

DRUGS AND DRUG TRAFFICKING AMENDMENT BILL [B 19—2022]: COMMENTS AND RESPONSE
Portfolio Committee on Justice and Correctional Services
(20 September 2022)

Comments received:

1. Jeremy Acton	29. Mike Kaufmann	57. Lizelle Coertzen	85. Chesney
2. Raymond McCreath Inc.	30. Anrie Laurie	58. John Thomson	86. Daryl Fuchs
3. Samkelo Latakisa	31. Hilda De Vroom	59. C Coetzee	87. Quin Keen
4. Canna Roots	32. Darren Gil	60. Suzaan Willers	88. Henk Raijmakers
5. Jaques Botha	33. Jean McDonald	61. Dhiresh Lalla	89. Veronica Bosman
6. Natasha Lategan	34. Gavin Comer	62. Carlene Louw	90. Nicola Homewood
7. Dean Malan	35. Raywin Rose	63. Danté	91. Steph Grobler
8. Roeloff Cito	36. Krisztián Bukaresti	64. Morgan Barrett	92. Paul Hendrik
9. Pierre Van Der Hoven	37. Michael Ceruti	65. Colleen Ollerenshaw	93. Jason John
10. Sandra Goldschmidt	38. Rodney Clarke	66. Garith Steyn	94. Francois Paulik
11. Bertram Douglas	39. Armand Prinsloo	67. Daniel	95. Prue Nel
12. T Killingbeck	40. David Horscroft	68. Praise	96. Avril Cannon
13. Howard Fawkes	41. Luke	69. Anna Mulders	97. Ian Huntly
14. Bertha Mahood	42. Josh Trollip	70. Arnold Dreyer;	98. Diane Johnson
15. JC Schoonraad	43. Sheldon Thomson	71. Tamarise Deetlefs	99. Wendy Nicklin
16. Hester Bosman	44. Dan	72. Charlene Charlene	100. Cathrynne Moyes
17. Marc Fourie	45. Kyle Sandeman	73. Tahnia Lombard	101. Medicated Cassie
18. Laura Samson	46. G Viss	74. Lance Roehrig	102. Brian Goslett
19. Merrill Easson	47. ed miculita	75. Nina Shand	103. Sanguita Popatlal
20. Lauren Klugkist	48. J Van Rensburg	76. Caetano	104. Gideon Tafari
21. Erika Van Schalkwyk	49. Malisa Erasmus	77. Yasser Slamdien	105. Rodney Downey
22. Esther Nel	50. Debra Anderson	78. Brendon Lombard	106. Shobha Ramnarain
23. Angela Roux	51. Alta Aucamp	79. Marie Pretorius	107. Paul Grobler
24. Durban, South Africa	52. Marlize Mau	80. Jim Weety	108. Jordache Krishoondutt
25. Cheyenne Theologo	53. Steven Hatton	81. Jack Braxton	109. Terry Harnwell
26. Aumy Hal	54. Clare James	82. J Visser	110. Sue Pretorius
27. Ryan Stenzel	55. Michael Keyworth	83. Bernhard Enslin	111. Cin Boltman
28. Marina Sassman	56. Jack Summers	84. Henk Louw	112. Aletta Bothma

