule**:
 - “(j) altering or removing any signage requirement applied to a substance under **paragraph (i)**.
- “(2) An Order in Council made under **subsection (1)** may not come into force except in accordance with a commencement order made under **section 48**.
- “(3) Sections 5 to 10 of the Regulations (Disallowance) Act 1989 do not apply to an Order in Council made under **subsection (1)**.
- “(4) An Order in Council made under **subsection (1)** may limit the rights contained in the following sections of the New Zealand Bill of Rights Act 1990 in any way specified in the Order in Council:
- “(a) section 14:
 - “(b) section 19, so far as it relates to discrimination on the grounds of age.
- “(5) The Governor-General may, by Order in Council,—
- “(a) amend the name or description of any substance named or described in the **Schedule**, if the amendment is necessary for the purpose of making that name or description consistent with international scientific usage:

“(b) update the **Schedule**, if the update is necessary for the purpose of clarifying content or correcting drafting errors.

“(6) No Order in Council may be made under **subsection (5)** if it has the effect of changing the application of or kind of restriction or requirement that applies to any restricted substance.

Compare: 1975 No 116 s 4

“48 **Procedure for bringing Order in Council 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 47(1)** into force.

“(2) The commencement order may be made only after the Order in Council made under **section 47(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 47(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 one year and ending on 15 January in the following year, 15 February of that following year.

“(4) An Order in Council made under **section 47(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.

Compare: 1975 No 116 s 4A

“49 **Matters to which Minister must have regard before recommending Order in Council under section 47(1)**

“(1) Before recommending to the Governor-General that an Order in Council be made under **section 47(1)**, the Minister must, in respect of each substance referred to in the proposed Order in Council,—

“(a) consult with, and consider any advice given by, the Expert Advisory Committee on Drugs, about the substance; 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 matters set out in section 4B(2) of the principal Act; and

“(b) the following matters:

- “(i) the extent to which the substance is used for any lawful purpose (including, without limitation, any agricultural, industrial, commercial, educational, or domestic purpose):
 - “(ii) the purposes for which the substance is currently advertised (including, without limitation, whether it is being advertised as a psychoactive substance):
 - “(iii) the positive or negative impact that any restriction or requirement imposed on the substance might have on any lawful commercial enterprise or on the public (including, without limitation, any impact on the costs of, and the accessibility to, the substance):
 - “(iv) the practicalities of imposing restrictions or requirements on the substance and the ability to enforce those restrictions and requirements:
 - “(v) the extent to which the substance is subject to regulation or control under any other enactment; and
 - “(vi) the impact that—
 - “(A) any restriction or requirement would have on enactments that apply to the substance; and
 - “(B) any existing enactment would have on any restriction or requirement imposed on the substance:
 - “(vii) the implication of any restrictions or requirements imposed on the substance for the Trans-Tasman Mutual Recognition Act 1997 or for any international arrangements or agreements:
 - “(viii) the risk of increasing the abuse of the substance due to increased awareness or knowledge of the substance’s abuse potential if it is made a restricted substance:
 - “(ix) the risk of encouraging persons to use more dangerous substitutes in place of the substance:
 - “(x) whether alternatives to restrictions or requirements imposed on the substance are available and are likely to be effective in reducing the risks or harm resulting from abuse of the substance; and
- “(c) if the matter to which regard is to be had or advice to be given relates to an Order in Council made under any of **sections 47(1)(c) to (j)**, the appropriate kind of restriction or requirement to be applied to the substance.

- “(3) For the purposes of **subsection (2)**, section 4B(2) of the principal Act applies as if every reference to ‘drug’ is a reference to ‘substance’.

Compare: 1975 No 116 s 4B

“Offences relating to restricted substances

“50 **Offence to sell restricted substance in contravention of age restriction**

- “(1) Every person commits an offence who sells a restricted substance to a person who is under the age of any age restriction that applies to the sale of a restricted substance.
- “(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1990 No 108 s 30(1)

“51 **Defence for offence of selling restricted substance in contravention of age restriction**

