Briefing Paper

MFR2025-001

Ministry for Regulation
Te Manatū Waeture

To	**Hon David Seymour, Minister for Regulation**		
Title	**Advice on progressing changes to industrial hemp regulation**	Number	**MFR2025-001**
Date	**23 January 2025**	Priority:	**Medium**
Action Sought	**For decision**	Due Date	**27 January 2025**
Copy to	**Hon Simeon Brown, Minister of Health** **Hon Mark Mitchell, Minister of Police** **Hon Todd McLay, Minister of Agriculture** **Hon Andrew Hoggard, Minister for Food Safety** **Hon Nicola Grigg, Associate Minister of Agriculture (Horticulture)**		
Contact Person	**Andrew Royle**	Phone	s 9(2)(a)
Attachments	N/A	Security Level	**IN CONFIDENCE**
Consultation	The Ministry of Health, the Ministry for Primary Industries and New Zealand Police have been consulted on this paper. MfR officials have engaged with the New Zealand Hemp Industries Association to understand their priorities for regulatory change.		

Executive Summary

1. The Ministry for Regulation (MfR) has been investigating concerns from the industrial hemp sector that it is subject to unnecessary regulation. In response to MfR advice you have agreed to progress a Cabinet paper in your own right as Minister for Regulation (MFR2024-159 refers).

2. Following further engagement with the sector and relevant agencies, officials have identified three approaches for deregulating or reducing regulatory requirements on the industrial hemp sector. Targeted changes to secondary legislation to permit cultivation and dealings with industrial hemp without a licence could be completed within months through the regulation making powers within the Misuse of Drugs Act 1975. However, this approach would not address the wider regulatory changes the hemp sector is advocating for, which span licencing, interactions with other regulatory systems, and changing regulatory practice.

3. Subject to consultation with the new Minister of Health, we recommend that you agree to add industrial hemp to the Ministry's review programme which would enable officials to fully assess the sector's proposals and obtain input from wider stakeholders. Depending on your prioritisation within the programme, we consider this would be a small to medium review that we could complete within 2025.

Recommended Action

We recommend that you:

a	**note** that following further engagement with the sector and relevant agencies, officials have identified two approaches for deregulating or reducing regulatory requirements on the industrial hemp sector; the first through changes to secondary legislation and the second a regulatory review.	*Noted*
b	**note** that the New Zealand Hemp Industries Association is supportive of a regulatory review with a scope aligning with their 2023 Hemp Industry Strategic Proposal for Regulatory Change which covers the licensing regime, interactions with other regulations and changes in regulatory practice.	*Noted*
c	**note** Ministry for Primary Industries (MPI) advice that interactions with the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM) and changing the regulator to MPI should be out of scope of a review, due to potential impacts on international trade. We consider that issue can be resolved when determining the scope of the review with Cabinet, and there would still be value in proceeding with a review even if ACVM were out of scope.	*Noted*
d	**agree in principle**, subject to consultation with the new Minister of Health, to:	
	i. **Approach 1,** use secondary legislation to remove or reduce licencing requirements on the industrial hemp sector (with no future regulatory review)	*Agree / Disagree*
	or	
	ii. **Approach 2**, add industrial hemp to the review programme and take a paper to Cabinet seeking agreement to commence an Industrial Hemp Regulatory Review (*recommended by officials*)	*Agree / Disagree*
	or	
	iii. **Approach 3**, make changes through secondary legislation and add industrial hemp to the review programme (i.e. a mixture of Approaches 1 and 2).	*Agree / Disagree*
e	**note** that officials will soon be providing you with advice on the regulatory review programme, and that if you agree to a review, timelines for an Industrial Hemp regulatory review would be assessed by its priority within the wider programme.	*Noted*
f	**agree** that in line with our recommended approach the associated legislative bid should be a category 5 to proceed to Select Committee by	*Agree / Disagree*

the end of 2025 to allow time for a regulatory review and subsequent Cabinet decisions.

g **agree** to reconfirm the arrangements for this work with the new Minister of Health. *Agree / Disagree*

h **agree** to forward this briefing to relevant Ministers. *Agree / Disagree*

Proactive Release Recommendations

i **agree** that the Ministry for Regulation release this briefing subject to appropriate redactions once it has been considered by you and the associated Cabinet paper considered by Cabinet. *Agree / Disagree*

s 9(2)(a)

Andrew Royle
Deputy Chief Executive, Policy
Ministry for Regulation
Date: 23/01/2025

Hon David Seymour
Minister for Regulation
Date:

Purpose of Report

4. This paper provides advice on approaches to deregulating or reducing regulatory requirements on the industrial hemp sector and progressing with legislative change if required.

