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## Medicinal Cannabis Amendment Bill Second Reading speech

To: Hon Dr David Clark, Minister of Health

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### Purpose

This paper provides updated speech notes for the second reading of the Misuse of Drugs (Medicinal Cannabis) Amendment Bill 2017.

### Key points

- The Health Committee reported on the Misuse of Drugs (Medicinal Cannabis) Amendment Bill on 31 July 2018.
- The Government's Supplementary Order Paper for the Bill is going to Cabinet Legislation Committee on 29 November 2018 for approval to table at the Committee of the whole House stage of the Bill.
- The intent is for the Bill to have its second reading in the week beginning 3 December 2018.
- Attached as Appendix One are speech notes you may wish to use for the second reading.

### Recommendations





The Ministry recommends that you:

- a) **note** the attached speech notes for your second reading speech **Yes/No**

Todd Krieble  
Acting Director General  
System Strategy & Policy

**Minister's signature:**

**Date:**

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## Medicinal Cannabis Amendment Bill Second Reading speech

### Medicinal Cannabis Amendment Bill

1. The Bill makes three key changes to the Misuse of Drugs Act 1975:
  - a. it provides people who have a terminal illness a defence to the charge of possessing and using cannabis
  - b. it will allow us to make regulations to set quality standards for medicinal cannabis products
  - c. it removes cannabidiol from the Misuse of Drugs Act, so that it is no longer a controlled drug.
2. The Health Committee could not reach agreement on the Bill. As a result, the Bill was reported back to the House on 25 July 2018 with no amendments.
3. A number of changes are proposed to improve the Bill through a Supplementary Order Paper (SOP). These changes were recommended to the Health Committee during its consideration of the Bill or emerged during coalition consultation.

### Supplementary Order Paper

4. On 7 November 2018, the Cabinet Social Wellbeing Committee agreed that a SOP would be drafted [SWC-18-Min-0162] to:
  - a. increase the number of people eligible to use illicit cannabis by replacing the references to terminal illness in the exception and statutory defence provisions with references to palliation
  - b. move the exception for people requiring palliation to be able to possess and use illicit cannabis to section 8 of the Misuse of Drugs Act
  - c. allow regulations to prescribe standards for all stages of cultivation, production, and manufacture, and criteria for when the regulations will apply. The technical detail of the standards will be published by the Director-General of Health
  - d. add a new clause to make it clear that regulations made under section 37(1)(o) of the Misuse of Drugs Act are intended to override section 20 of the Medicines Act 1981. This will allow the Director-General to inform prescribers of the medicinal cannabis products that meet the quality requirements of the medicinal cannabis scheme
  - e. control only those substances naturally found in cannabis that are related to tetrahydrocannabinols (THCs), and are capable of producing a psychoactive effect
  - f. revise the definition of cannabidiol (CBD) products to allow no more than two percent of the total CBD, THCs and related psychoactive substances content to consist of THCs and related psychoactive substances that are naturally found in cannabis
  - g. provide that a person would not be prevented from getting a licence to produce or manufacture a product under the medicinal cannabis scheme only because the variety of plant they propose to use was brought into New Zealand without authorisation, if that variety is now established in New Zealand
  - h. require regulations come into effect no later than a year after this provision of the Bill comes into force.

### Next steps

5. Parliamentary Counsel Office are drafting the SOP in consultation with the Ministry of Health. The Ministry is working to have a paper to Cabinet Legislation Committee on 29 November 2018 seeking approval for the SOP to be tabled at the Committee of the whole House stage of the Bill.
6. The Ministry is preparing a paper on the quality and licensing requirements for the Medicinal Cannabis Scheme for you to take to Cabinet before the end of this year.

7. Enclosed as Appendix One is the speech for the second reading. If the majority of Parliament votes in support of the Bill at its second reading, it will go through to the Committee of the whole House stage and following that, its third reading.

### **Proactive Release**

8. We do not intend to proactively release this paper until the Supplementary Order Paper has been tabled in the House during the Committee stage of the Misuse of Drugs (Medicinal Cannabis) Amendment Bill.

**END.**

## Appendix One: Second Reading of Misuse of Drugs (Medicinal Cannabis) Amendment Bill

I move, *that the Misuse of Drugs (Medicinal Cannabis) Amendment Bill now be read a second time.* This Bill amends the Misuse of Drugs Act 1975.

I want to thank everyone who made a submission on this Bill, including those who came to speak to the Health Committee in person.

I also want to thank the members of the Health Committee for their thorough consideration of the Bill.

### ***What the Bill does***

Currently, there is a legal pathway for people to obtain medicinal cannabis products on prescription from a medical practitioner. However, access to affordable medicinal cannabis products remains problematic for many New Zealanders.

