

New Zealand Drug Foundation Submission on the Misuse of Drugs (Pseudoephedrine) Amendment Bill

Submitted to the Health Committee on 26 February 2024

We are requesting an opportunity to make an oral submission to this Bill.

The Drug Foundation is a charitable trust. We have been at the forefront of major alcohol and other drug debates for over 30 years, promoting healthy approaches to alcohol and other drugs for all New Zealanders.

Tēnā koutou,

Thank you for the opportunity to feedback on the Misuse of Drugs (Pseudoephedrine) Amendment Bill. Considering that methamphetamine continues to be the second – after alcohol – most harmful drug in Aotearoa, any regulatory changes that may potentially reduce or increase its supply or demand should be carefully considered.

The hopes of reducing methamphetamine harm associated with the previous restrictions on sale have not resulted in long-term decreases in methamphetamine availability, prevalence of use, or harm. The illicit market has responded to the restrictions efficiently by: increased involvement of organised crime, concentration of manufacturing, importation of bulk precursors or finished products, and higher-yield manufacturing methods. This demonstrates again that without tackling demand, trying to rely solely on reducing supply proves futile in reducing drug harms.

While the market has now shifted to a more organised, larger-scale production, we do anticipate some potential increase in supply due to small-scale manufacturing if this Bill is passed. This increase is unlikely to displace current higher-yield methods, however it may lead to some sporadic increases in availability of methamphetamine, and it may unintentionally incentivise opportunistic criminal activity.

The good news is these risks can be mitigated if appropriate monitoring, demand reduction, and harm reduction measures are put in place. These should include:

- Rolling out Te Ara Oranga nationwide to reduce methamphetamine demand and rates of offending,
- Timely access to diagnosis and treatment of Attention-Deficit/ Hyperactivity Disorder (ADHD) to prevent substance use disorder,
- Increasing access to addiction treatment, including kaupapa Māori treatment, and trialling stimulant substitution therapy,
- Increasing access to drug checking to monitor the supply and prevent harm.

This legislation also highlights another issue: the Misuse of Drugs Act 1975 (MoDA) Schedules are not fit for purpose. Apart from the illogical classification of currently listed substances, the MoDA principle of increasing criminal penalties and thus reducing access to treatment for those at highest risk of drug harm contradicts the health-based approach to drugs.

We are hopeful that this legislative process serves as an opportunity to start a cross-party collaboration to reduce drug harms in Aotearoa.

Ngā mihi maioha,



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Pseudoephedrine has some potential for misuse, but more importantly, it is an important precursor for methamphetamine manufacture

1. Pseudoephedrine has some potential for recreational use. As a stimulant, it has been known to promote alertness, and there have been occasional reports of recreational use in New Zealand. We note it is also a substance banned in professional sports, indicating a perceived value for increasing performance. These uses are thought to be relatively rare in New Zealand.
2. We note that diverted pharmaceuticals typically present a much lower risk of harm when compared to illicitly manufactured substances. For example, the key driver of opioid overdose mortality in North America is not the use of diverted or prescribed opioids, but unregulated and illicitly manufactured opioids that are impossible to accurately measure and are often contaminated with ultra-potent substances, such as fentanyl or nitazenes.
3. As the key impacts from the reclassification of pseudoephedrine are expected to be related to its application as precursor for methamphetamine, we will focus on the possible impacts on the methamphetamine market in New Zealand.

Reclassifying pseudoephedrine as Class C3 drug with ‘restricted’ status may be sensible with appropriate safeguards in place

4. We agree with the conclusions from the Regulatory Impact Statement that the anticipated effects on the overall volume of the supply of methamphetamine in New Zealand are likely to be limited. However, we note that even a limited increase in supply requires focus on risk mitigation and harm reduction.
5. Data suggests that following the introduction of the previous restrictions the illicit market has shifted more towards importation of a finished methamphetamine product or higher efficiency domestic clandestine manufacturing, primarily from bulk-imported precursors.¹
6. There is an existing demand for methamphetamine (approximately 1.1% of population), and methamphetamine attracts a very high price in New Zealand. It appears that domestic illicit methamphetamine market is strong. In recent years, methamphetamine price has been decreasing. Between 36-53% surveyed people in all regions of New Zealand reported meth being “very easy” to obtain.²
7. Generally, the production of methamphetamine from pseudoephedrine medications is much less efficient than using bulk ephedrines. To obtain one kilogram of pure methamphetamine, 27.8kg of medication preparations is needed. Using bulk precursors, only 1.75kg is needed to obtain the same yield. Bulk ingredients, however, are more difficult to procure, which results in the methamphetamine market currently being dominated by organised crime groups with access to illicitly trafficked ingredients.
8. Large increase in supply following the proposed change is not unrealistic, but we note that it will take a great deal of effort by producers to make major profit using diverted