Context

5. The Ministry for Regulation (MfR) has been investigating concerns from the industrial hemp sector that it is subject to unnecessary regulation. In response to MfR advice you have agreed to progress a Cabinet paper in your own right as Minister for Regulation (MFR2024-159 refers).

6. We understand that your objective is to deregulate the hemp sector by removing industrial hemp from the Misuse of Drugs Act 1975 (MODA) reflecting that hemp has very low levels of tetrahydrocannabinol (THC), the cannabinoid that produces a psychoactive effect, and therefore shouldn't sit within the MODA regulatory framework.

7. Since first briefing you on this topic, officials have engaged with relevant agencies including the Ministry of Health (MoH), which administers MODA[1] and its regulations, Medsafe, the current regulator, the Ministry for Primary Industries (MPI), and the New Zealand Police. We have also held further discussions with the New Zealand Hemp Industries Association (NZHIA) on its 'Hemp Industry Strategic Proposal for Regulatory Change' to better understand the range of regulatory changes they are seeking.

8. NZHIA have been advocating for a cross-government response to their 2023 proposals which they presented to the Primary Production Select Committee in late 2024. MPI was previously leading coordination of this work alongside MoH but has stopped due to resourcing constraints.

Progressing this work

9. Our initial analysis has identified three approaches for progressing this work involving reducing or removing the requirements for a licence through Order in Council, a regulatory review or a combination of the two.

Approach 1: Changes through secondary legislation

MODA's regulation making powers could be used to reduce or remove requirements

10. Industrial hemp is currently classified as a prohibited plant and class C controlled drug under MODA as both hemp and recreational cannabis come from the *cannabis sativa* plant species. However, MODA's regulation making powers can be used to permit dealings with controlled drugs and the cultivation of prohibited plants[2].

11. The current Misuse of Drugs (Industrial Hemp) Regulations 2006 (the Hemp Regulations) are made under this same regulation making power. These could have been used to permit hemp cultivation without a licence, but decision makers at the time chose to use regulations to manage the perceived risk of hemp being used as a 'backdoor' for the illegal growing of high THC varieties of

[1] The Ministry administers Part 2 of MODA which covers provisions relating to detection, enforcement, and sentencing.
[2] See Section 37(1)(d) of MODA

cannabis through a variety of regulatory tools such as licencing, testing powers, information keeping and notification requirements.

There is likely minimal non-compliance within the current system

12. Medsafe has provided MfR with information about current compliance levels, which shows that there are only isolated instances of possible non-compliance, where over the past five years no industrial hemp licences have had to be suspended or revoked. The New Zealand Police has similarly confirmed that they are only aware of isolated instances of licenced industrial hemp growers potentially cultivating illegal cannabis, though they note there are issues with accessing and locating data on non-compliance. This likely low level of non-compliance indicates that there is a strong case to rationalise or potentially remove the current licencing requirements to ensure that the costs imposed are proportionate to the current levels of risk.

These changes could be implemented within months through an Order in Council

13. Should you wish to progress with this approach, officials will provide you with advice on options for revoking or simplifying the Hemp Regulations (including an option to enable cultivation and dealings with industrial hemp without a licence) along with a draft Cabinet paper that seeks the policy decisions required to draft changes to the secondary legislation.

14. As this change would be implemented through Order in Council we would recommend building in time for a consultation process prior to final policy decisions as this would be the only opportunity for wider stakeholders to submit (noting that NZHIA does not represent the entire hemp sector). **Table 1** provides two potential timelines, the first with public consultation and the second with targeted engagement before policy decisions, noting that timelines will depend on the capacity of agencies to support the policy work and the Parliamentary Counsel Office to draft these changes.