- “(1) It is a defence to a charge of contravening **section 50** if the person charged proves—
- “(a) that the contravention occurred without his or her knowledge; and
 - “(b) that he or she took reasonable precautions and exercised due diligence in order to prevent the contravention of that section.
- “(2) A person has the defence in **subsection (1)** if he or she proves that he or she—
- “(a) sighted an evidence of age document (within the meaning of section 2A of the Sale of Liquor Act 1989) for the person to whom the restricted substance was sold, indicating that the person was of or over the age of any age restriction that applies to the sale of the restricted substance; and
 - “(b) reasonably believed that the evidence of age document was—
 - “(i) valid; and
 - “(ii) an evidence of age document that related to the person to whom the restricted substance was sold.
- “(3) **Subsection (2)** does not affect the generality of **subsection (1)**.
- “(4) It is not a defence to a charge in respect of a contravention of **section 50**—
- “(a) that the person to whom the restricted substance was sold was buying it for or on behalf of, or as agent for, a person of or over the age of any age restriction that applies to the sale of the restricted substance; or

“(b) that the person charged believed on reasonable grounds that the person to whom the restricted substance concerned was sold was buying it for or on behalf of, or as agent for, a person of or over the age of any age restriction that applies to the sale of the restricted substance.

Compare: 1990 No 108 s 30 (2)–(3)

“52 **Offence to supply restricted substance to person under age of supply restriction**

- “(1) Every person commits an offence who—
- “(a) supplies a restricted substance to a person who is under the age of any age restriction that applies to the supply of the restricted substance; or
- “(b) supplies a restricted substance to a person with the intention that it be supplied (directly or indirectly) to a person who is under the age of any age restriction that applies to the supply of the restricted substance.
- “(2) **Subsection (1)** applies irrespective of any liability that may attach to a person who has sold the restricted substance concerned to any other person.
- “(3) Every person who commits an offence under **subsection (1)** is liable on summary conviction to a fine not exceeding \$2,000.
- “(4) Nothing in **subsection (1)** applies to a person who is acting in pursuance of a duty, function, or power under this **Part** or any other enactment.

Compare: 1990 No 108 s 30AA (1), (5)

“53 **Defence to offence of supplying restricted substance to person under age of supply restriction**

- “(1) It is a defence to a charge in respect of a contravention of **section 52** if the person charged proves that he or she had no reasonable grounds to suspect that the person to whom he or she supplied the restricted substance was younger than the age restriction that applies to the supply of the restricted substance.
- “(2) A person has the defence in **subsection (1)** if he or she proves that he or she—
- “(a) sighted an evidence of age document (within the meaning of section 2A of the Sale of Liquor Act 1989) for the person to whom the restricted substance was supplied, indicating that the person was of or over the age of any age restriction that applies to the supply of the restricted substance; and
- “(b) reasonably believed that the evidence of age document was—
- “(i) valid; and

“(ii) an evidence of age document that related to the person to whom the restricted substance was supplied.

“(3) It is not a defence to a charge in respect of a contravention of **section 52**—

“(a) that the person being supplied was acquiring the restricted substance concerned for or on behalf of, or as agent for, a person of or over the age of the age restriction that applies to the supply of the restricted substance; or

“(b) that the person charged believed on reasonable grounds that the person being supplied was acquiring the restricted substance concerned for or on behalf of, or as agent for, a person of or over the age of the age restriction that applies to the supply of the restricted substance.

Compare: 1990 No 108 s 30AA (2)–(4)

“54 **Offence to sell in contravention of labelling restriction or labelling requirement**

“(1) Every manufacturer, importer, distributor, or retailer commits an offence who sells a restricted substance in contravention of any labelling restriction or labelling requirement that applies to the restricted substance.

“(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction,—

“(a) in the case of an individual, to a fine not exceeding \$5,000; and

“(b) in the case of a body corporate, to a fine not exceeding \$10,000.

Compare: 1990 No 108 s 32(1)

“55 **Offence not to comply with advertising restriction or advertising requirement**

“(1) Every manufacturer, importer, distributor, or retailer commits an offence who advertises a restricted substance in contravention of any advertising restriction or advertising requirement that applies to the restricted substance.

“(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction,—

“(a) in the case of an individual, to a fine not exceeding \$5,000; and

“(b) in the case of a body corporate, to a fine not exceeding, \$10,000.

“56 Offence of not displaying required signage

- “(1) Every person commits an offence who—
- “(a) sells a restricted substance without displaying any sign required by a signage requirement; or
 - “(b) does not comply with any signage requirement in relation to a restricted substance he or she is selling.
- “(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction to a fine not exceeding \$2,000.