113. Rob Cowling	147. Joy Levin	181. Gill Naeser	215. Gugulethu Quma
114. Kobus Pienaar	148. Patricia Roodt	182. Marisa Swart	216. Debbie van der Walt
115. Anthea Prins	149. Rehan Pretorius	183. Basil Beyers	217. Patrick Camealio
116. Ann Anonymous	150. Dane Bush	184. Stefan Bezuidenhout	218. Martin Funnel
117. Teri-Lin Robertson	151. Shaun Marais	185. Deon Kroon	219. Gilbert Oellermann
118. Lee Jennings	152. Blythe Scorgie	186. Andrew Brunette	220. Anthony Cohen
119. Peet Brits	153. Natasha Van der Schyff	187. D Naude	221. Sabine Zarbock
120. Dean Sheard	154. Campbell Joanne	188. Belinda Elgin	222. Robin Moller
121. James Martin	155. Johan van Wyk	189. Nelia Theron	223. Izak Ferreira
122. Megan Wessels	156. Deon Phyfer	190. D&DT	224. Clifford Giesenow
123. Toks Engelbrecht	157. Wheeler Bonita	191. Craig Bennetts	225. Helene Harington
124. Amanda Van Zyl	158. Jessica McEndoo	192. Greendalph Greybeard	226. Chris Derungs
125. Kent Cooper	159. Alan Angove	193. Tamara Xokozela	227. GD
126. William Woods	160. Gianpiero Ryan	194. Kelvin Southerland	228. Joseph Khumalo
127. William Theunissen	161. Aidon Westcott	195. Nathan Teles	229. Louis Luyt
128. Jacobus Woods	162. Ignatius Ferreira	196. Hanroe Taljaard	230. Mike Lambert
129. Colbert Woods	163. Nicholas Heinamann	197. August Appel	231. Anne De Chazal
130. Michelle Miller	164. Heila Schoeman	198. Marisa Lategan	232. Justin Lochmann
131. André Du Plessis	165. Albertus van Jaarsveldt	199. Charl Henning	233. Clinton Iving
132. Deon van Vuuren	166. Daniel Paulsen	200. Johan Potgieter	234. Darian Duval
133. Andrew Marcham	167. A de Bruin	201. Celeste de Wet	235. Sharon Price
134. Bubbles Brits	168. Barry Dale	202. Godsave Chauke	236. C Baatjes
135. Mario Vaindirlis	169. Tshepo Motshumi	203. Seth Scott	237. Francois Ohsiek
136. Vanessa De Sousa	170. Dylan Busa	204. Bronwen McClelland	238. Kelvin Appelgren
137. Thandi B	171. Grace Edwards	205. Ewan Minnie	239. Reynier Scholten
138. JC Sakir	172. Frank McDouall	206. G Seabrooke	240. Lorraine Kinsella
139. Vanessa Jarvis	173. Norman Swanepoel	207. Kim Smith	241. Brenda Robinson
140. JP Andrew	174. Ian Sampson	208. Clare Pedersen	242. Tana Wood
141. Philippa Walker	175. Willem Redelinghuys	209. Aleksandar Llic	243. Victor Vermeulen
142. Paulo Lobo Fernandes	176. Gert Koen	210. Francois Marais	244. Charles Stewart
143. Corinne Van jaarsveldt	177. Eunice van Reenen	211. Karen Bekker	245. Nicolas Milicevic
144. TK Nape	178. Grant Wood	212. Jackie Dennis	246. Zoe Coetzee
145. Albert Smith	179. David Smith	213. Merlicia Appels	247. Sisanda Boyce
146. Martin Homan	180. Chris	214. Tersia Marais	248. Aidan Gurah

249. Martin Humphries	285. Andrew Lewis	
250. Sharon Pallatt	286. Pierre De Jager	
251. K Greef	287. Garth Van Zyl	
252. Awie Hoon	288. Phillip Gillmer	
253. Cornelius Coetzee	289. Mark Corrigan	
254. Johan Du Preez	290. Kobus Marais	
255. Fatzi Hosein	291. Gregg Smith	
256. Francois Le Roux	292. Catherine Hampton	
257. Trevor Summerton	293. Martinus Stander	
258. Julie Gagné Kruger	294. Leon Combrink	
259. Megan Arendse-Gurah	295. Christa McEvoy	
260. Anthea Crook	296. Mel Speich	
261. Susan Schoultz	297. Tammy Höll	
262. Ursela Stroh	298. Ester Harris	
263. Zibeth Hauptfleisch	299. Renaldo Gouws	
264. Dean Mumby	300. Meryl Waurich	
265. Yvette Retief	301. Hilda Dyason	
266. Christian Oertel	302. AJ Buckley	
267. Lionel N Shunmugam	303. Michiel Nel	
268. Piya Botha	304. Miguel Howell	
269. Armand Van Rensburg	305. Brynn Daniels	
270. Dionne Atkinson	306. Christopher Chapman	
271. Dale Collett	307. Israel Jeneke	
272. Nisha Singh	308. Neil	
273. Maryke Willemse	309. Jeremiah Nel	
274. Stephen Booyzen	310. Megan Steyn	
275. Anthony Van Wyk	311. Anlizette Olivier	
276. Danelle de Vries	312. Stephan Wessels	
277. Chere Muller	313. Waydeline Hendricks	
278. Peter Small	314. Percy Phillipson	
279. Helene Gerber	315. Johan Herholdt	
280. Gillian Wilde	316. Jesse D	
281. Wendy Procter	317. Walter Groenewald	
282. Pieter Botha	318. Gavin Tonks	
283. Art Williams	319. Sarena Baxter-Armstrong	
284. Trevor Clark		

