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**Royal Australasian College of Physicians’
submission to the Health Select Committee**

Misuse of Drugs Amendment Bill

Introduction

The Royal Australasian College of Physicians (RACP) welcomes the opportunity to submit feedback to the Health Select Committee on the Misuse of Drugs Amendment Bill (the Bill).

The RACP works across more than 40 medical specialties to educate, innovate and advocate for excellence in health and medical care. Working with our senior members, the RACP trains the next generation of specialists, while playing a lead role in developing world best practice models of care. We also draw on the skills of our members, to develop policies that promote a healthier society. By working together, our members advance the interest of our profession, our patients and the broader community.

Key points

The RACP supports the intentions of the Bill, which seeks to classify two widely-used synthetic cannabinoids (AMB-FUBINACA and 5F-ADB) as Class A substances; and specifies an option to consider a health-centred approach when prosecuting for possession or use under the Misuse of Drugs Act 1975 (the Act).

We strongly support the adoption of an approach to drug use which centres on the person to minimise harm, provide support, compassion and access to treatment. There is overwhelming evidence of harm in the case of synthetic cannabinoids and legislation needs to be able to keep up with the constant development of new substances with the potential to cause serious adverse health effects.

The RACP finds

- A disproportionate degree of drug-related harm is attributable to the two synthetic cannabinoids AMB-FUBINACA and 5F-ADB, including over 50 fatalities
- A public health approach to drug use, including the prioritisation of treatment services may be more effective in reducing drug-related harm and offending than a punitive approach
- While Temporary Drug Class orders may prove more nimble in categorising novel substances as potentially harmful, there may be challenges in maintaining currency within the rapidly-evolving synthetics manufacturing sector.

Background

Synthetic cannabinoids in New Zealand

The Psychoactive Substances Act 2013 (PSA) created a regulated market for 'legal highs' – psychoactive products deemed to be 'low risk'. 41 existing legal high products received interim licenses under the PSA, which established a temporary regulatory regime while a full scheme was developed: of these 41 products, 35 were synthetic cannabinoids (SC)¹.

Synthetic cannabinoids are designed to have a similar effect on the brain to delta-9-tetrahydrocannabinol (THC), the psychoactive compound found in natural cannabis, but often with

¹ Wilkins C, Prasad J, Wong KC, Graydon-Guy T, Rychert M. An exploratory study of the health harms and utilisation of health services of frequent legal high users under the interim regulated legal high market in central Auckland. N Z Med J. 2016; [Internet]; 129(1431):51-8. Available from <http://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2016/vol-129-no-1431-11-march-2016/6832>. Accessed 29 March 2019.

greater intensity: AMB-FUBINACA is found to have an effect on users approximately 75 times stronger than THC. AMB-FUBINACA had little to no presence in New Zealand prior to 2016; yet since this time, it has become one of the most prevalent SC substances in the country and linked to at least 55 deaths, with the Coroner suspecting a link in a further 10 deaths^{2 3}. The New Zealand literature includes several studies examining harm related to SC use, including analyses of the frequency of side effects experienced by SC users compared to other legal substances (alcohol, tobacco and party pills); and increases in the severity and frequency of mental health-related harm including affective symptoms, psychotic symptoms, suicidal ideation and/or behaviour, and significant withdrawal^{1 4 5}.

Response to clauses in the Bill

Temporary class drug order

The RACP supports the intention of the Bill to introduce Temporary Class Drug Orders (Section 4C) to allow greater scrutiny and public protections around substances which are currently not classified as controlled drugs under Schedule 1 of the Act. Further, we welcome the centralisation of the possibility of the risk of harm as being the central impetus to the introduction of Temporary Drug Class Orders.

We note that the importation, production and manufacture of SCs in New Zealand is increasingly sophisticated, with the chemical compounds within the drugs able to be manipulated to easily circumvent any increased surveillance and seizure powers resulting from temporary drug class orders.

Environmental Science and Research (ESR) has provided rapid identification of the SCs linked to fatalities and emergency department admissions since 2017 through its Drugs Early Warning System. ESR works closely with the Ministry of Health, the Ministry of Justice, New Zealand Customs and New Zealand Police to maintain accurate, current information and intelligence on substances entering New Zealand.

The Early Warning System combined with international evidence should provide data to inform a temporary drug class order. We support temporary drug class orders being informed by the best available international evidence and guidance to reduce harm from these substances. In issuing a temporary drug class order, we recommend the Minister of Health seeks the expert advice of ESR toxicologists, public health physicians and clinical pharmacologists.