*“Certain persons prohibited from selling
restricted substances*

“57 Certain persons prohibited from selling restricted substances

- “(1) This section applies if a person has been convicted of any offence under this **Part** and, within 2 years of being sentenced for that offence, he or she is convicted of another offence or offences under this **Part**.
- “(2) If this section applies, the court imposing the sentence for the second or subsequent offence may (in addition to any sentence it might impose and any other order in the nature of a penalty it might make) make an order—
- “(a) prohibiting either or both of the following:
 - “(i) the sale of any restricted substances by or on behalf of the person:
 - “(ii) the sale of any restricted substances at the premises at which the second or subsequent offence occurred; or
 - “(b) prohibiting either or both of the following:
 - “(i) the sale of restricted substances of a stated kind by or on behalf of the person:
 - “(ii) the sale of restricted substances of a stated kind in the premises in which the second or subsequent offence occurred; or
 - “(c) imposing any conditions or restrictions (or both) it thinks fit on either or both of the following:
 - “(i) the sale of restricted substances by or on behalf of the person:
 - “(ii) the sale of restricted substances at the premises at which the second or subsequent offence occurred.
- “(3) The order must state—
- “(a) the date it takes effect (which may be the date on which it is made or a later date); and
 - “(b) the date it expires (which must be a date at least 4 weeks and no more than 3 months after the date it takes effect).
- “(4) Every person who contravenes an order imposed under **subsection (2)** commits an offence.

- “(5) Every person who commits an offence under **subsection (4)** is liable on summary conviction to a fine not exceeding \$2,000.

Compare: 1990 No 108 s 30AB

“Enforcement officers

“58 **Enforcement officers**

- “(1) The Director-General of Health may appoint enforcement officers to enforce this **Part**.
- “(2) A person appointed as an enforcement officer may be a person appointed by name or may be the holder for the time being of a particular position.
- “(3) A person appointed under **subsection (1)** is not by virtue of that appointment alone—
- “(a) an officer or employee of the Public Service; or
 - “(b) a person to whom the State Sector Act 1988 or the Government Superannuation Fund Act 1956 applies.
- “(4) The Director-General of Health must not appoint a person under **subsection (1)** unless the Director-General is satisfied that he or she is suitably qualified and trained and is a fit and proper person for appointment as an enforcement officer.
- “(5) The Director-General of Health may do any or all of the following:
- “(a) appoint persons to enforce only some of the provisions of this **Part**;
 - “(b) appoint persons to exercise only some of the powers given to enforcement officers by this **Part**;
 - “(c) appoint persons subject to limitations or restrictions on their exercise of enforcement powers.
- “(6) Every enforcement officer must have an instrument of appointment identifying the holder as an enforcement officer appointed under this section.
- “(7) An enforcement officer’s instrument of appointment must state—
- “(a) that he or she is appointed to enforce—
 - “(i) all the provisions of this **Part**; or
 - “(ii) only stated provisions of this **Part**; or
 - “(iii) all the provisions of this **Part** other than certain stated provisions; and
 - “(b) that he or she is appointed to exercise—
 - “(i) all enforcement powers; or
 - “(ii) only stated enforcement powers; or
 - “(iii) all enforcement powers other than certain stated powers; and
 - “(c) all limitations and restrictions on his or her exercise of enforcement powers imposed under **subsection (5)(c)**.

Compare: 1990 No 108 s 14

*“Enforcement powers***“59 Entry and inspection for purposes of ensuring compliance with this Part**

- “(1) An enforcement officer or a member of the police may enter a place, if he or she believes there is a restricted substance in that place, to—
- “(a) find out whether this **Part** is being complied with in relation to that restricted substance;
 - “(b) find out the extent to which this **Part** is not being complied with in relation to that restricted substance;
 - “(c) exercise the powers under **section 61**.
- “(2) **Subsection (1)** does not apply to a dwellinghouse or other residential accommodation.
- “(3) An enforcement officer or a member of the police who enters a place under **subsection (1)** may do any or all of the following things:
- “(a) inspect the place;
 - “(b) take photographs or videos of the place;
 - “(c) copy any documents or records (of any kind) relating to a restricted substance;
 - “(d) exercise the powers given by **section 61**;
 - “(e) inspect any article or material (for example, advertising material and display signage) in relation to which a restriction or requirement is imposed under this **Part**.
- “(4) Nothing in **subsection (2)** prevents an enforcement officer or a member of the police from entering a dwellinghouse or other residential accommodation and exercising the powers referred to in **subsection (3)**—
- “(a) under authority given by or under an enactment (including another section of this **Part**); or
 - “(b) with the occupier’s consent.
- “(5) An enforcement officer or a member of the police exercising powers under this section in respect of or in a place, must—
- “(a) if a person in charge of the place is present on initial entry, identify himself or herself to the person in charge as an enforcement officer or a member of the police; and
 - “(b) in the case of an enforcement officer who is asked by a person in charge to do so, produce to the person evidence of identity, his or her instrument of appointment as an enforcement officer, or both; and
 - “(c) explain to that person that the authority to enter is under this section.