1. General comments

<p>1.1 The Drugs and Drug Trafficking Amendment Bill [B 19—2022] (the Bill) is not supported or not fully supported (without providing reasons) – (JC Schoonraad; Cheyenne Theologo; Aumy Hal; Mike Kaufmann; Darren Gil; Jean McDonald; Krisztián Bukaresti; Dan; Ed Miculita; J Van Rensburg; Debra Anderson; Clare James; Lizelle Coertzen; John Thomson; Suzaan Willers; Charlene Charlene; Caetano; Brendon Lombard; J Visser; Quin Keen; Veronica Bosman; Steph Grobler; Jason John; Avril Cannon; Diane Johnson; Medicated Cassie; Rodney Downey; Terry Harnwell; Sue Pretorius; Cin Boltman; Aletta Bothma; Rob Cowling; Kobus Pienaar; Megan Wessels; Amanda Van Zyl; Mario Vaindirlis; Vanessa De Sousa; Patricia Roodt; Rehan Pretorius; Shaun Marais; Alan Angove; Daniel Paulsen; Grace Edwards; Frank McDouall; D&DT; August Appel; Marisa Lategan; Bronwen McClelland; G Seabrooke; Aleksandar Llic; Karen Bekker; Jackie Dennis; Merlicia Appels; Tersia Marais; Debbie van der Walt; Helene Harington; GD; Anne De Chazal; Justin Lochmann; Clinton Iving; Reynier Scholten; Tana Wood; Sisanda Boyce; Martin Humphries; Awie Hoon; Johan Du Preez; Fatzi Hosein; Megan Arendse-Gurah; Anthea Crook; Lionel N Shunmugam; Armand Van Rensburg; Nisha Singh; Anthony Van Wyk; Gillian Wilde; Art Williams; Garth Van Zyl; Gregg Smith; Catherine Hampton; Martinus Stander; Leon Combrink; Christa McEvoy; Tammy Höll; Christopher Chapman; Jesse D; Walter Groenewald)</p>	<p>1.1 (a) In terms of section 63 of the Drugs and Drug Trafficking Act, 1992 (Act No. 140 of 1992) (the "Drugs Act"), the Minister effected the amendments, by means of Government Notices No. R. 1765 of 1 November 1996; No. R. 344 of 13 March 1998; No. R. 760 of 11 June 1999; No. R. 521 of 15 June 2001; No. R. 880 of 8 October 2010; and No. R. 222 of 28 March 2014, to Schedules 1 and 2 to the Drugs Act.</p> <p>(b) In <i>Jason Smit v Minister of Justice and Constitutional Development and Others</i> [2020] ZACC 29 (the Smit Judgment), the Constitutional Court declared -</p> <p>(i) section 63 of the Drugs Act unconstitutional and invalid to the extent that it purports to delegate plenary legislative power to the Minister to amend the Schedules to the Drugs Act; and</p> <p>(ii) the amendments that the Minister effected in terms of section 63, to Schedules 1 and 2 to the Drugs Act (discussed in paragraph (a), above), invalid.</p> <p>(c) The Bill seeks to amend the Drugs Act to address the constitutional invalidity of section 63 and the purported amendments that were effected, in terms of section 63, to Schedule 1 and Schedule 2.</p> <p>(d) Clause 1 of the Bill repeals section 63 of the Drugs Act, to ensure that any amendment to Schedule 1 and Schedule 2 (which Schedules are considered as a part of</p>
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	<p>the Drugs Act), must be effected in terms of an Act of Parliament.</p> <p>(e) Clause 2 substitutes Schedule 1 and Schedule 2 to the Drugs Act to effect the amendments referred to in paragraph (a), above, thereto. These amendments are subject to the suspended order of invalidity in terms of the Smit Judgment. The aforementioned amendments are, as a result of the suspended order of invalidity, still of force and effect and subject to criminalisation in terms of the Drugs Act.</p>
<p>1.2 The Bill is unconstitutional (without providing reasons). – (Natasha Lategan; Sacha Williams; Sandra Goldschmidt; Gavin Comer; C Coetzee; Arnold Dreyer; Wendy Nicklin; Cathrynne Moyes; A de Bruin; Sabine Zarbock; Sharon Price; K Greef; Colin van Niekerk; Stephan Wessels)</p>	<p>1.2 (a) See paragraph 1.1, above.</p> <p>(b) South Africa acceded to the Single Convention on Narcotic Drugs, 1961, as amended by the 1972 Protocol, the Convention on Psychotropic Substances, 1971, and the Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, 1988 (the Drug Conventions). The Drug Conventions establish internationally applicable control measures to curb illegal activities in respect of substances listed in their Schedules. The Drugs Act gives effect to South Africa's obligations under the Drug Conventions and criminalises the manufacturing and supplying of any substance included in Schedule 1 to the Act and the use, possession and dealing in any drug included in Schedule 2 to the Act. The Schedules to the Drug Conventions are frequently amended to include new substances and such amendments must therefore also be effected to the Schedules to the Drugs Act. In terms of</p>

