

STATES OF JERSEY



CANNABIS: DECRIMINALISATION OF PERSONAL POSSESSION AND RECREATIONAL USE (P.31/2024): AMENDMENT

Lodged au Greffe on 13th June 2024
by Deputy I. Gardiner of St. Helier North
Earliest date for debate: 25th June 2024

STATES GREFFE

CANNABIS: DECRIMINALISATION OF PERSONAL POSSESSION AND
RECREATIONAL USE (P.31/2024): AMENDMENT

1 PAGE 2, PARAGRAPH (b) –

After paragraph (b) insert the following new paragraph (c) and to redesignate the existing paragraphs accordingly –

- “(c) that the personal possession and recreational use of cannabinal and cannabinal derivatives (as defined in the Misuse of Drugs (Jersey) Law 1978) should be decriminalised, with this provision included in the legislation to be brought forward under Paragraph (b), and to request the Minister for Health and Social Services, following consultation with the Misuse of Drugs Advisory Council, to reclassify cannabinal and cannabinal derivatives, except where contained in cannabis or cannabis resin, from Class A controlled drugs to Class B controlled drugs, as defined within the same Law;”.

DEPUTY I. GARDINER OF ST. HELIER NORTH

Note: After this amendment, the proposition would read as follows –

THE STATES are asked to decide whether they are of opinion –

- (a) that the personal possession and recreational use of cannabis should be decriminalised for persons aged 18 and over;
- (b) to request the Council of Ministers to bring forward the necessary legislation for consideration by the Assembly by November 2025, with the legislation to include (but not be limited to) –
- total acceptable gram allowance;
 - restrictions on areas of consumption;
 - restrictions on driving under the influence of cannabis;
 - relevant roadside capacity tests;
- (c) that the personal possession and recreational use of cannabinal and cannabinal derivatives (as defined in the Misuse of Drugs (Jersey) Law 1978) should be decriminalised, with this provision included in the legislation to be brought forward under Paragraph (b), and to request the Minister for Health and Social Services, following consultation with the Misuse of Drugs Advisory Council, to reclassify cannabinal and cannabinal derivatives, except where contained in cannabis or cannabis resin, from Class A controlled drugs to Class B controlled drugs, as defined within the same Law; and
- (d) to request the Council of Ministers to ensure provision of funding for the necessary legislative framework is incorporated within the Government Plan 2025-2028.

REPORT

This amendment seeks to address an archaic distinction in Jersey law that overcomplicates the approach to cannabis in the Island. A Ministerial Order to amend the Misuse of Drugs (Jersey) Law 1978 and reclassify cannabinal and cannabinal derivatives can provide a swift resolution to this issue.

What are cannabinal and cannabinal derivatives?

Under the Schedule 2 (Part 4) of [Misuse of Drugs \(Jersey\) Law 1978](#) - *“cannabinal derivatives” means the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinal and 3-alkyl homologues of cannabinal or of its tetrahydro derivatives”*.

The cannabis plant contains a variety of different compounds including over 140 cannabinoids, the majority of which are unique to cannabis. A report by the (UK) Council of the Misuse of Drugs in 2016 entitled [Phytocannabinoids - A Review of the generic definition](#) identified 12 cannabinoids that are considered to have psychoactive properties that should be controlled as cannabinal and cannabinal derivatives, with the most common and widely known being delta-9-tetrahydrocannabinal (THC).

Classification in Jersey

Cannabinal and cannabinal derivatives, except where contained in cannabis and cannabis resin, are currently categorised as Class A controlled drugs under Schedule 2 of the [Misuse of Drugs \(Jersey\) Law 1978](#) whereas cannabis and cannabis resin are categorised as Class B controlled drugs under the same Schedule.

The Attorney General's Supplemental Direction and Guidance - Personal Amounts of Certain Controlled Drugs refers to cannabinal and cannabinal derivatives as “cannabis oil”.