We encourage the government to consider how the introduction of temporary drug class order instrument might complement other harm reduction and preventative public health measures, such as free pill testing at music festivals and events where people gather, such as university orientations. The RACP has advocated for pill testing to be introduced at music festivals in Australia, to give drug users certainty as to their purchases, and understanding of the risks when combining these

² Environmental Science and Research. The evolution of synthetic cannabinoids. Not dated. Available from <https://www.esr.cri.nz/home/about-esr/our-science-in-action/the-evolution-of-synthetic-cannabinoids/>. Accessed 29 March 2019.

³ Garrick G. Government moves to increase synthetic cannabinoids penalties. Radio New Zealand [Internet] 7 March 2019. Available from <https://www.radionz.co.nz/news/national/384180/government-moves-to-increase-synthetic-cannabinoids-penalties>. Accessed 1 April 2019.

⁴ Glue P, Courts J, MacDonald M, Gale C, Mason E. Implementation of the 2013 Psychoactive Substances Act and mental health harms from synthetic cannabinoids. *N Z Med J* 2015; [Internet]; 128(1414):15-8. Available from <http://www.nzma.org.nz/journal/read-the-journal/all-issues/2010-2019/2015/vol-128-no-1414-15-may-2015/6532>. Accessed 29 March 2019.

⁵ MacFarlane V, Christie G. Synthetic cannabinoid withdrawal: A new demand on detoxification services. *Drug Alcohol Rev.* 2015; 34(2):147-53. Available from <https://www.ncbi.nlm.nih.gov/pubmed/?term=25588420>. Accessed 2 April 2019.

substances with alcohol, other drugs, and dehydration⁶. In New Zealand, the Otago University Students' Association offered free drug testing at its 2019 orientation and found several instances of synthetic cathinones (commonly known as bath salts) being sold as Methylenedioxymethamphetamine (MDMA or ecstasy)⁷.

While this case shows examples of pill testing identifying known restricted substances, there is no reason why previously unknown or unidentified substances may move on to the drug market in the future, and pill testing at music festivals and other events offers people who use drugs a way to ensure that what they have purchased is what they expected.

Section 7 amended (Possession and use of controlled drugs)

The RACP supports the explicit reference in the Bill to discretion to prosecute, and if a prosecution is considered appropriate, the balance should be weighted towards being in the public interest.

Further, we strongly support health-centred and therapeutic approaches as being more beneficial to a punitive approach. There is consensus from the United Nations, the Lancet Commission on Drug Policy and organisations like the New Zealand Drug Foundation that the punitive and prohibitionist approach to drug users does little to reduce harm from drug use in the community, continues to stigmatise people who use drugs, shifts the focus from access to treatment and health care, and compounds racist and discriminatory law enforcement policies^{8 9 10 11}. In 2017, 61 per cent of convictions for drug offences were for using or possessing illicit drugs, not for manufacture, trafficking or supply, and 41 per cent of those convicted were Māori, meaning that Māori are over-represented in drug conviction rates¹⁰.

The RACP calls on the New Zealand Government to support this health-centred policy direction by increasing the resources available to the addiction treatment and services sector. The extent to which services are struggling to meet the unmet need in this sector can be seen in the report from the Inquiry into Mental Health and Addiction Services in New Zealand, which found

- A resounding call to adopt a person-centred approach to drug use which minimised harm, providing support, compassion and access to treatment
- Current government strategies are fundamentally underpinned by an approach which criminalises personal drug use
- Disproportionate investment in workforce education opportunities given the burden of mental health conditions and addiction, and challenges in other health and medical practitioners' understanding of these long-term conditions

⁶ The Royal Australasian College of Physicians. Submission to the New South Wales government on music festival safety guidelines. 30 January 2019. Available from https://www.racp.edu.au/docs/default-source/advocacy-library/acham-afphm-response-to-the-consultation-on-nsw-music-festival-safety-guidelines.pdf?sfvrsn=3719141a_4. Accessed 1 April 2019.

⁷ McNeilly H. Bath salts and double-dose MDMA: Inside the Otago orientation drug-testing tent. 21 February 2019. Stuff.co.nz. Available from <https://www.stuff.co.nz/national/110738184/bath-salts-and-doubledose-mdma-inside-the-otago-orientation-drug-testing-tent>. Accessed 1 April 2019

⁸ United Nations. United Nations General Assembly Resolution S-30/1: our joint commitment to effectively addressing and countering the world drug problem. 19 April 2016. Special session of the United Nations General Assembly on the world drug problem. New York: United Nations; 2016. Available from <http://www.unodc.org/ungass2016/en/documentation.html>. Accessed 1 April 2019.