	<p>section 231 of the Constitution of the Republic of South Africa, 1996, South Africa is bound by an international agreement if it is enacted into law by national legislation and must give effect to its obligations under an international agreement.</p> <p>(c) The Bill aims to ensure:</p> <p>(i) That the Schedules to the Drugs Act must be amended by a constitutional compliant process to give effect to South Africa's obligations under the Drug Conventions (clause 1); and</p> <p>(ii) the continued criminalisation of the substances included in the Schedules to the Drugs Act, in terms of section 63 of the Drugs Act, in order to promote safety and security (clause 2).</p>
1.3 The Bill is unconstitutional. Consult experts and clarify what substances comply with the Constitutional Court Judgment. – (Bernhard Enslin)	1.3 The reasons for the inclusion of the substances referred to in paragraph 1.1(a), in the Schedules to the Drugs Act are discussed in paragraphs 1.1 and 1.2, above. The Memorandum on the Objects of the Bill provides a discussion of the relevant substances which the Bill aims to insert in the Schedules to the Drugs Act and their listing in the Schedules and Tables to the Drug Conventions.
1.4 There is a need to make adequate resources available to treat drug addiction. – (Samkelo Latakisa; Chris)	1.4 The Bill cannot regulate the availability of resources for drug addiction treatment.
1.5 The time allowed for making submissions on the Bill (two weeks) does not amount to sufficient public	1.5 The amendments which the Bill aims to effect to the Drugs Act are discussed in paragraph 1.1, above. It is submitted that these amendments are of a non-technical

<p>participation. - (Jeremy Acton; Michelle Miller; André Du Plessis; Israel Jeneke)</p>	<p>nature and, as a result of the suspended order of invalidity in terms of the Judgment, still of force and effect and subject to criminalisation in terms of the Drugs Act.</p>
<p>1.6 The private cultivation, possession, and use of a scheduled substance by an adult person; and the obtaining from, and provisioning to, an adult by an adult, should not be criminalised. This is inconsistent with the rights provided for by sections 14 (right to privacy) and 31 (rights of cultural communities). - (Jeremy Acton; Tristan; Chesney; Chris; Martin Funnel; Chris Derungs)</p>	<p>1.6 (a) The Drug Conventions require State parties to take appropriate measures to -</p> <ul style="list-style-type: none"> (i) limit the production, cultivation, supply, distribution, import, export, possession and use of narcotic drugs and psychotropic substances to medical and scientific purposes; (ii) prevent drug precursor substances from being used for the purpose of illicit manufacture of narcotic drugs or psychotropic substances; and (iii) criminalise any contravention of a law adopted in pursuance of its obligations under the Drug Conventions. <p>(b) The strict regulation of narcotic drugs and psychotropic substance as well as chemicals often used in the manufacturing of narcotic drugs, is necessary to protect others against the harms of illicit substances and is a justifiable limitation of the rights in question.</p>
<p>1.7 Substance abuse in South Africa is high. Strict control of these substances (including cannabis) is therefore necessary to protect others. – (Lorraine Kinsella; Zoe Coetzee; Paul Hendrik; Lorraine Kinsella)</p>	<p>1.7 (a) The Bill does not change the current legal position in terms of the Drugs Act. Section 13, read with section 17 of the Drugs Act, criminalises -</p> <ul style="list-style-type: none"> (i) the manufacturing and supplying of scheduled substances which can be used in, or for the unlawful manufacture of, any drug (section 3);

