

EXPLANATORY MEMORANDUM

Misuse of Drugs Amendment Bill (No. 2) 2010

Clause 1. Short title

Cites the short title of the Act is the *Misuse of Drugs Amendment Act (No. 2) 2010*.

Clause 2. Commencement

This section provides for the enactment of the Bill. Part I of the Bill will come into operation after it has completed its passage through Parliament and upon the Act receiving Royal Assent. The remainder of the Bill will come into operation the day after it receives Royal Assent.

Clause 3. The *Misuse of Drugs Act 1981* amended

Part 2 of the Bill amends the *Misuse of Drugs Act 1981*.

Clause 4. Section 19B inserted

Clause 4 inserts subsection 19B into the *Misuse of Drugs Act 1981*. This section relates to the selling of ice pipes.

Subsection (1) of 19B provides definitions for the terms 'child' and 'ice pipes'.

A 'child' is defined for the purposes of section 19B as a person who is under 18 years of age.

The term 'ice pipe' is defined as:

- (a) a device capable of being used for the administration of a prohibited drug by means of the inhaling of smoke or fumes resulting from the heating or burning of the drug in a crystal, powder, oil or base form; or
 - (b) a device that is apparently intended to be such a device but is not capable of being so used because it needs an adjustment, modification or addition,
- but does not include a device belonging to a class or description prescribed for the purposes of the definition.

Subsection (2) of 19B provides that a person who sells, or offers to sell, an ice pipe to a child commits a simple offence, for which the penalty is a fine of \$24,000, imprisonment for 2 years or both.

Subsection (3) of 19B provides that a person who sells, or offers to sell an ice pipe to a person other than a child, or, displays an ice pipe, or authorises an ice pipe to be displayed, for sale in a shop or other retail outlet commits a

simple offence. The penalty for the offences contained within section 19B (3) is a fine of \$10,000.

Clause 5. The *Working With Children (Criminal Record Checking) Act 2004* Amended

Part 3 of the Bill amends the *Working with Children (Criminal Record Checking) Act 2004*.

Clause 6. Schedule 2 amended

The Bill amends Schedule 2 of the *Working With Children (Criminal Record Checking) Act 2004* to include the offence of selling, or offering to sell, ice pipes to children contained within section 19B(2).

Scheduling this offence as a Class 2 offence has the effect of requiring a Negative Notice to be issued, by the Working with Children Screening Unit, to Working with Children Check applicants who are identified as having convictions or pending charges for the offence of selling ice pipes to children, unless there are exceptional circumstances.