To address this issue the Government agreed late last year, to introduce a Medicinal Cannabis Scheme, and to amend the Misuse of Drugs Act. As a result, I introduced the Bill which:

- introduces an exception and a statutory defence for terminally ill people with less than 12 months to live, to possess and use illicit cannabis and to possess a cannabis utensil
- provides a regulation-making power to enable the setting of standards that products manufactured, imported or supplied under licence must meet
- deschedules cannabidiol also referred to as CBD so it is no longer a controlled drug.

The Scheme, overseen by an agency, will result in medicinal cannabis products being able to be commercially produced in New Zealand and, when the Bill is passed, ensure that all medicinal cannabis products meet quality standards. All stages of cultivation, production and supply of medicinal cannabis will be licensed.

***Comments from submitters on the Bill***

There was overwhelming support from submitters for allowing individuals to use cannabis for medicinal purposes, and for improving access to affordable, quality medicinal cannabis products.

There was clear support from submitters who commented on the provision to set quality standards for medicinal cannabis products available under the Government's medicinal cannabis scheme. The development of quality standards is a key component of the Scheme, and will be informed by robust analysis of existing international standards and public consultation.

There was also strong support from submitters for improving access to CBD, a substance found in cannabis that has potential therapeutic value, and little or no psychoactive properties. The Bill will make it easier to access CBD, as it removes the controlled drug classification of CBD, making it a prescription medicine only.

***Exception and statutory defence to use illicit cannabis***

Many submitters commented that the exception and statutory defence should be expanded to include not only people who are terminally ill, but also those with other medical conditions. Submitters highlighted that individuals with a range of conditions could benefit from easier access to medicinal cannabis products.

I propose amending the Bill via a Supplementary Order Paper at the Committee of the whole House stage to increase the number of people eligible to use illicit cannabis under the exception and statutory defence provisions.

This change would remove the 12 month restriction and the term 'terminally ill' from the provisions. It is not possible to predict with complete accuracy the progression of life threatening

conditions. In addition, 'terminally ill' is no longer commonly used in palliative care and can be confronting for some patients. The Government proposes replacing the term 'terminal illness' in the exception and statutory defence provisions with the term 'palliation'.

Palliation is an approach that aims to alleviate pain and suffering for a person with an advanced progressive life limiting condition, who is nearing end of life. I consider this a better description of the group of patients the compassionate provisions were designed for.

I expect this change to increase the number of people covered by the exception and statutory defence provisions. Approximately 25,000 New Zealanders could benefit from palliative care. I expect this group of patients would be covered by the definition of palliation, though it is not known how many would choose to use illicit cannabis.

Submitters recommended that the statutory defence be extended to caregivers, friends and whānau who source cannabis for the terminally ill. They considered that the terminally ill are likely to rely on caregivers, whānau and friends to source illicit cannabis for them. Some submitters also recommended that people who grow cannabis to supply the terminally ill have a statutory defence.

The Government does not propose extending the statutory defence to cover the range of people who could supply cannabis to terminally ill people. Supply is a more serious offence under the Misuse of Drugs Act than possession and use. Extending the statutory defence to include supply would greatly widen the scope of these provisions.

### ***The Medicinal Cannabis Scheme***

I intend to address supply through the development of the Medicinal Cannabis Scheme, which once established, will allow more quality products to be readily available.

The Bill allows quality requirements to be set in Regulations for products produced under the Scheme. Pathways under the Scheme will allow us to ensure that products meet these standards.

I propose the Supplementary Order Paper amend the Bill to include a requirement that these Regulations are made no later than a year after the Bill comes into effect. This change provides assurance for the public and stakeholders that the development of the Scheme is a priority for this Government.

In addition, we propose an amendment to address the use of cannabis varieties that are already established in New Zealand. This change would mean that a person would not be prevented from getting a licence under the Scheme solely because the variety of cannabis they want to use was brought into New Zealand without authorisation.

The Scheme will require all stages of cultivation and production to be licensed, there is no obvious reason to preclude varieties of cannabis that are established in New Zealand from being used.

### ***Conclusion***

This Bill will improve access to quality medicinal cannabis products. The vast majority of submitters on the Bill supported improving access to medicinal cannabis.

The Misuse of Drugs legislation already provides a framework for licensing the production of medicinal cannabis products. The Scheme makes use of the existing framework, and does not add unnecessary compliance costs.

I expect that the Scheme will take a risk proportionate approach.

The full detail of the Scheme will be consulted on publicly by the Ministry of Health.

Again, I want to acknowledge the outstanding contributions made to and by the Health Committee during the Health Committee stage. As a result of these contributions and those from New Zealand First and the Green Party, we intend to make a number of changes to improve the Bill through a Supplementary Order Paper. One

I commend this Bill to the House.