Compare: 1990 No 108 s 41A

- “60 **Powers of entry and inspection if reasonable grounds to believe offence committed under this Part**
- “(1) An enforcement officer or a member of the police may enter a place if he or she has reasonable grounds to believe that—
- “(a) there is a restricted substance in that place; and
 - “(b) an offence has been, is being, or will be committed under this **Part** in relation to that restricted substance in that place.
- “(2) **Subsection (1)** does not apply to a dwellinghouse or other residential accommodation.
- “(3) An enforcement officer or a member of the police who enters a place under **subsection (1)** may do any or all of the following things:
- “(a) inspect the place;
 - “(b) take photographs or videos of the place;
 - “(c) seize any restricted substance, document or record (of any kind), or other article relating to a restricted substance (for example, any advertising or labelling material);
 - “(d) copy any documents or records (of any kind) relating to the restricted substance;
 - “(e) exercise the powers given by **section 61**.
- “(4) Nothing in **subsection (2)** prevents a member of the police from entering a dwellinghouse or other residential accommodation and exercising the powers referred to in **subsection (3)**—
- “(a) with the consent of an occupier; or
 - “(b) under authority given by or under an enactment (including another section of this **Part**, for example, pursuant to a warrant issued under **subsection (5)**).
- “(5) A District Court Judge may issue to a member of the police a warrant to enter any part of a dwellinghouse or other residential accommodation, if satisfied that there are reasonable grounds for believing that—
- “(a) there is a restricted substance in the dwellinghouse or residential accommodation; and
 - “(b) an offence has been, is being, or will be committed under this **Part** in relation to that restricted substance in that dwellinghouse or residential accommodation.
- “(6) A warrant issued under **subsection (5)** must state a period during which the warrant may be executed, which must not exceed 14 days from the date of its issue.
- “(7) An enforcement officer or a member of the police exercising powers under this section in respect of or in a place, must—
- “(a) if a person in charge of the place is present on initial entry, identify himself or herself to the person in charge as an enforcement officer or member of the police; and

- “(b) in the case of an enforcement officer who is asked by a person in charge to do so, produce to the person evidence of identity, his or her instrument of appointment as an enforcement officer, or both; and
- “(c) explain to that person that the authority to enter is under this section.

“61 **Requirement to give identifying information**

- “(1) **Subsection (2)** applies to an enforcement officer or a member of the police who at any time believes on reasonable grounds that within the previous 14 days a restricted substance was sold to a person under the age of any age restriction that applies to the restricted substance in a place.
- “(2) An enforcement officer or a member of the police to whom this subsection applies may,—
 - “(a) if he or she believes on reasonable grounds that the person who sold the restricted substance is in the place, require that person to give the enforcement officer or a member of the police his or her name and address; and
 - “(b) if the person who sold the restricted substance is not present, require any other person in the place who appears to be in charge of it or any part of it, to give the enforcement officer or a member of the police the name and address of (or, if the address is not within the person’s knowledge, the name and any other identifying information within the person’s knowledge relating to) the person the enforcement officer or a member of the police believes on reasonable grounds sold the restricted substance.
- “(3) An enforcement officer or a member of the police who suspects that a person is younger than 17 years must not under **subsection (2)(a)** require the person to give the enforcement officer or member of the police his or her name and address unless—
 - “(a) there is no other person in the place concerned who appears to be in charge of it; or
 - “(b) there is another person in the place who appears to be in charge of it, but the enforcement officer suspects that that person is also younger than 17 years.
- “(4) An enforcement officer or a member of the police who suspects that a person is younger than 17 years must not under **subsection (2)(b)** require the person to give the enforcement officer or a member of the police the name and address of (or name and other identifying information relating to) any other person if the other person is in the place concerned and appears to be 17 years old or older.
- “(5) The powers given by this section must be used only for, and only to the extent necessary for, finding out the name and

address of (or, if the address is not within the knowledge of the person asked, the name and any other identifying information within the person's knowledge relating to) a person the enforcement officer or member of the police concerned believes to have sold a restricted substance to a person under the age of an age restriction that applies to that restricted substance.

