

3 June 2021

Drugs of Dependence Committee  
ACT Legislative Assembly  
GPO Box 1020  
Canberra ACT 2601

**By email: [LASelectCommitteeDDAB2021@parliament.act.gov.au](mailto:LASelectCommitteeDDAB2021@parliament.act.gov.au)**

Dear Committee,

### **INQUIRY INTO THE DRUGS OF DEPENDENCE (PERSONAL USE) AMENDMENT BILL 2021**

The ACT Law Society (the Society) welcomes the opportunity to provide input on the *Drugs of Dependence (Personal Use) Amendment Bill 2021* (the Bill). Similar to the current diversionary scheme for cannabis in the ACT, we note the intention to decriminalise possession of the following illicit drugs:

- MDMA;
- Amphetamine;
- Cannabis;
- Cocaine;
- Heroin;
- Lysergic acid;
- LSD;
- Methadone;
- Methylamphetamine (ice); and
- Psilocybine.

### **Proposed Drugs for Decriminalisation**

The Explanatory Statement to the Bill states that “the Bill will amend criminal laws to rename the Simple Cannabis Offence Notice (SCON) Scheme to the Simple Drug Offence Notice (SDON) Scheme and add other common illicit drugs to this diversionary pathway”.

We consider that the possible adverse health impacts of decriminalisation of anything more than a very small quantity of most of the illicit drugs proposed in the Bill is significantly greater than that posed by the previous decriminalisation of the possession of cannabis. Further, we do not support the decriminalisation of any quantity of ice, given the threat such poses to public safety.<sup>1</sup> Accordingly, the medical and law enforcement community should be further consulted about these risks.

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<sup>1</sup> See e.g., Australian Medical Association, *Position Statement* (2015) <<https://ama.com.au/position-statement/methamphetamine-2015>>.

Given the effects of illicit drugs on different users can also vary significantly, we specifically urge more input be sought from the medical profession to inform the drafting of the Bill.

### **Proposed Quantities for Decriminalisation**

We note that the personal possession limits for the proposed illicit drugs are intended to reflect the trafficable quantities of these drugs under schedule 1 – *Controlled Drugs* of the *Criminal Code Regulations 2019* (Cth).

Given that the trafficable quantities reflect conventional wisdom as to the quantity of each illicit drug which exceeds that commonly possessed for personal use, there appears, in our view, no logical justification for the decision to set the limits at trafficable quantities.

Having regard also to the recent tragic experience in the territory of fatal overdoses in cases of self-administration of much less than 2 grams of heroin, for example, as well as more recent and frequent deaths interstate from the consumption of MDMA in small quantities, we caution against such a radical change to the law without a further comprehensive risk assessment.<sup>2</sup>

If the intent of the Bill is to change the way personal use is regulated, then more appropriate quantities reflective of occasional recreational personal use should be determined in consultation with medical and law enforcement bodies.

### **Drug Diversion**

Although the Society supports a harm minimisation and therapeutic approach in dealing with drug users, we also expect that the Bill will have a minimal effect on diverting drug users from the criminal justice system. We observe that it is relatively uncommon for drug users to come before the courts charged only with drug possession. Possession of a drug of dependence is typically charged alongside other criminal offences such as burglary, assault, or drug driving.<sup>3</sup> In cases where a police officer detects a person in possession of only a small quantity of an illicit drug for the first time, we understand that the Australian Federal Police is already adopting a diversionary approach.

We welcome the opportunity to comment further, if that would be of assistance.

Yours sincerely,



Simone Carton

Chief Executive Officer

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<sup>2</sup> See also, Australian Institute of Health and Welfare, *Alcohol, tobacco & other drugs in Australia* (2021) <<https://www.aihw.gov.au/reports/alcohol/alcohol-tobacco-other-drugs-australia/contents/about>>; Penington Institute, *Australian's Annual Overdose Report 2020* <<https://www.penington.org.au/publications/2020-overdose-report/>>.

<sup>3</sup> See e.g., *R v Ngerengere* [2020] ACTSC 271; *R v Carberry* [2020] ACTSC 96; *R v Kristiansen* [2020] ACTSC 14; *R v Mathews* [2019] ACTSC 262.