¹ Evidence Based Policing Centre (2021). Methamphetamine in New Zealand: What is currently known about the harm it causes? Wellington: NZ Police

² Wilkins C, Rychert M, van der Sanden R, Romeo JS, Graydon-Guy T. *Declines in meth prices over past four years*. Bulletin 2. 2023. Available from: <https://static1.squarespace.com/static/59152c88b8a79bdb0e644f2a/t/64cb21f54a31491e696d5ac5/1691034109683/2+Meth+availability+bulletin+RELEASE+VERSION.pdf>

pseudoephedrine. According to our estimations, the manufacturing of one kilogram of methamphetamine requires access to around 2,430 packets of pseudoephedrine medication.³ This makes it unlikely for the change to result in an increase in the existing supply of methamphetamine, provided meaningful restrictions on access are in place.

9. However, we remain concerned that with increased access to even a small supply of diverted pseudoephedrine for methamphetamine production, there may be an incentive for opportunistic, small-scale manufacturers to attempt production with non-specialised techniques. This may lead to an increase in incidents such as thefts, but also poisonings, fires, or similar.
10. We believe that controls such as 'restricted' status must be put in place to mitigate these risks. These controls should also ensure that pharmacies keep only a small number of packets in stock to remove the incentive for theft.

The impacts of the legislation must be monitored, and possible harms reduced

11. The limited added supply may result in modestly increased consumption of methamphetamine in some communities, particularly where the supply was limited. However, it is plausible that the domestically manufactured product from diverted pseudoephedrine will less likely be contaminated by ultra-potent or otherwise high-risk substances that are increasingly present in the global illicit drug markets.
12. The real-world outcomes, however, are yet to be observed. With any regulatory changes that may result in changes in the local illicit market, there is an increased need for illicit market monitoring. At the moment, very little is known about the communities of people who use methamphetamine, their purchasing and drug consumption practices, health needs, and access to harm reduction and health care. We need targeted research to understand the health needs of this population and to be able to adequately respond to changes in demand or supply.
13. Monitoring the illicit market is essential to prevent harm and to respond to emerging risks. New Zealand's early warning system, High Alert, gathers intelligence about a substantial section of the illicit market by analysing samples provided in drug checking.
14. To track the effects of the regulatory change on the illicit market, we strongly recommend increasing coverage of drug checking, especially among communities with higher prevalence of methamphetamine use, and in rural communities.

With the potential for even modest increase in supply, we must focus our efforts on reducing demand for, and harm from methamphetamine

15. Methamphetamine is among the substances causing the most harm to New Zealand communities.⁴ More efforts must be made to prevent methamphetamine harms by focusing on reducing demand and harm reduction.

³ Our calculations are based on the assumption that a packet contains 12 tablets, each tablet containing 60mg of pseudoephedrine. We have assumed a yield of 1kg of methamphetamine for each 1.75kg pseudoephedrine used.

⁴ Crossin R, Cleland L, Wilkins C, et al. The New Zealand drug harms ranking study: A multi-criteria decision analysis. *Journal of Psychopharmacology*. 2023;37(9):891-903. doi:10.1177/02698811231182012

16. Programmes like Te Ara Oranga, established with the aim to reduce methamphetamine demand, have been very successful in reducing methamphetamine harms as well as offending rates.⁵ Ramping out its rollout with appropriate partnerships with the local communities and especially Māori, must be the Government's priority.
17. An intervention showing great promise in reducing methamphetamine demand is through increasing access to diagnosis and treatment of ADHD. Research shows that the prevalence of ADHD among illicit stimulant users may be as high as 45%.⁶ With timely diagnosis and appropriate treatment, the development of substance use disorder among people with ADHD can be prevented – as strongly evidenced by research.⁷ With over 1 in 5 people with substance use disorder meeting the criteria for ADHD,⁸ improvements in ADHD diagnosis and management could substantially reduce the addiction burden in New Zealand's society.
18. We encourage the Health Committee and the Minister of Health and Minister for Mental Health to address the existing major issues with appropriate access to stimulants within the health system for medical applications.
19. Specifically, we note that access to effective treatments for ADHD is severely limited due to low availability of psychiatric diagnosis and ongoing required psychiatric reviews. This is exacerbated by overly restrictive prescribing rules which prevent competent primary care physicians from prescribing stimulants for ADHD and require each patient to undergo a biannual psychiatric review for a chronic condition. This is often unnecessary and, when appropriate, could be undertaken in primary care which would reduce the demand for specialised services.
20. Finally, our addiction treatment sector is already overstretched and our harm reduction offerings remain scarce. The possibility of even a modest increase in methamphetamine supply requires our health system to urgently respond to existing gaps. We urge the Health Committee and the Government to take action to increase access to treatment and harm reduction services by New Zealanders at risk of drug harms and their whānau.
21. On balance, provided that appropriate care is taken to reduce methamphetamine demand and strengthen our addiction and harm reduction sector, the benefits of increasing access to effective nasal congestion medicines with pseudoephedrine can possibly outweigh its risks.

