

## Joint Statement Opposing the Miscellaneous Amendment Bill 2017

As leading community health organisations, peak bodies and advocates, we write to oppose the *Drugs, Poisons and Controlled Substances Miscellaneous Amendment Bill 2017* (hereafter the Bill).

We believe this Bill is unenforceable in practice, not evidence-based, and likely to cause harm. Its introduction is also premature given that the Victorian Government's Inquiry into Drug Law Reform is currently reviewing the effectiveness of laws, procedures and regulations relating to illicit and synthetic drugs, and has yet to release its recommendations.

Currently prohibited substances are listed, and drug manufacturers create new synthetic drugs to skirt the law, which lags behind the market as it takes time to add new drugs to the list of prohibited substances. In order to counter this, bills like this one are 'catch all' bills, designed to prohibit the production, sale and advertising of all 'psychoactive substances' not on an exclusion list. While this sounds like a good solution, in reality it comes with a number of problems, including the following:

- The definition of 'psychoactive effect' and therefore 'psychoactive substance' is broad and confusing, with enormous consequences for the scope of prohibition;
- It wrongly assumes all psychoactive substances are harmful and detaches the harm caused by different substances from the penalty associated with a total ban; and
- It is costly and difficult, if not impossible, to operationalise the concept of psychoactivity for law enforcement purposes.[1]

Other countries have introduced similar legislation, which has proven to be problematic for these very reasons.[2] Such legislation also moves the production and sale of drugs underground, where they cannot be regulated, meaning there is no quality assurance during the manufacturing process and bad batches of drugs cannot be removed from the supply chain.

This Bill also seeks to add to the list of substances scheduled as 'Drugs of Dependence', thereby criminalising their possession and use. The Victorian Government has no firm evidence demonstrating that any of the substances the Bill proposes to add are dependence-inducing, nor any evidence demonstrating their potential for harm to public health and safety. Indeed, the Minister for Police has stated that "there is often no testing to gauge the suitability of these synthetic chemicals for human consumption prior to distribution." [3] While this could mean that these substances pose a risk to public health and safety, it could also mean they don't. The fact is we don't know.

Applying criminal penalties to people who possess and use drugs of dependence is likely to cause more harm than it prevents.[4] The reason why is it makes criminals of people who aren't, leads to crimes against drug users going unreported,[5] and creates barriers to treatment and rehabilitation.[6] As the former Victorian Police chief Ken Lay has said, drug abuse is not a problem society can "arrest your way out of." [7]

Since 2010, there have been four previous amendments to the *Drugs, Poisons and Controlled Substances Act 1981* (hereafter the Act), and the use of temporary regulatory provisions five times, all claiming that they will reduce or prevent drug-related harms in the community; yet there remains no evidence that these interventions have been effective at reducing drug-related harms in the community.

There is currently no evidence that this Bill will reduce drug use and drug-related harm. The production and sale of drugs will simply be driven underground and people will keep using them, only the drugs they use will be less safe, and they will be less likely to seek out treatment and rehabilitation. That's why this Bill is likely to cause more harm than it prevents, why it should be referred to the Drug Law Reform Inquiry for review, and why a vote should be deferred until the Inquiry releases its recommendations. This is the only way to ensure that any amendments made to the Act are evidence-based and fulfil their purpose of reducing drug-related harms in the community.

[1] [https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/444670/3-7-15\\_ACMD\\_letter\\_on\\_PSB.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/444670/3-7-15_ACMD_letter_on_PSB.pdf)

[2] [http://faculty.publicpolicy.umd.edu/sites/default/files/reuter/files/nps\\_in\\_addiction.pdf](http://faculty.publicpolicy.umd.edu/sites/default/files/reuter/files/nps_in_addiction.pdf)

[3]

[https://www.parliament.vic.gov.au/images/stories/daily-hansard/Assembly\\_2017/Assembly\\_Daily\\_Extract\\_Thursday\\_9\\_March\\_2017\\_from\\_Book\\_3.pdf](https://www.parliament.vic.gov.au/images/stories/daily-hansard/Assembly_2017/Assembly_Daily_Extract_Thursday_9_March_2017_from_Book_3.pdf) p689

[4] <https://www.australia21.org.au/wp-content/uploads/2013/11/ASIllicitDrugsR1.pdf>

[5] <https://www.australia21.org.au/wp-content/uploads/2013/11/ASIllicitDrugsR1.pdf> p20

[6]

<http://webcache.googleusercontent.com/search?q=cache:heeO3Fe9tLgJ:www.hrc.act.gov.au/res/file/Final%2520ANEX%2520Conference%2520WATCHIRS%252026%2520October%25202010.doc+&cd=2&hl=en&ct=clnk&gl=au>

[7] <http://www.theage.com.au/comment/the-age-editorial/mr-andrews-people-are-dying-20170729-gxlefq.html>

