**Report of the Portfolio Committee on Justice and Correctional Services on the Drugs and Drug Trafficking Amendment Bill [B19 - 2022] (National Assembly – section 75), dated 21 September 2022**

The Portfolio Committee on Justice and Correctional Services, having considered the Drugs and Drug Trafficking Amendment Bill [B19 - 2022], referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, reports the Bill without amendments.

The Committee reports further:

1. The Drugs and Drug Trafficking Act. 1992 (Act No. 140 of 1992) (“the Act”) forms a part of the domestic legal framework that gives effect to South Africa’s obligations under 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.
2. The Act criminalises -

* the manufacture and supply of any scheduled substance included in Schedule 1 to the Act; and
* the use, possession and dealing in any dependence-producing substance, dangerous dependence-producing substance or any undesirable dependence-producing substance included in Schedule 2 to the Act.

1. In terms of section 63 of the Act, the Cabinet member responsible for the administration of justice (the Minister) may, by notice in the *Gazette*, amend Schedules 1 and 2 to the Act.
2. In terms of section 63, the Minister amended Schedules 1 and 2 to the Act, 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.
3. In *Jason Smit v Minister of Justice and Constitutional Development and Others* [2020] ZACC 29, the Constitutional Court declared -

* Section 63 of the Act to be unconstitutional and invalid to the extent that it purports to delegate plenary legislative power to the Minister to amend the Schedules to the Act; and
* The amendments that have been effected in terms of section 63 to the Schedules, invalid.

1. The Constitutional Court suspended the orders of invalidity for a period of 24 months to give Parliament an opportunity to cure the defects. The 24 months’ period will lapse on 17 December 2022.
2. The Bill seeks to amend the Act to address the constitutional invalidity of section 63 and the amendments that the Minister effected in terms of section 63, to Schedule 1 and Schedule 2.
3. Clause 1 repeals section 63 of the Act, to ensure that any amendment to the Schedule must be effected by an Act of Parliament.
4. Clause 2 substitutes Schedules 1 and 2 to the Act to effect the amendments referred to in paragraph 4 above, thereto.
5. The Bill was introduced and referred to the Committee for consideration and report on 29 August 2022.
6. The Committee was briefed on the Bill on 2 September 2022.
7. During the public participation process on the Bill, the Committee received 319 submissions, most of which took the form of a petition. Public hearings on the Bill were held on 20 September 2022: there were two oral submissions. Having considered the public submissions, the Committee is of the view that the issues raised fall outside the scope of the Bill and fall largely within the ambit of the Cannabis for Private Purposes Bill [B19-2020], which is also referred to the Committee for consideration and report.
8. Having considered the Drugs and Drug Trafficking Bill [B19 - 2022] referred to it and classified by the Joint Tagging Mechanism (JTM) as a section 75 Bill, the Committee supports the Bill and reports it without amendments.

**Report for consideration**