Compare: 1990 No 108 s 41B and 41C(2)

“62 Information laid under this Part

“(1) An information in respect of an offence against this **Part** may be laid at any time within 1 year after the time the matter it relates to arose.

“(2) **Subsection (1)** overrides section 14 of the Summary Proceedings Act 1957.

Compare: 1990 No 108 s 41F(2), (3)

“Offences relating to enforcement

“63 Offence to obstruct enforcement officer or member of police under this Part

“(1) A person who obstructs an enforcement officer or a member of the police in the execution of any power or duty under this **Part** commits an offence.

“(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000.

“64 Offence to make false statement to enforcement officer or member of police under this Part

“(1) A person commits an offence if—

“(a) he or she makes a declaration or statement to an enforcement officer or member of the police executing any power or fulfilling any duty under this **Part**; and

“(b) he or she knows that the declaration or statement is false.

“(2) Every person who commits an offence under **subsection (1)** is liable on summary conviction to a fine not exceeding \$1,000.

Compare: 1975 No 116 s 15

“Regulations

“65 Regulations

“(1) The Governor-General may by Order in Council make regulations for all or any of the following purposes:

“Age restriction

“(a) specifying and describing 1 or more age restrictions that may be applied to the sale of restricted substances (for

example, a restriction that a restricted substance may not be sold to a person younger than 18 years):

- “(b) specifying and describing 1 or more age restrictions that may be applied to the supply of restricted substances (for example, a restriction that a restricted substance may not be supplied to a person younger than 16 years):

“Advertising restrictions and requirements

- “(c) specifying and describing different kinds of restrictions (including, without limitation, a complete prohibition) that may be applied to the manner, way, medium, or form in which restricted substances may be advertised (for example, a prohibition on sponsorship activities, free product samples, or gifts with purchase):

- “(d) specifying and describing different kinds of requirements that may be applied to the manner, way, medium, or form in which restricted substances may be advertised (for example, requiring advertisements for restricted substances to provide information on health effects or risks):

“Labelling restrictions and requirements

- “(e) specifying and describing different kinds of restrictions that may be applied to the manner, way, medium, or form in which restricted substances may be labelled (including, without limitation, a complete prohibition on certain kinds of labelling) for the purposes of sale or supply or both (for example, prohibiting the sale of a restricted substance in a container that is labelled in a way designed to appeal to children or to associate the substance with youth culture):

- “(f) specifying and describing different kinds of requirements that may be applied to the manner, way, medium, or form in which restricted substances may be labelled for the purposes of sale or supply or both (for example, requiring the label to include a health warning, or that the inner and outer containers both carry labels with health warnings about the restricted substance):

“Signage requirements

- “(g) specifying and describing any kinds of requirements relating to signage that must be displayed when restricted substances are sold and the manner, way, medium, or form in which they must be displayed (for example, a requirement that a person selling a restricted substance display a sign of a particular size setting out the age restriction that is applicable to the sale of that restricted substance):

“Identifying requirements and restrictions

- “(h) specifying and allocating individual identifiers that attach to each kind of restriction or requirement, in

order that the applicable restriction or requirement can be referred to only by its individual identifier when it is added to the **Schedule** by Order in Council under **section 47(1)** (for example, allocating a sequential number or letter to each kind of labelling restriction, which may be specified in the **Schedule**):

“Quantity and dosage

- “(i) prescribing the quantity of a restricted substance that may be sold or supplied together:
- “(j) prescribing the recommended maximum dosage or serving of a restricted substance:

“Containers and storage

- “(k) prescribing different sizes and types of containers for restricted substances (for example, that the container be tamper proof or child proof):
- “(l) prescribing the material that must be inserted in the containers that hold restricted substances (for example, informational leaflets relating to contraindications for use of the restricted substance) and prescribing the form and content of inserted material:
- “(m) prescribing the maximum amount of any restricted substance that may be stored in any premises at any one time:

