LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON HEALTH, AGEING AND COMMUNITY SERVICES
Ms Bec Cody MLA (Chair), Mrs Vicki Dunne MLA (Deputy Chair)
Ms Caroline Le Couteur MLA

Submission Cover Sheet

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

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The Standing Committee on Health, Ageing and Community Services
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Dear Ms Cody

Thank you for your correspondence of 5 March 2019 to the Minister for Health, the Hon Greg Hunt MP, regarding the invitation to make a submission for the Inquiry into Drugs of Dependence (Personal Cannabis Use) Amendment Bill 2018. The Minister has asked me to reply.

The Australian Government's policy on cannabis is consistent with the principles set out in the National Drug Strategy (the Strategy), which identifies cannabis as a priority substance and outlines a range of evidence-based approaches to minimise harm associated with cannabis use. The Strategy can be accessed by following the attached link https://beta.health.gov.au/resources/publications/national-drug-strategy-2017-2026.

There are three pieces of Commonwealth legislation (including delegated legislation) relevant to the operation of the Bill if it were to be enacted: the *Narcotic Drugs Act 1967*; the *Customs (Prohibited Imports) Regulations 1956*; and the *Therapeutic Goods Act 1989*.

A. Narcotic Drugs Act 1967

Under the United Nations Single Convention on Narcotic Drugs, 1961 as in force from time to time (the Single Convention), Australia has an obligation to carefully control, supervise and report on various stages of cultivation, production and manufacture.

The purpose of the Single Convention is to establish a framework to both prevent abuse and diversion of controlled narcotic drugs and to ensure the availability of such drugs for medical and scientific purposes. The *Narcotic Drugs Act 1967* (the ND Act) gives effect to certain of Australia's obligations under the Single Convention.

The ND Act implements the national medicinal cannabis licensing scheme that provides for the cultivation of cannabis plants and production of cannabis or cannabis resin for medicinal and scientific purposes. Medicinal cannabis product means a product which includes or is from any part of the cannabis plant and is for use for the purposes of curing, alleviating the symptoms of a disease ailment or injury. There are two cannabis licences: medicinal cannabis licence and cannabis research licence. The ND Act also regulates the manufacture of narcotic drugs such as medicinal cannabis products and licit narcotic drugs such as morphine.

Article 28 of the Single Convention provides that if a Party to the Single Convention permits the cultivation of the cannabis plant for the production of cannabis or cannabis resin, it must apply thereto the system of controls as provided in Article 23 respecting the control of the opium poppy. Australia, as a Party to the Single Convention, is also required to comply with other provisions of the Single Convention, such as Articles 3 and 4. If an activity occurs that is prohibited or not permitted under the Convention, but otherwise is lawful under a State, Territory or Commonwealth law, then Australia would be expected to address the matter that is subject to that particular law and control the activity in a manner consistent with Australia's obligations under the Single Convention.

B. Customs (Prohibited Imports) Regulations 1956

Importation of drugs listed under Schedule 4 of the *Customs (Prohibited Imports) Regulations 1956* (the PI Regulations) is prohibited unless the person importing the drug is the holder of a licence to import drugs and the holder of a permission to import the drug that are both granted under regulation 5.

Similar to the ND Act, regulation 5 of the PI Regulations gives effect to certain obligations under the Single Convention. Regulation 5 also gives effect to Australia's obligations under the *Convention on Psychotropic Substances 1971*.

Consistent with the requirements under Article 4 of the Single Convention to limit exclusively to medical and scientific purposes, the production, manufacture, export, import, distribution of, trade in and use and possession of drugs, regulation 5 limits the granting of licence and permission to import drugs for those purposes. The granting of a licence and permission would require that the importer meet those requirements.

Any importation of cannabis plants (including seeds), cannabis, or cannabis resin for personal use or medicinal use by a person from the ACT will need to comply with the requirements of regulation 5 of the PI Regulations. In addition, any imported cannabis authorised by a licence and permission under regulation 5 cannot be used for recreational purposes. Licences and permissions are subject to conditions relating to supply.

C. Therapeutic Goods Act 1989

The *Therapeutic Goods Act 1989* regulates the importation, exportation, manufacture and supply of medicinal cannabis only. It does not apply to the importation, exportation, manufacture and supply of cannabis that is not medicinal cannabis; and, by no means, the cultivation, possession and personal use of cannabis.

Yours sincerely

[redacted]

John Skerritt
Deputy Secretary
Health Products Regulation Group
March 2019