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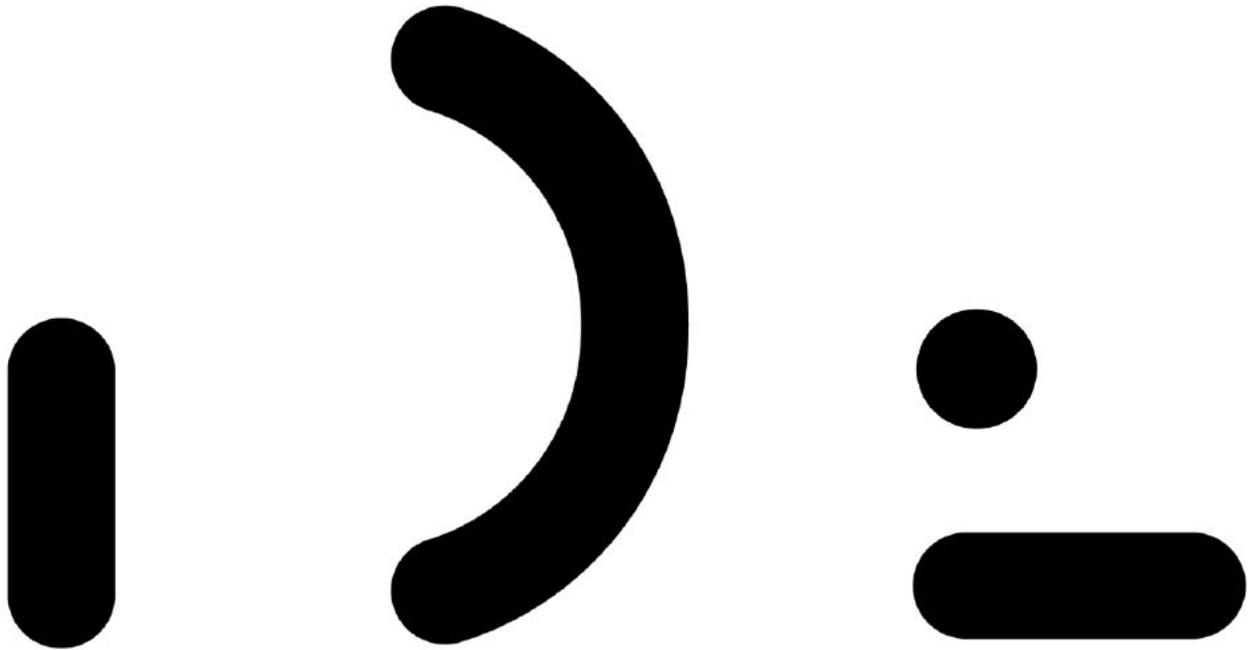
STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
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Submission Cover Sheet

Inquiry into Drugs of Dependence (Personal Cannabis
Use) Amendment Bill 2018

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Drugs of Dependence (Personal Cannabis Use) Bill 2019

Submission to ACT
Standing Committee on
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Comment on Drugs of Dependence (Personal Use of Cannabis) Bill 2019

2 Alcohol and Drug Foundation

Founded in 1959, the Alcohol and Drug Foundation (ADF) has contributed 60 years of continuous service to communities across Australia. The ADF works in partnerships with communities to reduce the burden of disease caused by alcohol and other drug problems.

The ADF's focus is on prevention and early intervention and our strategies include community action, health promotion, education, information, policy, advocacy, and research.

The ADF welcomes the opportunity to comment on the Drugs of Dependence (Personal Use of Cannabis) Bill 2019 and we would be pleased to provide further advice should the Standing Committee consider that useful.

3 Overview of the Bill

The intent of the Drugs of Dependence (Personal Use of Cannabis) Bill 2019 is to

- Legalise cannabis for personal use in the ACT.
- Reduce contact with the law and criminal justice system by 'recreational' consumers of cannabis and to prevent such consumers from gaining a criminal record due to use of cannabis.
- Reduce the black market in cannabis.
- Provide a source of 'medicinal' cannabis for people who are considered ineligible by medical authorities.
- Ease the burden on law enforcement agencies of enforcing the current law.

