



Psychoactive Substances Amendment Act 2014

Public Act 2014 No 24
Date of assent 7 May 2014
Commencement see section 2

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The Parliament of New Zealand enacts as follows:

- 1 Title**
This Act is the Psychoactive Substances Amendment Act 2014.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

3 Principal Act

This Act amends the Psychoactive Substances Act 2013 (the **principal Act**).

4 Section 4 amended (Principles)

After section 4(e), insert:

“(f) animals must not be used in trials for the purposes of assessing whether a psychoactive product should be approved.”

5 Section 6 amended (Overview)

Repeal section 6(1)(c)(ix).

6 Section 12 replaced (Duty of advisory committee relating to use of animals when evaluating psychoactive products)

Replace section 12 with:

“12 Advisory committee not to have regard to results of trials involving animals

“(1) In performing the function set out in section 11(2)(a), the advisory committee must not have regard to the results of a trial that involves the use of an animal.

“(2) However, the advisory committee may have regard to the results of a trial undertaken overseas that involves the use of an animal if the advisory committee considers that the trial shows that the psychoactive product would pose more than a low risk of harm to individuals using the product.”

7 Section 37 amended (Grounds for approving product)

In section 37, insert as subsections (2) and (3):

“(2) To avoid doubt, if the Authority is unable to satisfy itself of the matter in subsection (1)(b), the Authority must refuse to approve a psychoactive product as an approved product.

“(3) In deciding whether or not to approve a psychoactive product as an approved product, the Authority must not have regard

to any particulars, information, documents, or other material relating to any trial that the advisory committee must not have regard to under section 12.”

8 Schedule 1 amended

Amend Schedule 1 as set out in the Schedule of this Act.

Schedule
**Amendments to Schedule 1 of principal
Act**

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Clause 1

In clause 1, replace the definition of **full application** with:

“**full application** means, in respect of an activity to which an interim licence relates, an application made under section 13 by the person who was granted the interim licence”.

In clause 1, replace the definition of **interim approval** with:

“**interim approval** means an approval of a psychoactive product granted by the Authority under clause 4 before that clause was repealed by section 8 of the Psychoactive Substances Amendment Act 2014”.

Clause 2

In clause 2(1), replace “This schedule applies” with “Clauses 1 to 15 of this schedule apply”.

Replace clause 2(2) with:

“(2) A psychoactive substance to which this schedule applies may continue to be imported, manufactured, researched, or sold after the commencement of this Act, but only by a person who holds an interim licence and while that licence remains in force.”

Cross-heading above clause 3

Repeal the cross-heading above clause 3.

Clauses 3 to 6

Repeal clauses 3 to 6.

Clause 7

Repeal clause 7(1)(e) and (f).

Clause 8

Replace clause 8 with:

- “8 Application of subparts 1 and 3 of Part 2 to interim licence**
Subparts 1 and 3 of Part 2 (except sections 13 and 16(1)(a))
apply, with any necessary modifications,—
- “(a) to an application for an interim licence as if it were an
application made under section 13; and
 - “(b) to an interim licence granted in accordance with para-
graph (a).”

Clause 10

In the heading to clause 10, delete “**interim approval or**”.

In clause 10,—

- (a) delete “an application for interim approval or”;
- (b) replace “approval or licence” with “licence”.

In clause 10, in the table, replace the heading to the first column with
“**Interim licence**”.

In clause 10, in the table, repeal the items relating to—

- (a) interim approval of psychoactive product;
- (b) interim licence to sell psychoactive products granted interim
approval by retail;
- (c) interim licence to sell psychoactive products granted interim
approval by wholesale.

New cross-headings and clauses 11 to 18

After clause 10, insert:

*“Interim approvals of psychoactive products and
interim licences to sell psychoactive products
granted interim approval revoked*

- “11 Revocation of interim approvals of psychoactive products**
Every interim approval granted in respect of a psychoactive
product under clause 4 (before that clause was repealed by sec-
tion 8 of the Psychoactive Substances Amendment Act 2014)
is revoked.

“12 Recall of interim approved products

- “(1)** The Authority must, before the close of the day after the date
of the commencement of this clause, issue a recall order under

New cross-headings and clauses 11 to 18—*continued*

section 88 for every psychoactive product described in clause 11 (the **product**).