⁵ Walton D and Martin S. (2021). The Evaluation of Te Ara Oranga: The Path to Wellbeing. A Methamphetamine Harm Reduction Programme in Northland. Wellington: Ministry of Health.

⁶ Kaye S, Darke S, Torok M. Attention deficit hyperactivity disorder (ADHD) among illicit psychostimulant users: a hidden disorder? *Addiction* [Internet]. 2013 May 1 [cited 2023 Dec 18];108(5):923–31. Available from: <https://onlinelibrary.wiley.com/doi/full/10.1111/add.12086>

⁷ Boland H, DiSalvo M, Fried R, Woodworth KY, Wilens T, Faraone SV, et al. A literature review and meta-analysis on the effects of ADHD medications on functional outcomes. *J Psychiatr Res* [Internet]. 2020 [cited 2023 Sep 21];123:21–30. Available from: <https://pubmed.ncbi.nlm.nih.gov/32014701/>

⁸ van Emmerik-van Oortmerssen, K., van de Glind, G., van den Brink, W., Smit, F., Crunelle, C. L., Swets, M., & Schoevers, R. A. (2012). Prevalence of attention-deficit hyperactivity disorder in substance use disorder patients: a meta-analysis and meta-regression analysis. *Drug and alcohol dependence*, 122(1-2), 11–19. <https://doi.org/10.1016/j.drugalcdep.2011.12.007>

With increasing pressure from the illicit global drug markets, we must do more to prevent harm to New Zealanders

22. The United Nations Office on Drugs and Crime (UNODC) has warned of an increase in the manufacture and trafficking of synthetic drugs and new psychoactive substances.⁹
23. Recent record seizures of drugs, including of methamphetamine, are showing that New Zealand is vulnerable to the volatility of illicit global drug markets. In our drug checking clinics, we have seen increasing numbers of detections of high-risk substances that are not anticipated by its users and can cause serious harm, including fatal overdose.
24. With the scale of harm caused by methamphetamine in New Zealand, we must ramp up interventions that can reduce the reliance of people who use drugs on the toxic illicit supply and undercut organised crime's profits. At the same time, these interventions must reduce health and social harms of methamphetamine.
25. These interventions include Medication-Assisted Therapies (MAT). An example of a similar approach is Opioid Substitution Therapy (OST) that has proven very effective in New Zealand in reducing blood-borne infections, offending rates, and social and health harms among people who use opioids.
26. Preliminary international evidence suggests that Stimulant Substitution Therapy (SST) may improve health outcomes among people who use methamphetamine.¹⁰ However, the results of international studies are difficult to extrapolate because of the differences in social and regulatory environments in different countries.
27. We are calling for a pilot of SST for methamphetamine, so that we can gather local evidence for its effectiveness and to inform the possible rollout.
28. The volatility of supply also strongly supports our earlier argument that we must increase access to drug checking to monitor the supply and prevent harm.

We should use this opportunity to rationalise the Schedules of controlled substances

29. We wish to highlight the significant problems with the Misuse of Drugs Act Schedules and the Act's illogical provisions that exacerbate drug harms. For example, substances like psilocybin with significant potential for therapeutic application and limited harms remain classified in the most restrictive Class A, suggestive of high risk of harm and limited medical use. At the same time, precursors for methamphetamine are classified as class B or C substances, while methamphetamine itself is a class A drug, carrying the harshest penalties for possession and other offences.
30. The classification is not only inconsistent, but even if it was applied consistently, its principles would still contradict the health approach. Under the current rules, substances with the purported highest health risk are subject to the harshest penalties, which provides a disincentive for people with the greatest health need associated with their use to seek treatment. In particular, we note the inappropriate criminalisation of personal possession instead of enabling a health approach. We note the continuous prosecution for

⁹ UNODC. World Drug Report 2023. 2023.

¹⁰ Mak W, Webb D, Sutherland C, Hirsh A. Role of stimulant replacement therapy in treating stimulant use disorders: Within the context of the COVID-19 pandemic. *Can Fam Physician*. 2022 Feb;68(2):109-111. doi: 10.46747/cfp.6802109. PMID: 35177500; PMCID: PMC9842172.

drug possession by the Police, despite the legislation requiring a high threshold of public interest before prosecution should be brought. These regulatory settings as well as their application continue to disproportionately criminalise Māori for drug possession offences.