Essentially, this Bill permits an individual aged at least 18 years to cultivate up to four cannabis plants and to possess a supply of 'cannabis' of no more than 50 grams. Only 'natural' (non-artificial) methods of cultivation are permitted. Sale of cannabis is prohibited and is subject to sanctions including fines and diversion under the Simple Cannabis Offence Notice system. Any supply of cannabis to people under 18 years of age is prohibited, while supply to people 18 years and older appears not to be controlled, as long as a financial consideration is not involved.

3.1 AMBIGUITY OF ACCESS TO CANNABIS

This Bill enables people who want to consume cannabis for recreational purposes and for 'unofficial' therapeutic purposes to grow plants and harvest and produce their own supply; otherwise they can receive a supply from a domestic grower who is willing to provide them *gratis*, for sale is forbidden.

Technically the Bill is silent on how an individual who wants to grow cannabis but does not already possess seeds or plants can gain them; similarly, it is silent on how people who wish to consume legal cannabis without the knowledge and technical skills to cultivate a crop will source a supply.

However, the Bill amends the Medicines, Poisons and Therapeutic Goods Act 2008, to make legal 'supplying', 'manufacturing', 'obtaining', 'possessing' and 'administering' cannabis. Presumably this enables people who want to grow cannabis or consume cannabis products to avail themselves of cannabis seeds, plants and extracted and manufactured products (e.g. marijuana, hash, oils etc.) from an individual who already possesses them. It assumes that people who want access to cannabis will know of or can locate someone who possesses those materials and knowledge of cultivation, preparation and consumption and is willing to share them. It also assumes the domestic cultivator will

agree to supply those goods and services, although to sell them is forbidden and it is not clear whether another form of exchange, such as barter, is permitted.

The Bill does not make allowance for individuals to grow plants on behalf of others, or to have plants grown for them by those with the requisite knowledge. Neither the Bill nor the Explanatory Statement address whether cultivators can act as proxy growers for second parties.

3.2 CONSIDERATION FOR SUPPLY OF CANNABIS

As the 'obtaining' of cannabis is approved by the Bill while it prohibits sale of cannabis, it is not apparent whether and how a person who obtains cannabis plants or consumable forms of cannabis (e.g. herbs, oil) from a willing provider can furnish consideration for them. The Bill appears to assume that the provider will agree to an exchange *gratis*, but this may be optimistic, especially as the exchange will occur in private. As an exchange of money for cannabis related goods and services is not permissible, it is not clear what form of consideration will compensate the provider of cannabis materials and consumable products. The prohibition on a monetary consideration will be difficult to enforce and successful enforcement may undermine the aim of keeping cannabis consumers from the criminal justice system.

3.2.1 SECURITY AND STORAGE

The Bill does not address the issue of security measures to ensure that an individual's cannabis crop of up to four plants or 50 grams cannot be accessed by individuals aged under 18 years. The ADF agrees that it is important that young people do not have access to cannabis, so it is imperative that growers be required to take reasonable steps to effectively prevent young people from accessing the plants. Neither does the Bill require that growers store their harvested cannabis crop in ways that prevent its access by young people. The evident problems of securing plants, and the product of the plants in domestic settings points to the problem of the Bill raising young people's exposure to cannabis.

3.3 POINTS REQUIRING CLARIFICATION

The ADF believes there are several issues regarding access to cannabis that require clarification:

- i) Can an individual grow cannabis plants on behalf of another person?
- ii) If the answer to i) is positive, must the person on whose behalf the cannabis is grown reside in the same residence as the grower?
- iii) If the answer to ii) is positive could an individual, for example, grow a total of sixteen plants for a household of four people aged 18 years?
- iv) If the answer to iii) is negative, and each individual adult in the household is required to cultivate their own plants, how will that requirement be enforced?
- v) Should purveyors of domestically cultivated cannabis be compensated for the goods and services they provide to other people? If so how should this occur? If not, how can this be clarified in the Bill?
- vi) What responsibility do domestic suppliers of cannabis to others have for the quality of the product, and for adverse outcomes experienced by the person after using that product?
- vii) Are domestic cultivators of cannabis expected to protect their plants and supply of cannabis from underage people and what is the penalty for a failure to do so?

