



**Misuse of Drugs Amendment Bill
Health Select Committee**

The Salvation Army New Zealand, Fiji, Tonga and Samoa Territory Submission

Executive Summary:

1. As a Christian church and social service NGO, our clear position has historically and consistently been one of abstinence concerning alcohol, tobacco and other drugs. Our position statement on these issues clearly articulates our worldview, but also documents how we try to support through Christian spiritual and social supports those people addicted to these substances:

The Salvation Army encourages a healthy spiritual, emotional, mental, physical and social lifestyle without the recreational use of drugs, including alcohol and tobacco. Although social or recreational use of mind-altering or mood-changing drugs (both legal and illegal) does not inevitably lead to dependence, such use can have financial, relational, psychological, educational and legal consequences. The Salvation Army believes that abstinence from these substances is the most effective way to set an example of personal responsibility for healthy living. While The Salvation Army believes total abstinence is the only certain guarantee against the harmful effects of alcohol, tobacco and other drugs, it does not condemn people who use these substances. The Salvation Army continues to offer compassion to those whose use of such substances has become harmful; supporting them to regain social, physical, mental, emotional and spiritual health.¹

2. The Salvation Army is generally supportive of the provisions of this Misuse of Drugs Amendment Bill. As a provider of a relatively large network of addictions treatment centres and services, we are strongly supportive of a health-centred or therapeutic approach to working with people who use drugs.
3. However, there are some aspects of this Bill and the processes surrounding this Bill that we are concerned about, or that we seek further clarification about. We will elaborate on these below. Summarily, these issues are:
 - The need to revisit the Law Commission's Misuse of Drugs Act Review from 2011, particularly all of the key recommendations detailed in that report. This speaks of a coordinated and consistent approach, rather than piecemeal amendments to the Act;
 - The limited consultation undertaken during this process;
 - The sufficiency of the financial preferred (\$1.15 million p/a for 4 years) option to account for newer drugs and/or complex related needs for users of synthetics;
 - Questions around the Police discretion around public interest;
 - Other aspects of the regulatory options detailed in the Bill.

¹ <https://www.salvationarmy.org.nz/research-policy/positional-statements/alcohol-tobacco-other-drugs>

Background:

4. The Salvation Army is an international Christian and social services organisation that has worked in New Zealand for over one hundred and thirty years. The Army provides a wide range of practical social, community and faith-based services, particularly for those who are suffering, facing injustice or those who have been forgotten and marginalised by mainstream society.
5. We have over 90 Community Ministry centres and Churches (Corps) across the nation, serving local families and communities. We are passionately committed to our communities as we aim to fulfil our mission of caring for people, transforming lives and reforming society by God's power.
6. This submission has been prepared by the Social Policy and Parliamentary Unit of The Salvation Army. This Unit works towards the eradication of poverty by encouraging policies and practices that strengthen the social framework of New Zealand. This submission has been approved by Commissioner Andrew Westrupp of The Salvation Army's New Zealand, Fiji, Tonga and Samoa Territory.

Specific Responses to Legislation

7. General support in principle for the Bill

7.1 The Salvation Army supports this Bill in principle.

7.2 We are particularly supportive of the classification of the drugs AMB-FUBINACA and 5F-ADB as Class A drugs, the potential for Police to use their discretion if a health-centred or therapeutic approach is in the public interest for this person, and the ability for temporary drug class orders to be issued for emerging and potentially harmful psychoactive substances.

7.3 We are well accustomed to the figures quoted in the Ministry of Health's Regulatory Impact Statement (RIS) about the severe damage synthetic drugs and psychoactive substances is having on some members of our community. Through our various addictions and supportive accommodation services, particularly our Bridge day and residential treatment programmes and services for people with housing needs. Additionally, our Epsom Lodge (Auckland) and Addington (Christchurch) services also have these users within their residential programmes. However, it is worth noting that recent discussions with our Salvation Army Bridge staff in Auckland have indicated that people presenting with psychoactive drug-related issues were not as prevalent as 2-3 years ago. Still, because of our holistic social services providing reintegration, supportive accommodation and addiction services, in our view we have considerable and regular access to the populations using these substances.