There are risks with this approach and it may not meet the sector's expectations

15. The changes NZHIA are advocating for are broader than the licencing regime and span interactions with other regulations that the sector considers is preventing it from accessing additional markets, which in turn constrains the profitability and attractiveness of industrial hemp compared to other land uses. NZHIA's broader proposals[3] include:

    - seeking exemptions under the Agricultural Compounds and Veterinary Medicines Act 1997 (ACVM) to enable the sale of hemp as companion and production animal feed (noting that MPI has investigated this issue in the past and has identified trade risks should CBD or THC residues be detected in, or be perceived to be an input to, exported animal products).
    - seeking changes to the Misuse of Drugs (Medicinal Cannabis) Regulations 2019 and the Hemp Regulations to remove the constraints on the supply of industrial hemp seeds and plants to medicinal cannabis licence holders (noting that further analysis would be required into alignment with the minimum quality standard that must apply to all medicinal cannabis products).
    - enabling greater access to natural health and nutraceutical markets by exempting hemp products with naturally occurring CBD levels below a certain threshold from being

[3] From discussions with NZHIA and its 2023 Strategic Proposal for Regulatory Change: Hemp Industry Strategic Proposal for Regulatory Change - New Zealand Hemp Industries Association

classified as prescription medicines which require a licence to manufacture medicines under the Medicines Act 1981.

16. Our view, after consulting with relevant agencies, is that these wider interactions would benefit from a regulatory review to validate whether changes are in fact needed. This could also provide the opportunity to test the sector's proposals around self-regulation based on seed certification and crop registration.

17. NZHIA also continue to express a strong preference to remove hemp from MODA, noting that under this approach industrial hemp would still technically be both a prohibited plant and class C controlled drug, despite regulations permitting its cultivation. The sector also suggested officials consider whether there should be an Industrial Hemp Act in line with some other jurisdictions, and whether its administration should pass to MPI instead of MoH.

18. Due to these factors, we consider it is likely that even with changes removing the licencing requirements, the sector will continue to advocate for a wider regulatory review.

Table 1[4]: Potential timelines for Approach 1

Step	Timeline 1: With public consultation	Timeline 2: With targeted engagement
Drafting consultation material	Jan-Feb 2025	NA
Cabinet committee (commence public consultation)	4 Mar 2025 (EXP)	NA
Cabinet (commence public consultation)	10 Mar 2025	NA
Consultation period	12 Mar to 9 Apr 2025 (4 weeks)	NA
Engagement with experts	During cons. period	Jan - Feb 2025
Submissions analysis	10 Apr to 17 Apr 2025	NA
Cab paper consultation (agency 2 weeks, Ministerial 2 weeks)	17 Apr to 15 May 2025	25 Feb to 19 Mar 2025
Cabinet committee (final policy decisions)	20 May 2025 (EXP)	25 Mar 2025 (EXP)
Cabinet (final policy decisions)	26 May 2025	31 Mar 2025
Drafting of secondary legislation	28 May to 4 Sep 2025 (Approx. 3 months)	April to June 2025 (Approx. 3 months)
LEG committee	11 Sep 2025	26 Jun 2025
Cabinet	15 Sep 2025	30 Jun 2025
Executive council and gazettal (if secondary legislation amendment)	Sep to Oct 2025	Jul to Aug 2025

[4] These timeframes based on indicative committee dates and are on the basis of going to EXP committee but we can work with your office to revisit the timeframes should we need to explore different committees.

Approach 2: Industrial Hemp Regulatory Review (recommended by officials)

A regulatory review could generate more benefits for the sector than targeted changes

19. A regulatory review would enable MfR, in consultation with relevant agencies, to assess:

    - the marginal benefits of removing industrial hemp from MODA compared to permitting it through regulations, as well as receiving advice from Ministry of Foreign Affairs and Trade as to whether this would impact our obligations under International Drug Control Conventions[5].
    - whether new Industrial Hemp Legislation would be needed should a regulatory framework still be required once hemp is removed from MODA, noting this would also have to look at the appropriate regulator.
    - whether changes should be made to address interactions with other regulatory systems to enable greater plant utilisation and to access additional markets.
    - models for self-regulation proposed by the sector.

20. If you wish to add industrial hemp to the regulatory review programme, MfR will develop a terms of reference in consultation with agencies and the sector for you to take to Cabinet. Timing would depend on its priority within the review programme, noting that MfR officials are currently preparing advice on options for the review programme. A significant amount of analysis has already been undertaken by MfR and other agencies into industrial hemp which should streamline the review process.