	<p>(ii) the use and possession of any dependence-producing substance or any dangerous dependence-producing substance or any undesirable dependence-producing substance (section 4); and</p> <p>(iii) the dealing in any dependence-producing substance or any dangerous dependence-producing substance or any undesirable dependence-producing substance (section 5).</p> <p>(b) Most of the substances referred to in paragraph 1.1(a), above, are also included in the Schedules to the Medicines and Related Substances Act, 1965 (Act No. 101 of 1965) (the Medicines Act), which strictly control the availability of the substances for medicinal use.</p>
1.8 Parliament must carefully consider the substances in the Bill to ensure that there is a basis for the regulation of these substances in terms of the Drugs Act. – (Kyle Sandeman)	1.8 See paragraphs 1.1, 1.2, 1.3, above and paragraph 3.1, below.
1.9 Law enforcement is unable to make any impact on the production and dealing in drugs. The Bill is however supported for the sake of our children and their children. Drugs must be criminalised to protect others.– (Jack Braxton; Ester Harris; Hilda Dyason)	1.9 Noted.
1.10 The Bill is supported. - (Durban, South Africa)	1.10 Noted.
1.11 Criminalisation as a measure to address substance abuse is ineffective, gives rise to a lucrative black market and requires substantial law enforcement resources. – (Barry Dale; Gilbert Oellermann)	1.11 It is submitted that criminalisation with deterrent sentences is necessary to curb illicit activities in respect of narcotics.

<p>1.12 Drug abuse is a social issue and not a criminal issue. The Drugs Act must take South Africa's Drug Policy into account. Criminalisation is not the answer to substance abuse. – (Nicholas Heinemann; Ignatius Ferreira; Ian Sampson; Marisa Swart; Francois Marais; Clifford Giesenow)</p>	<p>1.12 The Bill cannot address this aspect. South Africa's Drug Policy proposes that alternatives to criminalisation of the possession of small quantities of drugs and the use of drugs, be considered. The Drug Conventions do provide that National Law may in respect of minor offences, include as alternatives to conviction or punishment, measures such as education, rehabilitation or social reintegration, as well as, when the offender is a drug abuser, treatment and aftercare (article 36 of the 1961 Convention; article 22 of the 1971 Convention; and articles 3.2 and 3.4(c) of the 1998 Convention). The Prevention of and Treatment for Substance Abuse Act, 2008 (Act No. 70 of 2008), and sections 255 and 296 of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), give effect to these proposals.</p>
<p>1.13 Decriminalisation should be considered in respect of substance abuse. – (Gill Naeser; Seth Scott)</p>	<p>1.13 See paragraph 1.12, above.</p>
<p>1.14 Rehabilitation and treatment of drug users and non-custodial sentences should be considered in respect of drug offences. – (Sarena Baxter-Armstrong)</p>	<p>1.14 See paragraph 1.12, above.</p>

2. Clause 1: Repeal of section 63

The repeal of section 63 of the Drugs Act is supported. – (David Horscroft)	Noted
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3. General: Clause 2 and Schedules 1 and 2

3.1 The Bill must provide for criteria (classification system) to include or remove substances from the Drugs Act Schedules and consultation with social groups, health experts, and legal scholars. – (David Horscroft; Heila Schoeman)	3.1 The repeal of section 63 of the Drugs Act ensures that any amendment to the Schedules must be effected by Parliament. The Parliamentary process allows for extensive consultation. The Drug Conventions provide for criteria to be considered to amend the Schedules or Tables to the Conventions. The technical documents that are prepared by the relevant UN bodies for purposes of such amendments are comprehensive and provide extensive guidance regarding the properties of the substances and their proposed listing.
3.2 The criminalisation of the substances in the Schedules is not supported (without providing reasons). – (Lauren Klugkist; Erika Van Schalkwyk; Esther Nel; Angela Roux; Gavin Comer; Raywin Rose; Rodney Clarke; Debra Anderson; Alta Aucamp; Teri-Lin Robertson; Johan van Wyk; Waydeline Hendricks)	3.2 See paragraphs 1.1, 1.2 and 1.3, above.
3.3 Some of the newer substances that are subject to international control have not yet been included in the Schedules to the Drugs Act. – (Johan Herholdt)	3.3 It is acknowledged that various new substances need to be included in the Schedules to the Drugs Act as a result of amendments to the Schedules and Tables to the Drug Conventions.