7.4 Our Bridge model of care and treatment is based on a whole of life, person centred approach that combines partnership, a community reinforcement method, a 12-step

recovery journey, and evidence based best practice, all encapsulated through our Christian mission and worldview.

Comments on regulatory aspects of the Bill

8. Classification of AMB-FUBINACA and 5F-ADB as Class A drugs

8.1 We agree with this provision.

8.2 However, we can foresee some problems with this, particularly with the emphasis in the Bill of the powdered form of these drugs. That is, Police are likely to find it difficult to differentiate between different powdered substances. This might make them more likely to exercise their statutory powers, and possibly not exercise any new discretion to not prosecute if their opinion is a health-centred or therapeutic approach is the best option for this person.

8.3 Furthermore, we are concerned that the specified amounts of these drugs in the Bill might not actually fulfil the stated purpose of this Bill to not criminalise people who use drugs. Even though the analysis is limited and the timeframes have been tight in this process, we wonder if a higher specified amount is necessary to truly target suppliers, manufacturers and importers, and to also not criminalise users. The default amount in the Act is 56 grams. This is a good starting point. But even the RIS states that to clarify the best amounts requires greater consultation and clinical advice which has been unable in this process.²

8.4 Additionally, in our experience, many people who use drugs are also suppliers and dealers themselves. This proves difficult with this Bill's intention to not criminalise users further. Also, if the target is the suppliers, manufacturers and importers of these substances, then discerning between the user and dealer becomes extremely difficult. We note the Law Commission Review termed this development social dealing.³

9. Discretion for prosecution

9.1 We support the codification of this discretion in the Bill.

9.2 We strongly advocate for a health-centred and therapeutic approach. But we note that this Bill still does not have a clear direction to Police to refer these people recognised and appropriate addictions treatment services. We submit this should be included in the Bill.

² Ministry of Health RIS, 2019, pg. 12.

³ Misuse of Drugs Act Review, 2011, pg. 197.

- 9.3** We also note that the Police already currently have a suite of measures they can employ when exercising a similar discretion e.g. release without charge, verbal warnings etc. But we submit greater clarity around what is or is not in the public interest is necessary to facilitate better practical application and use of this legislation by the Police.
- 9.4** We submit that Police need greater support and resourcing in this area. A lot is being asked of the Police here that are not part of their traditional or regular work. Further training is crucial. But collaboration with other organisations is crucial. We note this is already happening in many communities, noting the good work of the Police National Drug Intelligence Bureau. We submit that Police are more likely to understand and exercise this discretion if (a) public interest is clearly defined, (b) they have more knowledge of these different substances being categorised as Class A drugs, and (c) they have stronger connections to the health-centred and therapeutic addictions treatment services actually operating in their areas (especially if there are new types of community led surge services that emerge due to the funding allocation attached to this Bill).
- 9.5** Finally, we contend that any victims of any offences connected to the misuse of these substances should be supported, acknowledged and allowed justice and due process as well. Where is the victim's recognition in this Bill? If the Police exercise this discretion and do not prosecute the person who used synthetics, what happens to any people that have suffered harm from this person's drug use? How are their rights and needs addressed in this Bill, or in the wider principal Act or Government agenda? Justice for all parties involved in an offence or crime is crucial to building a healthy justice system.