⁹ Johns Hopkins Lancet Commission on Drug Policy and Health. Public health and international drug policy. *Lancet* 2016; [Internet]; 387(10026):1427-1480. Available from <https://www.ncbi.nlm.nih.gov/pubmed/27021149>. Accessed 29 March 2019.

¹⁰ NZ Drug Foundation. State of the Nation 2018 [Internet]. Wellington: NZ Drug Foundation; 2019. Available from <https://www.drugfoundation.org.nz/policy-and-advocacy/state-of-the-nation-2018/>. Accessed 1 April 2019.

¹¹ Global Commission on Drug Policy. Regulation: The responsible control of drugs. Geneva: Global Commission on Drug Policy; 2018. Available from <http://www.globalcommissionondrugs.org/reports/regulation-the-responsible-control-of-drugs>. Accessed 2 April 2019

- Addiction services require significant upscaling to provide an appropriate range of treatment options, including inpatient services, detox options, community-based services and strong links with mental health services for people with coexisting mental health and addiction issues¹².

The Regulatory Impact Statement (RIS) prepared for the Bill proposes funding a range of public health interventions (from a total discretionary fund of around \$1.15 million) including brief interventions following Emergency Department presentation with drug-related harm, mobile addiction treatment services, and increased social support for people following clinical intervention, particularly as people who use SCs are likely to experience homelessness, joblessness, and other addiction or mental health conditions¹². We encourage the Ministry of Health and other agencies to work closely with Addiction Medicine and Public Health specialists in designing these interventions and include a focus on areas of New Zealand where SC use is prevalent, but access to services remains a challenge, either due to demand or physical location^{13 14}.

Schedule 1 amended

The changes to Schedule 1 of the Act will classify the synthetic cannabinoids AMB-FUBINACA and 5F-ADB as Class A controlled drugs. The RACP is supportive of changes in classification which aim to assert greater controls on substances that have directly contributed to dozens of fatalities and unquantifiable harm on users, their whānau and communities.

As we have stated above, the chemical structures in SCs can be easily changed by manufacturers to bypass classification. Many new psychoactive substances, including SCs, are created by modifying the chemical structures of existing illicit drugs or prescribed medications to generate substances which circumvent current drug laws or regulation. As quickly as governments pass legislation to classify substances as illegal, new replacement analogues are synthesised and marketed to stay one step ahead of regulators and law enforcement¹⁵.

In classifying these two substances as Class A controlled drugs, the Ministry of Health, Ministry of Justice, Customs, Police and ESR should be anticipating a raft of newly-modified SCs entering the market and scaling up monitoring and surveillance to mitigate this outcome in response.

Although the Bill proposes classifying two widely-used SCs, ESR and the NZ Drug Foundation analysis find a range of other SCs and synthetic cathinones are used in New Zealand, with some regional differences. ESR and the Drugs Early Warning System must be adequately resourced to ensure new substances are identified and profiled as to potential public health risk. There is no indication in the RIS of funding apportioned to ESR for continued analysis and monitoring of these substances.

¹² Government Inquiry into Mental Health and Addiction. He Ara Oranga: Report of the Government Inquiry into Mental Health and Addiction. Wellington: Government Inquiry into Mental Health and Addiction; 2018. Available from <https://mentalhealth.inquiry.govt.nz/inquiry-report/he-ara-oranga/>. Accessed 1 April 2019.

¹³ Borrowdale J. "Harder than heroin": Synthetic cannabinoids in New Zealand. VICE New Zealand [Internet]; 20 February 2018. Available from https://www.vice.com/en_nz/article/d3wxzq/harder-than-heroin-synthetic-cannabinoids-in-new-zealand. Accessed 2 April 2019.

¹⁴ Bradley A. Maraenui. [Internet]; October 2018. Radio New Zealand. Available from <http://shorthand.radionz.co.nz/maraenui/index.html>. Accessed 2 April 2019.

¹⁵ Prekupec MP, Mansky PA, Baumann MH. Misuse of novel synthetic opioids: a deadly new trend. J Addict Med [Internet]; 2017; 11(4):256-65. Available from <https://www.ncbi.nlm.nih.gov/pubmed/28590391>. Accessed 29 March 2019.

Conclusion

The RACP thanks the Health Select Committee for the opportunity to provide feedback on the draft legislation. To discuss this submission further, please contact the NZ Policy and Advocacy Unit at policy@racp.org.nz.

Nāku noa, nā

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