4. Schedule 1

<p>4.1 Pseudoephedrine (Part I of Schedule 1) should, similar to codeine, be limited to a certain percentage. – (David Horscroft)</p>	<p>4.1 Pseudoephedrine is included in Table I to the 1988 Convention and no percentage qualification is specified in respect thereof. The Drugs Act, as adopted by Parliament, listed Pseudoephedrine in Part I of Schedule 1 without any percentage qualification. Pseudoephedrine is regulated in terms of the Medicines Act, which provides for a quantitative limitation. There is no need to limit Pseudoephedrine to a percentage (see paragraph 4.2, below, regarding criminalisation).</p>
<p>4.2 The substances listed in Schedule 1 have other uses than the manufacturing of drugs – (Anthea Prins)</p>	<p>4.2 It is acknowledged that the substances listed in Schedule 1 have various uses, other than being used in the manufacturing of drugs. The inclusion of substances in Schedule 1 is only criminalised, in terms of section 3 of the Drugs Act, if a person manufactures any scheduled substance or supplies it to any other person, knowing or suspecting that any such scheduled substance is to be used in or for the unlawful manufacture of any drug.</p>

5. Schedule 2

<p>5.1 <u>General</u></p>	
<p>5.1.1 The substances listed in the Schedules are not based on science. Substances such as cannabis, psilocin and psilocybin, is listed as "undesirable", when in fact, they are scientifically proven to be beneficial. – (Jeremy Acton; Marc Fourie; David Horscroft; André Du Plessis; Patrick Cameallo; Brynn Daniels)</p>	<p>5.1.1 It is acknowledged that various substances listed in Part III of Schedule 2 as undesirable dependence-producing substances have medicinal properties. Psilocin and psilocybin are listed in Schedule 7 to the Medicines Act, and can be possessed, supplied, used or acquired in terms of a permit that is issued by the Director-General: Health. THC is listed in Schedule 6 to the Medicines Act and can technically be prescribed as a medicine (subject to the</p>

	registration of an appropriate product in terms of the Medicines Act). The inclusion of substances in Schedule 2 to the Drugs Act are dependent on their listing in the Schedules to the 1961 and 1971 Conventions.
5.1.2 Many substances listed in Schedule 2 have medicinal properties and other uses and the regulatory regime restricts access to such substances. – (Jeremy Acton; Bertha Mahood; Marc Fourie; Merrill Easson; Rodney Clarke; Luke; Michael Keyworth; Carlene Louw; Chris; Celeste de Wet; Danelle de Vries)	5.1.2 The regulatory regimes in terms of the Drugs Act and the Medicines Act are necessary to ensure that the substances are available for medical and scientific purposes and by restricting their illicit use to protect persons against the potential harm of such substances.
5.1.3 All of the substances listed in the schedule should be subject to complete review by a new scientific panel, and the Drugs Act must be based on real research, not the old Drug War agenda. – (Jeremy Acton; David Horscroft; Johan Herholdt)	5.1.3 The substances included in Schedule 2 of the Drugs Act are subject to similar strict regulation in foreign jurisdictions. South Africa must comply with its obligations under the Drug Conventions to limit the production, cultivation, supply, distribution, import, export, possession and use of narcotic drugs and psychotropic substances to medical and scientific purposes.
<u>5.2 Substances: Dronabinol [(-)-transdelta-9-tetrahydrocannabinol] - Part II of Schedule 2; and Cannabis (dagga), the whole plant or any portion or product thereof, except dronabinol [(-)-transdelta-9-tetrahydrocannabinol]; and Tetrahydrocannabinol – Part III of Schedule 2</u>	
5.2.1 The Bill is not supported. Cannabis should not be subject to regulation in terms of the Drugs Act. Cannabis must be commercialised to stimulate the economy/ available for medicinal use/ available without restrictions. – (Canna Roots; Jaques Botha; Dean Malan; Pierre Van Der Hoven; Bertram Douglas; T Killingbeck; Hester Bosman;	5.2.1 (a) In <i>Minister of Justice and Constitutional Development and Others v Prince</i> 2019 (1) SACR 14 (CC) (the Prince Judgment), the Constitutional Court declared sections 4(b) and 5(b), read with Part III of Schedule 2, of the Drugs Act, unconstitutional and invalid to the extent that these sections criminalise the use and