- “(2) The Authority must—
- “(a) display the date of the recall order prominently on the recall order; and
 - “(b) notify the recall order on an Internet site maintained by or on behalf of the Authority.
- “(3) For the purposes of section 88(2), the recall order is deemed to have been received by every importer, manufacturer, wholesaler, or retailer of the product on the close of the day after the date displayed on the recall order.
- “(4) The recall order may—
- “(a) require every importer, manufacturer, wholesaler, and retailer (or any combination of them) to—
 - “(i) provide information to the Authority in relation to the amount and type of the product in their possession:
 - “(ii) dispose of or destroy, or arrange for the disposal (including by return to a manufacturer or an importer) or the destruction of, the product in their possession:
 - “(iii) provide information to the Authority on the disposal of or destruction or arrangements for the disposal or destruction of the product in their possession:
 - “(b) specify locations where the product can be delivered for disposal or destruction:
 - “(c) specify a time limit for compliance with the recall order:
 - “(d) specify any ancillary or incidental requirement.
- “(5) For the avoidance of doubt, section 88(2) and (3) applies to the recall order issued in accordance with this clause.
- “(6) It is a defence to a charge of an offence specified in subclause (7) that the action or omission that constitutes the offence was done—
- “(a) in good faith in the course of complying with the recall order; and

New cross-headings and clauses 11 to 18—continued

“(b) within 14 days after the date of the commencement of this clause.

“(7) The offences to which the defence in subclause (6) may apply are—

“(a) an offence under section 28:

“(b) an offence under section 70:

“(c) an offence under section 71.

“**13 Revocation of interim licences to sell psychoactive products granted interim approval**

“(1) Every interim licence granted under clause 7(1)(e) and (f) (before those paragraphs were repealed by section 8 of the Psychoactive Substances Amendment Act 2014) is revoked.

“(2) Despite the revocation of interim licences under subclause (1), a wholesaler or retailer who held an interim licence immediately before this clause came into force—

“(a) must comply with the recall order issued in accordance with clause 12 as if the wholesaler or retailer continued to hold the licence; and

“(b) is, for the purposes of section 88, to be treated as if it continued to hold the licence until the close of the 14th day after the commencement of this clause.

“**14 Appeals under subpart 3 of Part 2**

For the avoidance of doubt, and regardless of the outcome of any appeal under subpart 3 of Part 2, the following may not be granted after the commencement of the Psychoactive Substances Amendment Act 2014:

“(a) an interim licence to sell psychoactive products granted interim approval by retail:

“(b) an interim licence to sell psychoactive products granted interim approval by wholesale:

“(c) an interim approval.

New cross-headings and clauses 11 to 18—continued*“Enforcement powers***“15 Power to enter and search retail premises**

- “(1) This clause applies in relation to the retail premises of every holder of an interim licence granted under clause 7(1)(e) (before that paragraph was repealed by section 8 of the Psychoactive Substances Amendment Act 2014) and revoked by clause 13.
- “(2) An enforcement officer or a constable may, for the purpose of ensuring or enforcing compliance with the recall order issued in accordance with clause 12, exercise any powers under section 78 in relation to those retail premises until the close of the 14th day after the date of the commencement of this clause as if the interim licence concerned had not been revoked.
- “(3) Section 78, as modified by subclause (2), applies in relation to those retail premises.

*“Moratorium on processing applications under section 13 or 33 until regulations in force***“16 Moratorium on processing applications for licences under section 13**

- “(1) The Authority must not process any application for a licence of a kind described in section 13(1)(a) to (d) (whether the application is made before or after the commencement of this clause) until regulations under section 95 prescribing the fees or charges for applications for licences of that kind come into force.
- “(2) The Authority must not process any application for a licence of a kind described in section 13(1)(e) or (f) (whether the application is made before or after the commencement of this clause) until both of the following have come into force:
- “(a) regulations under section 95 prescribing the fees or charges for applications for licences of that kind; and
 - “(b) regulations under section 101(1)(a) prescribing the particulars, information, documents, samples, or other material that must accompany or be contained in applications for licences of that kind.

New cross-headings and clauses 11 to 18—*continued***“17 Moratorium on processing applications for approval of psychoactive product under section 33**

The Authority must not process any application for approval of a psychoactive product under section 33 (whether the application is made before or after the commencement of this clause) until both of the following have come into force:

- “(a) regulations under section 95 prescribing the fees or charges for applications for approval of psychoactive products; and
- “(b) regulations under section 101(1)(a) prescribing the particulars, information, documents, samples, or other material that must accompany or be contained in applications for approval of psychoactive products.

“No compensation or damages

“18 No compensation or damages

No compensation or damages are payable by the Crown for any loss or damage arising from the enactment of the Psychoactive Substances Amendment Act 2014.”

Legislative history

6 May 2014	Introduction (Bill 206–1), first reading, second reading, committee of the whole House, third reading
7 May 2014	Royal assent

This Act is administered by the Ministry of Health.
