

# RESPECT FOR COMMUNITIES ACT: THE CASE FOR REPEAL



Cécile Kazatchkine, *Canadian HIV/AIDS Legal Network*  
Richard Elliott, *Canadian HIV/AIDS Legal Network*  
Donald MacPherson, *Canadian Drug Policy Coalition*

The so-called *Respect for Communities Act* was passed in 2015 in the last Parliament, with the clear goal of impeding the expansion of supervised consumption services (scs).

The Act is an affront to the extensive scientific evidence of the need for such health services and their benefits — including connecting people to other health care services, and preventing the spread of infection and overdose deaths. It contradicts the ruling of the Supreme Court of Canada in the “Insite case.” The hurdles and delays the Act creates are unjustifiable, discriminatory and deadly.

**The Act should be repealed immediately.** Instead of blocking such life-saving health services, federal, provincial and municipal governments should act urgently to scale them up, working with front-line service providers and groups representing people who use drugs.

Supervised consumption services (scs) are health services that provide a safe, hygienic environment where people can use pre-obtained drugs under the supervision of trained staff. They are part of a broader harm reduction approach to substance use which promotes safety, health and dignity. They are not exclusive of measures to prevent problematic drug use or of drug treatment programs; they are complementary.

Supervised consumption services aim to reduce health risks that can be associated with drug use, such as the transmission of infectious diseases and overdose-related deaths; improve access to health, treatment and social services for the most vulnerable groups of people who use drugs; and contribute to the safety and quality of life of local communities, including by reducing the impact of open drug scenes where these exist. scs are important public health programs widely supported by not only front-line community agencies but also health professionals and their associations.

Longstanding experience and extensive research have demonstrated that scs achieve these goals. Canada currently has two scs operating under a federal ministerial exemption from the *Controlled Drugs and Substances Act* (CDSA); one of these is Vancouver’s Insite (operating since 2003). In 2011, the Supreme Court of Canada ordered the federal Minister of Health to grant it a continued exemption, stating in its judgment that “**Insite saves lives. Its benefits have been proven.**”

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Discontinuing Insite’s exemption would violate individuals’ rights to life, liberty and security of the person, which are guaranteed by the *Canadian Charter of Rights and Freedoms*, in a way that was both “arbitrary” and “grossly disproportionate.” Importantly, “[w]here . . . the evidence indicates that a supervised injection site will decrease the risk of death and disease, and there is little or no evidence that it will have a negative impact on public safety, the Minister *should generally grant an exemption.*”

Contrary to the spirit and letter of this decision, the government of the day passed the *Respect for Communities Act*, which created a new, more restrictive exemption regime specifically for scs under the CDSA (a new section 56.1). The Act codified multiple hurdles that must be cleared before it is even possible to obtain an exemption.

The federal Minister of Health is not even legally able to consider an exemption application *unless* and *until* the Minister has received at least 25 different items of information listed in the Act (with more possibly required if the Minister or government chooses). This list includes a report on consultations with a “broad range” of local community groups. The application also must include information and “opinions” (which need not be based on any evidence) from a wide range of provincial, local and health professional authorities who may choose to stall or block the process. An organization applying for an exemption also has to identify staff members (and provide a police background check on them) even before any decision can be made about the exemption.

After these hurdles have been cleared, the Act declares that the Minister may only grant an exemption in “exceptional circumstances” (contrary to the direction of the Supreme Court) after considering a number of principles stated in the Act — some of which are irrelevant to a decision about whether such a health service should operate.

Instead of enhancing access to critical, life-saving health services, the *Respect for Communities Act* makes it unnecessarily difficult to obtain exemptions from the CDSA so that these services can operate without risk of criminal prosecution.

**In summary, the *Respect for Communities Act* is harmful because:**

1. it fuels misinformation about supervised consumption services;
2. it is in complete contradiction with the letter and spirit of the Supreme Court of Canada’s 2011 decision;
3. it imposes an excessive application process that is not imposed on other health services;
4. it allows for decisions to grant or deny exemptions to be based on unjustified, misinformed and/or politically-oriented positions;
5. it effectively gives certain authorities unilateral veto power to the implementation of services;
6. it does not provide sufficient certainty or protection against arbitrariness; and
7. it creates unjustified opportunities for public opposition and discrimination against people who use drugs, who are already stigmatized and regularly vilified, including by some politicians.

Given the harmful impacts of the *Respect for Communities Act*, we call on the federal government to repeal it immediately, and to take leadership in working with other governments, health providers and community organizations to quickly expand supervised consumption services where needed to protect health and save lives.