<p>Marc Fourie; Laura Samson; Merrill Easson; Lauren Klugkist; Erika Van Schalkwyk; Esther Nel; Angela Roux; Ryan Stenzel; Tristan; Marina Sassman; Hilda De Vroom; Darren Gil; Jean McDonald; Gavin Comer; Krisztián Bukaresti; Michael Ceruti; Armand Prinsloo; David Horscroft; Luke; Josh Trollip; Sheldon Thomson; Venessa van Graan; Kyle Sandeman; G Viss; Malisa Erasmus; Marlice Mau; Steven Hatton; Lizelle Coertzen; John Thomson; Dhiresh Lalla; Carlene Louw; Danté; Morgan Barrett; Garith Steyn; Anna Mulders; Tahnia Lombard; Nina Shand; Yasser Slamdien; Marie Pretorius; Jim Weety; Anel Grove; Anel Grove; Daryl Fuchs; Henk Raijmakers; Nicola Homewood; Francois Paulik; Prue Nel; Ian Huntly; Brian Goslett; Sanguita Popatlal; Gideon Tafari; Shobha Ramnarain; Jordache Krishoondutt; Ann Anonymous; Lee Jennings; Peet Brits; Dean Sheard; James Martin; Toks Engelbrecht; Kent Cooper; William Woods; William Theunissen; Jacobus Woods; Colbert Woods; Michelle Miller; Deon van Vuuren; Andrew Marcham; Bubbles Brits; Vanessa Jarvis; JP Andrew; Philippa Walker; Paulo Lobo Fernandes; Corinne Van jaarsveldt; TK Nape; Joy Levin; Dane Bush; Blythe Scorgie; Natasha Van der Schyff; Campbell Joanne; Deon Phyfer; Wheeler Bonita; Jessica McEndoo; Gianpiero Ryan; Aidon Westcott; Ignatius Ferreira; Nicholas Heinemann; Albertus van Jaarsveldt; Wesley Smith; Norman Swanepoel; Willem Redelinghuys; Eunice van Reenen; Grant Wood; David Smith; Marisa Swart; Basil Beyers; Deon Kroon; Andrew Brunette; Belinda Elgin; Craig Bennetts; Kelvin Southerland; Nathan Teles;</p>	<p>possession of cannabis and the cultivation of cannabis plants by an adult, in private, for that adult's personal consumption in private.</p> <p>(b) The Cannabis for Private Purposes Bill [B 19—2020] (the Cannabis Bill) seeks to -</p> <p>(i) remove dronabinol, cannabis (the whole plant or any portion or product thereof), and tetrahydrocannabinol from the purview of the Drugs Act; and</p> <p>(ii) authorise commercial activities in respect of cannabis.</p> <p>(c) The Bill seeks to amend the Drugs Act to address the constitutional invalidity of section 63 and the purported amendments referred to in paragraph 1.1(a) above, to Schedule 1 and Schedule 2. The Bill does not delete or otherwise amend dronabinol, cannabis (the whole plant or any portion or product thereof), or tetrahydrocannabinol in Schedule 2 to the Drugs Act.</p> <p>(d) It is submitted that the deletion of dronabinol, cannabis (the whole plant or any portion or product thereof), or tetrahydrocannabinol by the Bill will give rise to a <i>de facto</i> situation that the aforementioned substances are not subject to any regulation until the Cannabis Bill is adopted by Parliament.</p>
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<p>Celeste de Wet; Seth Scott; Ewan Minnie; Kim Smith; Clare Pedersen; Gugulethu Quma; Joseph Khumalo; Louis Luyt; Mike Lambert; Darian Duval; C Baatjes; Francois Ohsiek; Brenda Robinson; Victor Vermeulen; Nicolas Milicevic; Cornelius Coetzee; Francois Le Roux; Susan Schoultz; Zibeth Hauptfleisch; Christian Oertel; Dionne Atkinson; Lee Nez; Dale Collett; Maryke Willemse; Stephen Booyzen; Chere Muller; Peter Small; Helene Gerber; Pieter Botha; Trevor Clark; Andrew Lewis; Phillip Gillmer; Mark Corrigan; Kobus Marais; Mel Speich; Renaldo Gouws; Meryl Waurich; AJ Buckley; Michiel Nel; Miguel Howell; Neil; Jeremiah Nel; Anlizette Olivier; Percy Phillipson; Johan Herholdt; Gavin Tonks)</p>	
<p>5.2.2 The listing of cannabis in Part III of Schedule 2 is questionable based on the fact that it causes less harm than alcohol, tobacco, many other substances listed in Schedule 2 and some medicines. – (Sheldon Thomson; Malisa Erasmus; Colleen Ollerenshaw; Daniel; Praise; Tamarise Deetlefs; Henk Louw; Anel Grove; Daryl Fuchs; Sanguita Popatlal; Kent Cooper; William Theunissen; Colbert Woods; Paulo Lobo Fernandes; Albert Smith; Martin Homan; Aidon Westcott; Wesley Smith; D Naude; Greendalph Greybeard; Tamara Xokozela; Nathan Teles; Hanroe Taljaard; Charl Henning; Johan Potgieter; Robin Moller; Mike Lambert; C Baatjes; Nicolas Milicevic; Aidan Gurah; Sharon Pallatt; Trevor Summerton; Pierre De Jager; Michiel Nel; Brynn Daniels; Megan Steyn; Anlizette Olivier)</p>	<p>5.2.2 The Cannabis Bill seeks to remove dronabinol, cannabis and tetrahydrocannabinol from the purview of the Drugs Act, which make the current scheduling status of cannabis in terms of the Drugs Act irrelevant.</p>