4 Prevalence of cannabis

Cannabis is the most popular illicit drug in Australia. The most recent National Drug Strategy Household Survey estimated that one-third (35%) of Australians aged over 15 years in 2016 had used cannabis in their lifetime and 10.4% used had cannabis within the past 12 months. (Australian Institute of Health and Welfare, 2018) That survey reported cannabis consumption as lower in the ACT than the national

average, as 8.4% of ACT residents aged over 14 years had used cannabis in the past year. In the ACT people aged 20-29 years are most likely to be current consumers of cannabis as 17.3 per cent have done so in the past year. (Australian Institute of Health and Welfare, 2018). Although the Explanatory Statement correctly describes cannabis as responsible for a fraction of the harm caused by alcohol, it is also true that alcohol is a more popular substance as 78 percent of Australians consume alcohol annually (Australian Institute of Health and Welfare, 2018).

5 Potential Health Effects of Increased Access to Cannabis

5.1 RISK TO HEALTH OF UNREGULATED CANNABIS

The Bill legitimises the unregulated cultivation of domestic cannabis. Unlike pharmaceutical herbal cannabis that is a standardised and known product, unregulated domestic cannabis, essentially the same product as herbal cannabis on the black market, has an unknown and potentially unstable content of cannabinoids and other active constituents (Belackova, et al., 2015). Unregulated cannabis and its products may be contaminated due to the presence of metals in the soil or air, or due to adulterants and moulds from inadequate air circulation and drying, or from the residue of chemicals used to fertilise plants and protect them from pests (Belackova, et al., 2015). While all consumers of unregulated cannabis are exposed to these hazards, people who consume it for ostensible therapeutic reasons may be at higher risk as their health may already be compromised.

6.1 RISK TO HEALTH FROM HIGHER USE

Researchers who model the impact of cannabis legalisation predict that consumption is likely to rise because prohibition inhibits usage by some non-users and users alike, though the size of the change is impossible to predict (Caulkins, Kilmer, & MacCoun, 2011). Although cannabis is less toxic than alcohol, it is not benign (Room R. , 2013). Adverse acute effects include anxiety, panic, loss of attention and reduced motor coordination skills, while negative health effects include risk of cannabis dependence syndrome and long-term heavy smokers risk chronic bronchitis, respiratory cancers and cardiovascular disease. (Room, Fischer, Hall, Lenton, & Reuter, 2008). Most of the negative consequences of cannabis are experienced by regular or daily users (Imtiaz, et al., 2015) and around 9% of people who ever use cannabis become dependent upon it (Hall W. , 2015).

Some recent 'natural experiments' in the USA confirm the view that legalisation will lead to higher use. A study of medical marijuana in 50 cities across California found the experience of cannabis-related harm rose as the population gained physical access to an official source of cannabis via medical marijuana dispensaries (Freisthler & Gruenewald, 2014). Studies in multiple states report strong associations between ease of access to medical cannabis and higher levels of non-medical use by adolescents, with rates of past year cannabis use and cannabis dependence almost double for young people in states that have legal medical cannabis compared to states without legal medical cannabis (Sobesky & Gorgen, 2016). These studies indicate young people gain increased access to cannabis when a legal supply becomes available.

5.2 RISK TO HEALTH OF YOUNG PEOPLE

Although the Bill prohibits supply of cannabis to minors, the US experience of legalising cannabis for both medicinal and recreational purposes suggests that underage young people in the ACT will not have difficulty in sourcing a supply, especially as cannabis will be available in many domestic premises which are unregulated and therefore are not amenable to control.

People who begin use of cannabis in adolescence face higher risks of serious effects including cannabis dependence, impaired educational attainment and an increased risk of mental health problems (Hall W, 2009) (van Ours & Willams, 2009). This is possibly due to important developmental changes that take place in the brain during adolescence and early adulthood (Ammerman, Ryan, & Adelman, 2015). A pre-existing psychiatric condition or predisposition toward schizophrenia may be an important additional risk factor (Degenhardt, et al., 2010). Much of the evidence about adverse consequences originates in

studies of young adults who initiated daily cannabis use in adolescence and continued to use regularly throughout young adulthood, the period with the highest risk of developing psychotic disorders (Degenhardt, et al., 2010).

Drug treatment providers in Colorado report increased demand for drug treatment services among adolescent cannabis users, following the establishment of a commercial legal market (Sobesky & Gorgen, 2016). While the present Bill falls short of establishing a commercial market it does not address the potential increased use by young people or adults, or the potential increased demand for health and drug services that might follow this liberalisation of cannabis.