The [Review of Criminal Justice Policy in Jersey](#) (October 2002) suggested that *“consideration should be given to reclassifying ...cannabis (from Class B to Class C)”* but the Misuse of Drugs Advisory Council (MDAC) agreed to maintain the status quo and retain the classification of cannabis as a class B drug [[45th Meeting 13th April 2006](#)].

The reclassification of cannabinal and cannabinal derivatives was discussed by the MDAC in 2021 with a decision made to revisit it when further information became available [[88th Meeting 22nd June 2021](#)].

Classification of cannabinal and cannabinal derivatives in other jurisdictions

Both Guernsey [see [Misuse of Drugs \(Bailiwick of Guernsey\) Law, 1974](#)] and Gibraltar [see [Second Supplement to the Gibraltar Gazette 14th July 2005](#)] retain the difference in classification between the extracts and concentrates of cannabis and their source material.

In 2002 [The Misuse of Drugs Act 1971 \(Modification\) \(No. 2\) Order 2003](#) reclassified of all cannabis to Class C in the UK thereby removing any distinction between cannabis and cannabis resin with cannabinal and cannabinal derivatives. However, [The Misuse](#)

[of Drugs Act 1971 \(Amendment\) Order 2008](#) reclassified them as Class B drugs which is the current situation.

Cannabis was subsequently moved to Class B in 2008, against the recommendations of the Advisory Council on the Misuse of Drugs.

Penalties for Drug Offences

In February, the States Assembly unanimously adopted P.97/2023 Draft Crime (Public Order) (Jersey) Law 202-, which included an amendment to the Misuse of Drugs (Jersey) Law 1978 giving Centeniers the power to issue Level 1 fines at Parish Halls for the possession of small amounts of Class B and C drugs.

The amendment to the Misuse of Drugs (Jersey) Law 1978 followed a series of Attorney General Directives that originated in 1998, which permitted first-time offenders of the possession of small amounts of certain drugs to be dealt with by way of a written caution at Parish Hall level. However, this did not include cannabis oil as a Class A drug for which there is a zero-tolerance approach (alongside crack cocaine, heroin, methadone and Subutex). The [Centenier written caution guidelines](#) (“Guidelines 2022”) further state that “...*any caution in relation to the possession of a Class A drug still requires the consent of the Attorney General.*”

An exemption for "cannabis oil contained in confectionary" was included in the most recent version of the Guidelines 2022, which allows for such cases "to be considered by the Attorney General on a case-by-case basis".

Summary

This proposition, if adopted, will bring the handling of cannabis in Jersey into line with UK legislation, where no distinction is made in the classification between herbal cannabis and cannabis resin and cannabiniol and cannabiniol derivatives.

As we start to move away from imposing criminal records on those found in possession of personal amounts of cannabis and cannabis resin, the difference between the penalties for personal possession of these drugs and possession of cannabiniols and cannabiniol derivatives becomes more apparent. There can be no reasonable justification for treating cannabiniol and cannabiniol derivatives in the same manner as heroin or crack cocaine as is currently the case at a Parish Hall Enquiry.

If an “acceptable” amount of cannabiniol and cannabiniol derivatives for personal use could be determined, it would then allow an individual to be dealt at Parish Hall level. However, an element of discretion might be necessary given the varied nature of cannabis products.

It is of interest to note that there were a limited number of drug convictions in relation to THC from 2017 to 2022 with 1 conviction regarding THC crystals in the years 2020 and 2021, and 1 for THC in 2022 [see [FOI dated 01 December 2023](#)]

Financial and staffing implications

There will be limited financial and staffing impact in the short term in relation to the drafting of the necessary subordinate legislation to reclassify Cannabinol and Cannabinol derivatives.

The inclusion of these drugs within the legislation required under the original proposition should not have additional costs to those identified in the proposition.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to this proposition and is available to read on the [States Assembly website](#).