<p>5.2.3 Cannabis is a gateway drug and should be regulated in a manner that restricts its availability. – (Yvette Retief; Ursela Stroh)</p>	<p>5.2.3 The Prince Judgment granted relief by way of a reading-in to the provisions of the Drugs Acts that it would not be a criminal offence for an adult person –</p> <ul style="list-style-type: none"> (a) to use or be in possession of cannabis in private for his or her personal consumption in private; and (b) to cultivate cannabis in a private place for his or her personal consumption in private. <p>Any activity in relation to cannabis that does not fall within the ambit of the relief of the Prince Judgment is subject to regulation in terms of the Drugs Act.</p>
<p>5.2.4 The Prince Judgment decriminalised cannabis, and this was not considered in respect of the listing of cannabis in the Schedule 2, which impacts on the constitutionality of the Bill. – (Durban, South Africa; Jack Summers; Colleen Ollerenshaw; Lance Roehrig; Brian Goslett; Paul Grobler; Michelle Miller; Deon van Vuuren; Thandi B; JC Sakir; Philippa Walker; TK Nape; Gianpiero Ryan; Stefan Bezuidenhout; Izak Ferreira; Alta Du Plooy; Dean Mumby; Piya Botha; Wendy Procter)</p>	<p>5.2.4 The Bill seeks to amend the Drugs Act to address the constitutional invalidity of section 63 and the purported amendments that were affected, in terms of section 63, to Schedule 1 and Schedule 2, that resulted from the Smit Judgment.</p> <p>The Cannabis Bill specifically deals with cannabis in the context of the Prince Judgment. The Cannabis Bill seeks to remove dronabinol, cannabis and tetrahydrocannabinol from the purview of the Drugs Act, which make the current scheduling status of cannabis in terms of the Drugs Act irrelevant.</p>
<p>5.2.5 Cannabis is not just a drug, but has many other industrial uses. Hemp must not be included in Schedule 2 to the Drugs Act. – (Michelle Miller; Norman Swanepoel; Maryke Willemse)</p>	<p>5.2.5 This is noted. The Cannabis Bill aims to facilitate commercial activities in respect of cannabis and hemp.</p>
<p>5.2.6 Cannabis is addictive and causes harm and needs to be regulated strictly to protect others against cannabis related harms. – (Anrie Laurie (who does not support the</p>	<p>5.2.6 The Drugs Act with the reading-in in terms of the Prince Judgment will apply until the Cannabis Bill is passed by Parliament.</p>

Bill); Nelia Theron; Godsave Chauke; Charles Stewart; Zoe Coetzee; Lee Nez; Meryl Waurich)	
5.2.7 Cannabis production must be properly regulated. – (Dylan Busa)	5.2.7 The Bill does not deal with the production of cannabis. – (the ambit of the Bill is summarised in paragraph 5.2.4, above)
5.2.8 Cannabis criminalisation is necessary to protect children against cannabis related harms. – (Tshepo Motshumi)	5.2.8 The Prince Judgment legalised adult use of cannabis in the protected sphere of privacy. Any activity in relation to cannabis that does not fall within the ambit of the relief of the Prince Judgment is subject to regulation in terms of the Drugs Act.
5.2.9 Cannabis is not a hard drug and the continued criminalisation drains law enforcement resources that can be used to address serious crime. – (Gert Koen; Eunice van Reenen; Gilbert Oellermann; Robin Moller; Julie Gagné Kruger;	5.2.9 This aspect cannot be addressed in terms of the Bill.