



Statement Déclaration

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BILL C-37 A WELCOME STEP FORWARD FOR LIFE-SAVING SUPERVISED CONSUMPTION SITES AND SOUND DRUG POLICY IN CANADA

TORONTO, December 12, 2016 — The Canadian HIV/AIDS Legal Network welcomes the introduction of Bill C-37, which – at long last – signals a real turning point in Canada’s drug policy, emphasizing evidence, public health and human rights above fear, stigma and misinformation. We are heartened that the federal government is taking this much-needed action to combat the opioid overdose crisis in our country, which continues to claim lives at an alarming rate.

It is clear that today’s bill and subsequent announcement by federal Minister of Health Dr. Jane Philpott was informed by the minister’s many discussions with diverse health and civil society actors who have been at the forefront of the fight against repressive drug policy, including recommendations advanced repeatedly by the Legal Network and others. Indeed, we await further details of the new national drug strategy mentioned today, but are cautiously optimistic that Minister Philpott will continue to make space at the table for those most affected by drug policy in Canada – including people who use drugs themselves. We are also encouraged to hear that a new national drug strategy will reinstate harm reduction as a key, non-negotiable pillar, and that the lead responsibility for drug policy will, in future, fall within the purview of Health Canada, as opposed to Justice.

With respect to Bill C-37, we welcome the government’s decision to repeal the 26 onerous conditions for new supervised consumption sites that are currently imposed by the law enacted in the previous Parliament. Replacing them with five factors to be considered, as proposed by the Supreme Court of Canada in its 2011 decision on Vancouver’s Insite, is a step forward.

However, a few important caveats should be remembered. First, some of those factors identified by the Court still raise concern about the potential for discrimination in decision-making regarding health services when it comes to the health of people who use drugs. Second, while unnecessary requirements may be removed from legislation, it is important that Health Canada not continue to apply them in departmental policy or practice when reviewing applications. Third, it is noteworthy that the Supreme Court of Canada, in that same decision, stated that where benefits (from supervised consumption sites) have been demonstrated, exemptions should generally be granted. This is a principle that could and should be reflected in law. We trust the federal government is moving forward in this spirit.

Finally, we are pleased to see that Bill C-37 imposes an additional condition of transparency on the part of the federal health minister, requiring them to give reasons in writing for any decision

to refuse an application for a supervised consumption site. This is an important measure to ensure accountability and reviewability if a decision is made that would prevent such a health service from moving ahead.

The need for these legislative changes, and for scaling-up safer consumption services, is urgent. While the many provisions of Bill C-37 (which go beyond the question of safer consumption services) are studied and debated in Parliament, in the meantime, we urge health services providers to move forward without delay in implementing these services without regard for the unwarranted, unconstitutional requirements of the current unjust law. A federal exemption is desirable, in that it precludes the possibility of criminal prosecution for drug possession of those using safer consumption sites. But it is not required to get on with the business of saving lives, and that must be the top priority.

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