- “(n) prescribing the manner of storage and display of restricted substances (for example, that the restricted substance must not be displayed in a position in a shop where it is visible from the street):

“Record keeping

- “(o) prescribing record keeping requirements for the sale or supply of restricted substances:

“Offences

- “(p) prescribing offences in respect of the contravention of or non-compliance with any regulations made under this **Part**, and the amounts of fines that may be imposed in respect of those offences, which must not exceed \$500:

“General

- “(q) providing for such matters as are contemplated by or necessary for giving full effect to the provisions of this Act and for its due administration.

- “(2) Regulations made under **subsection (1)** may limit the rights contained in the following sections of the New Zealand Bill of Rights Act 1990 in any way specified in the regulations:

- “(a) section 14:
- “(b) section 19, so far as it relates to discrimination on the grounds of age.

*“Relationship to other specified enactments***“66 Relationship of this Part to specified Acts**

- “(1) Nothing in this **Part** affects or derogates from an Act specified in **subsection (3)**.
- “(2) In the event of any inconsistency between the provisions of an Act specified in **subsection (3)**, or between the provisions of any regulation made under that Act and the provisions of any regulations made under this **Part**, the provisions of that Act and any regulations made under that Act prevail.
- “(3) The Acts are the—
- “(a) principal Act:
 - “(b) Misuse of Drugs Amendment Act 1978:
 - “(c) Agricultural Compounds and Veterinary Medicines Act 1997:
 - “(d) Customs and Excise Act 1996:
 - “(e) Fair Trading Act 1986
 - “(f) Food Act 1981:
 - “(g) Hazardous Substances and New Organisms Act 1996:
 - “(h) Imports and Exports (Restrictions) Act 1988:
 - “(i) Medicines Act 1981:
 - “(j) Ozone Layer Protection Act 1996.

“67 Sections of principal Act that do not apply to restricted substances

The following sections of the principal Act do not apply to restricted substances:

- “(a) section 12; and
- “(b) section 13(1)(a); and
- “(c) sections 14 to 16; and
- “(d) section 18; and
- “(e) sections 27 and 28; and
- “(f) sections 32 and 33.

“68 Application of section 31 of principal Act to this Part

For the purposes of this **Part**, section 31(2) of the principal Act should be read as if there were inserted after the words ‘precursor substance’ the words ‘or restricted substance’.

“69 Administration of this Part

This **Part** of the Act is administered in the Ministry of Health.”

**Schedule
Restricted substances**

s 47

Restricted substance	Sale age restriction	Supply age restriction	Advertising requirement	Advertising restriction	Labelling requirement	Labelling restriction	Signage requirement
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Explanatory note

This Supplementary Order Paper adds a *new Part 3* to the Misuse of Drugs Amendment Bill (No 3). It is proposed that this Part and the Schedule be broken off at the Committee of the whole House stage to become the Misuse of Drugs (Restricted Substances) Amendment Act 2004. Like the existing Misuse of Drugs Amendment Act 1978, it will be read with and as a part of the Misuse of Drugs Act 1975 (“the principal Act”).

The new Part and Schedule regulates activities relating to restricted substances. A restricted substance is a substance specified or described in the *Schedule* to this Part.

A procedure like that set out in the principal Act for classifying controlled drugs is applied to substances that it is proposed become restricted substances. The Minister considers specified matters in relation to the proposed restricted substance, having received the advice of the Expert Advisory Committee of Drugs on those matters.

If the Expert Advisory Committee on Drugs considers that a substance should be restricted, it must also give advice to the Minister on the appropriate restrictions and requirements to apply to the substance. The range of restrictions and requirements available is prescribed in regulations made by Order in Council.

The “affirmative resolution” process of Order in Council, applying to the classification and reclassification of controlled drugs, will also apply to the scheduling of restricted substances.

Restrictions on sale or supply of a substance may relate to matters of age, advertising, and labelling. Requirements may relate to advertising, labelling, and signage.

This Part also provides for the appointment of enforcement officers, powers of enforcement, offences, and penalty provisions. It sets out regulation-making powers for this Part, and the relationships between this Part and other enactments, including the principal Act.

This Part comes into force on a date to be appointed by Order in Council.