21. The final scope of an industrial hemp regulatory review would require consultation with relevant Ministers. MPI has noted that it considers that interactions with ACVM and changing the regulator to MPI should be out of scope of an Industrial Hemp Regulatory Review due to MPI's recent investigations into both topics which found:

    - in a 2022 review that Hemp is not suitable for an exemption under ACVM due to the trade risks to New Zealand's $18 billion dollar livestock industry
    - that shifting administration of hemp regulation to MPI would not produce sufficient benefits to the industry and would likely result in more regulatory complexity and costs to the industry.

22. We consider that these issues could be addressed at the terms of reference stage of a review, where one option would be to focus the regulatory review on the interactions with other Health regulation such as the Medicines Act and Medicinal Cannabis Regulations, as opposed to looking at regulations which manage risks to trade. We consider there is still added value in a review if ACVM is ruled out of scope.

Roles and responsibilities for progressing legislation should be confirmed alongside the terms of reference

[5] NZHIA points out that Article 28 of Single Convention on Narcotic Drugs of 1961 as amended by the 1972 Protocol states that 'This Convention shall not apply to the cultivation of the cannabis plant exclusively for industrial purposes (fibre and seed) or horticultural purposes', however, officials would need to test the scope of this exemption. For example, Tasmania found that excluding industrial hemp from their legislated definition of cannabis may affect compliance with this convention.

23. The regulatory review may result in new primary legislation and/or amending MODA, as well as changes to secondary legislation. It will be important to have established roles and responsibilities for this at the outset of the regulatory review to ensure its findings can be promptly implemented. We propose that this be addressed within the Cabinet paper that seeks approval of the terms of reference, noting that agencies have raised concerns with their capacity to support this work.

A regulatory review would enable time for wider consultation and analysis

24. A regulatory review would provide time to undertake wider consultation. This may not appear necessary considering the small size of the sector and the limited magnitude of the likely impacts under the options. However, we understand that NZHIA does not have full coverage of the hemp sector and other stakeholders beyond the sector may have an interest in hemp regulation, such as the wider food industry, exporters, non-governmental organisations and iwi/Māori groups. Due to the technical nature of the policy area, public consultation would also provide a useful opportunity to identify further options, unintended consequences or impacts we are unaware of currently.

25. On 15 January 2025 we provided your office with a draft request for priority on the 2025 Legislation Programme, should this work require primary legislation. The bid provided two timelines, the first for a Category 5 bid to proceed to Select Committee by the end of 2025 and the second for a Category 4 bid to be passed by the end of 2025 if possible. To provide sufficient time for a regulatory review, we recommend that the bid be Category 5.

Approach 3: Changes through secondary legislation in advance of a regulatory review

26. A third approach could be a mixture of the previous two where targeted changes are made through secondary legislation to reduce or remove the requirements for a licence along with a commitment to add industrial hemp to the review programme, where the wider issues raised in NZHIA's strategic proposal could be addressed. This may help to mitigate some of the sector's concerns with **Approach 1**, however, there may be a risk that the changes to secondary legislation are perceived as premature if progressed before a regulatory review is completed.

Risks

27. Approaches 2 and 3 could result in more benefits to the sector, but also carry increased risk should the resulting regulatory review recommend removing hemp from MODA and amending the regulations. This is largely due to complexity of amending MODA and the interactions of industrial hemp with MODA, the Medicines Act 1981, the Agricultural Compounds and Veterinary Medicines Act 1997 and secondary legislation under each of these Acts. If these interactions are not adequately worked through pre-Cabinet, there is a risk that 'fixes' may need to be made to the resulting primary and/or secondary legislation.

28. As noted, MPI has flagged the potential risks to trade should ACVM be within scope of a regulatory review and our discussions with agencies have shown there are also risks in terms of capacity to support the ongoing policy work due to other priorities within their portfolios.

Financial Implications

29. The regulatory review may result in recommended changes that will have financial implications for different agencies depending on the preferred option. For instance, removing or simplifying the licencing regime may reduce costs on Medsafe to administer the current system.

Next Steps

30. Once you have consulted with the new Minister of Health and indicated your preferred approach, we will work with your office to update the bid for the 2025 Legislation Programme and provide you with a draft cabinet paper if required.

31. We will also work with your office on communications and engagement for this work. The Primary Production Select Committee has invited the MoH to present to the committee on industrial hemp regulation in February 2025. We will explore how we can support MoH in this and whether announcements could be aligned with the hearing timeframes.

32. Due to the potential implications of this work for the Ministry of Health, New Zealand Police, and the Ministry for Primary Industries, we recommend that you forward this briefing to the Ministers responsible for these agencies for their information.