



Submission to Legal and Constitutional Affairs Legislation
Committee

Criminal Code and Other Legislation Amendment
(Removing Commonwealth Restrictions on
Cannabis) Bill 2018



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ABOUT RDAA

RDAA is the peak national body representing the interests of doctors working in rural and remote areas and the patients and communities they serve.

RDAA's vision for rural and remote communities is simple – excellent medical care.

This means high quality health services that are:

- patient-centred
- continuous
- comprehensive
- collaborative
- coordinated
- cohesive, and
- accessible

and are provided by a GP-led team of doctors and other health professionals who have the necessary training and skills to meet the needs of their communities.

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INTRODUCTION

The question of whether cannabis should be legalised in this country is a complex one with a range of opinions expressed on whether such a move would have a positive impact on health and wellbeing in Australia as well as on the economy and criminal justice system.

The proposed removal of Commonwealth restrictions on cannabis opens the door to the legalisation of cannabis within Australia. RDAAC believes that legislative and regulatory frameworks must be grounded on a public health approach to cannabis which seeks to minimise associated harms and that, before any such action is taken, a formal, thorough and comprehensive examination of pros and cons is needed. International models related to cannabis legalisation, decriminalisation, regulation and any related processes must also be examined to inform the investigation.

BACKGROUND

Substances derived from cannabis have psychoactive properties and cannabis use can pose health risks not only to the user but also to others. Impaired driving is one way in which cannabis use may risk others.

Legalisation of cannabis is a layered issue that also involves consideration of decriminalisation and regulation of cannabis and its derivatives, as well as related activities including possession, use, cultivation, processing, sale, trade (including import and export), and inter- and intra-national border control. Medicinal cannabis within the Australian context is another factor that must be considered.

The diversity of opinions held by experts, individuals, organisations and communities that may be based on evidence or on the personal or professional experiences adds to the complexity of the issue. Rural and remote doctors, like other Australians, have individual responses to the question of cannabis legalisation. Some are supportive of moves toward legalisation while others have concerns.

RESPONSE TO THE BILL

RDAAC understands that the *Criminal Code and Other Legislation Amendment (Removing Commonwealth Restrictions on Cannabis) Bill 2018* (the Bill) seeks to change Commonwealth law to eliminate Commonwealth barriers to the legalisation, regulation and taxation of cannabis, including removing criminal offences and civil penalties for all cannabis-related activities. In effect this Bill devolves responsibility for the continued prohibition, decriminalisation or legalisation of cannabis to the States and Territories.

Assertions and assumptions within the Explanatory Memorandum for the Bill require close examination to evaluate their efficacy. The freedom of choice argument for example is simplistic and fails to take into account the contexts within which such “choices” are made.

The financial estimates within the Explanatory Memorandum for the Bill are based on the assumption that cannabis will be legalised. This may not eventuate nationally. In addition, the Parliamentary Budget Office Policy Costing statement indicates that the costing *is considered to be of low reliability*.

Key issues

RDAAC has also identified a number of key issues to inform consideration of the Bill:

- The decision to remove Commonwealth legal restrictions on cannabis and cannabis products would have significant ramifications for health and community services at individual, family, community and systemic levels, as well as the legal and criminal justice systems and economies at Federal and jurisdictional levels.

If enacted, such a decision could conceivably result in legalisation in some States and Territories and maintenance of illegality in others. This could give rise to cross-border issues in relation to the provision of legal and health services among others. Clearly articulated expectations and robust governance structures and mechanisms at Federal and jurisdictional levels will be critical to ensure that State/Territory variations do not become problematic.

- The Australian Government will continue to have a role in the legislation and regulation pertaining to cannabis. The TGA for example will continue to be responsible for regulating medicinal cannabis. Australia also has international obligations, such as in trade and health, which will be impacted by the legalisation and regulations of cannabis and are the responsibility of the Federal Government. Australia is also a signatory to the 1961 international Single Convention on Narcotic Drugs (amended by a 1972 protocol)¹ that may be violated by legalising cannabis for non-medical and non-scientific purposes opening the possibility for retaliatory action. This concern is dismissed as unlikely in the Bill's Explanatory Memorandum. However, this does not lessen Australia's responsibilities on the world stage. At the very least it requires that policymakers liaise with the International Narcotics Control Board (which monitors and supports Governments' compliance with the treaty) before any definitive contravening action is taken.

Another international treaty that may be impacted is the *World Health Organization Framework Convention on Tobacco Control* which is "a treaty to address the health, social, environmental and economic consequences of tobacco consumption and exposure to tobacco smoke worldwide."² Australia was among the first Parties to sign the treaty and has had considerable success in reducing tobacco-related harm. Given that a common method of ingesting cannabis is to mix marijuana with tobacco and smoke it there may be unintended consequences in relation to tobacco consumption.

- Legalisation of cannabis will have broad impact on Australia's health and community services systems as well as the criminal justice systems and economies at Federal and State/Territory levels. The imperatives that drive these systems can be conflicting and this may impact on any changes to the legislative and regulatory frameworks governing cannabis. Ongoing Australian Government leadership will also be essential to mitigate against any negative unforeseen and unintended consequences in this regard.

- While legalisation will improve access to cannabis for a variety of purposes whether that level of access is desirable must be balanced against public interest and potential risks, including individual health harms (such as those associated with smoking marijuana), mental health impacts, road and occupational safety, and domestic violence. Consideration must also be given to the benefits of legalisation and regulation versus ongoing criminalisation and the associated health and social impacts.
- Concern about the current regulation requirements and other management issues in relation to medicinal cannabis notwithstanding, maintaining quality control may become an issue in an unrestricted setting. If patients choose to access cannabis through growing their own or other sources rather than by prescription (for cost or other reasons) quality may vary, the capacity of clinicians to monitor levels of appropriate cannabinoids may be compromised, and effects may be unpredictable.

The fledgling medicinal cannabis industry may also be compromised if expected markets within Australia do not eventuate.

- Any changes to legislation and regulation of cannabis may impact differentially in rural and remote areas. It is well recognised that rural and remote Australians already have higher rates of risky health behaviours and higher morbidity and mortality rates. Poorer access to health professionals and services contribute to these poorer health outcomes. Addressing any increased demand for health and community services that may result from the legalisation of cannabis will be more difficult in already under-resourced and under-served rural and remote areas and could result in considerable burdens on patients, their families, carers and communities and on the rural health sector.

CONCLUSION

RDAAC is concerned that:

- the Bill is based on a number of assertions and assumptions that have not been adequately investigated
- the need for appropriate controls to guard against the health and other risks that may result from the legalisation of cannabis by States and Territories as a consequence of the Bill has not been recognised.

REFERENCES

¹ Single Convention on Narcotic Drugs, 1961 as amended by the 1972 protocol. Available at https://www.incb.org/incb/en/narcotic-drugs/1961_Convention.html

² Commonwealth Department of Health (page last updated 24 April 2018). World Health Organization Framework Convention on Tobacco Control. <http://www.health.gov.au/internet/main/publishing.nsf/content/tobacco-conv>. Viewed 13 June 2018.