5.3 RISK OF SELF DIAGNOSIS FOR 'MEDICINAL' CANNABIS

One aim of this Bill is to make 'medical' cannabis available for people who are not considered eligible by medical authorities. Under its terms, such people can grow their own cannabis or otherwise obtain it from an agent who cultivates a small domestic crop. This is the broad definition of medical cannabis in which a cannabis user perceives cannabis is beneficial to their health, rather than the narrow formulation which has a cannabis medication prescribed by a medical professional for a health condition for which there is research evidence that the medication is efficacious (Belackova, et al., 2015). It enables the user of 'informal' medical cannabis to source a legal supply, rather than rely on the black market, although the quality of the product may be variable and less than medical grade (Belackova, et al., 2015).

Despite the availability of cannabis for medical purposes in many countries, including Australia, physicians are not united on the medical efficacy or agreed on the circumstances in which it is indicated (Zolotov, Vulfson, Zarhin, & Sznitman, 2018). This is due to the lack of scientific knowledge of the full effects of the cannabinoids found in the cannabis plant, including interactions between them, and differing views on the appropriate use of cannabinoids (Martin & Bonomo, 2016).

The ADF believes people deserve the most effective therapeutic means for managing illness and disease and that the prescription of cannabinoids is ultimately a matter for the medical profession which has the knowledge, expertise and experience required to make the appropriate therapeutic judgment and to monitor the effect of treatment. The difficulty in lay people determining their need for cannabis for medical reasons is that they effectively diagnose themselves, a process fraught with potential error and harmful outcomes. A self-diagnosis can be based on a confusion of symptoms and causes, cause delay in seeking and gaining effective care and result in unanticipated side effects (Better Health, 2019).

Legislators should be wary of encouraging members of the public to engage in self-diagnosis of medical conditions. This may be particularly fraught when the public is invited to self-prescribe psychoactive drugs and when the substances to be consumed are not subject to quality assurance processes.

6 ADF perspective

The ADF believes changes to drug laws must be founded on the best available evidence, follow robust discussion and debate of alternative courses of action, informed by modelling of potential outcomes and subject to close monitoring and evaluation. Changes to the legal status of drugs should avoid replicating the problems associated with widespread use of legal substances such as tobacco, alcohol and prescription drugs. Drug law reform is justified when it offers the prospect of reducing substantial harm without unduly causing or resulting in further or other problems (Hall & Lynskey, 2009). A rigorous cost benefit analysis that sets out in detail the possible and likely consequences of a mooted change is one helpful tool of analysis (Shanahan & Ritter, 2014). Cost benefit analyses assist policymakers and the public alike to fully understand proposals and their likely practical effects and implications, to make a considered judgment about their value and to plan any preparatory measures that might be required if and when the proposal is approved and implemented.

The Drugs of Dependence (Personal Use of Cannabis) Bill 2019 does not present a coherent or transparent framework. The stated intent of the Bill is to legalise cannabis for personal use in the ACT: in practice cannabis is legal for those who have the capacity to cultivate their own supply and for those

who can locate an individual with that capacity and can convince that party to provide them with a supply of seeds, plants or product. The Bill's prohibition on the sale of cannabis complicates the situation as the parties cannot exchange money for the goods and services, so the terms by which the transaction will take place are indistinct. This confusion may cause dispute; it may also lead to widespread offending if, as is likely, people offer and accept monetary payment in that transaction. Neither is it clear whether an individual can grow cannabis on behalf of another person, or how those parties might validate such an arrangement to avoid entanglement with law enforcement agencies.

Although the Bill formally prohibits young people from ingesting cannabis, due to potential serious mental health and other consequences, its condition in requiring domestic cultivation seems guaranteed to expand young people's access to cannabis and with it the risk of increased consumption and incidence of harm. It also offers the prospect that cultivators, who can be teenagers, may be charged with supplying youth with a prohibited substance. No attention is given the problem of securing and storing the owner's crop or supply of cannabis material so that it is consumed within the law. For those reasons it cannot be certain that the Bill will fulfil the aim of lessening the burden of enforcing cannabis laws by police in the ACT.

Nor does the Bill provide for the prevention or amelioration of possible adverse consequences of legalising cannabis by, for example, commissioning preventative measures to reduce the demand for cannabis, promoting harm minimisation activities to lessen the risk of harm by misadventure (e.g. drug driving) and by expanding health services to ensure that people in need of drug treatment can gain timely help.

As a consequence of these deficiencies and lacunae, the ADF cannot recommend the Bill.

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