Areas of concern in the Bill

10. The need for a coordinated and comprehensive review to the principal Act, rather than piecemeal amendments

- 10.1** The Salvation Army understands that from time to time, Acts must be amended because of new developments. But we submit that a more comprehensive and coordinated review is required regarding the principal Act. We acknowledge that the Law Commission published their wide-ranging report in 2011 reviewing this Act.⁴ While some of the recommendations of this Law Commission report have been implemented, many have not. In our opinion, particularly with the rapid dynamic nature and development of illegal substances, revising the recommendations that have not been implemented since 2011 might go a large way in strengthening and modernising this Act.
- 10.2** While the Psychoactive Substances Act 2013 has been enacted, this Act has seen serious challenges in both its administration and practical application for addictions services such as ours. Additionally, with the progress of the Psychoactive Substances (Increasing Penalty for Supply and Distribution) Amendment Bill to its third reading in the House, we have some concerns about the consistency across these pieces of legislation. Addictions services such as ours operating under what can be an inconsistent and unnecessarily complex legislative framework make our frontline work with people

⁴ <https://www.lawcom.govt.nz/our-projects/misuse-drugs-act-1975>

who use drugs even more difficult. Therefore, we submit a more coordinated approach to the principal Act, and to the various pieces of legislation relevant to this area, is urgently required.

11. The limited consultation undertaken during this process

11.1 We are supportive of the funding injection allocated pursuant to this Bill. This is discussed further below. However, our reading of the Ministry of Health's RIS raises concerns for us that this process has been somewhat rushed. We are particularly concerned with the statement that the Joint Treasury and Ministry of Health Review Panel believes that this RIS *does not provide sufficient information for Ministers to make an informed decision about the regulatory proposals* [in the Bill].⁵ This process seems to be very rushed. Also, we are an organisation that asserts that continued due process and due diligence is needed when assessing the use of public funds. We do acknowledge the tight timeframes involved here.

11.2 Subsequently, we submit that greater and wider consultation should have been undertaken in this process. We recognise that the Drug Foundation is definitely an expert in this area. We do not want to diminish any of their input into this process. But we also submit that other key actors in this area, including The Salvation Army and other NGOs and services providing critical addictions treatment services, should have been consulted in the development of this Bill. In our experience, those people using these psychoactive substances are often homeless, rough sleeping, transient and facing numerous other complex social needs. Therefore consulting with frontline services that have regular contact and work with these people who use these psychoactive substances is a more effective way to develop an important piece of legislation. If New Zealand were to follow the United Kingdom experience, extending this to include prison and prison reintegration frontline services, with synthetic cannabinoids have been reported as the most popular drugs in UK prisons.⁶ Additionally, it is these very frontline services that will end up applying for and delivering services attached to the financial option preferred and offered in this Bill. A wider and more comprehensive consultation (and also wider analysis) was needed in this process.

12. The sufficiency of the financial preferred option (\$1.15 million p/a for 4 years) to account for newer drugs and/or complex related needs for users of synthetics

12.1 The Salvation Army is always appreciative of any additional funding that comes into the addictions treatment space. But we have some reservations about the sufficiency of this preferred financial option of \$1.15m per annum for 4 years. A more complete analysis in the RIS paper would have helped us better assess the suitability of this allocation.

12.2 Firstly, we are unsure that this amount will adequately account for any new developments in this area, particularly as new combinations of psychoactive drugs are being created at a rapid rate. In our experience, the sheer complexity of social issues for

⁵ Ministry of Health RIS, 2019, pg. 2.

⁶ [Measham, F. and Newcombe, R. \(2016\) 'What's so 'new' about new psychoactive substances? Definitions, prevalence, motivations, user groups and a proposed new taxonomy.'](#), in [The SAGE handbook of drug alcohol studies - social science approaches](#).

people with these types of addictions is huge. Therefore the intense and holistic approaches we use in working with these people can be hugely resource intensive.

12.3 Secondly, we wonder if this funding allocation will adequately cover the spread across the country of people facing these addictions issues. If The Salvation Army were to possibly apply for some of these funds, our focus would likely be our residential treatment facilities located in Auckland and Christchurch. The primary reason for this would be because many of these residents have been homeless or transient and are often suffering from addictions to these substances. Essentially, that is where people with these issues are going in regards to our service. The Ministry of Health is seeking community led surge responses. If we were to apply, our response would be focussed in these two locations. If that is the case, how would the Ministry prioritise geographically or regionally where this funding would be allocated? And would there be enough funding to cover other areas of high needs?
