

**WRITTEN QUESTION TO H.M. ATTORNEY GENERAL
BY DEPUTY M. TADIER OF ST. BRELADE
ANSWER TO BE TABLED ON TUESDAY 23rd OCTOBER 2018**

Question

What legal provisions, if any, are in place to deal with a visitor from a jurisdiction which allows tetrahydrocannabinol (T.H.C.)-based medication, and who has been prescribed such medication, to bring it into the Island?

Answer

THC is classified in Schedule 2 to the Misuse of Drugs (Jersey) Law 1978 (the “Law”) as a ‘Class A’ controlled drug. THC comes within the meaning of “cannabinol derivatives” and Part 4 of Schedule 2 to the Law defines “cannabinol derivatives” as meaning “*the following substances, except where contained in cannabis or cannabis resin, namely tetrahydro derivatives of cannabinol and 3-alkyl homologues of cannabinol or of its tetrahydro derivatives*”.

Article 4(1) of the Law provides a general prohibition on the importation or exportation of controlled drugs. However, in accordance with paragraph (2)(b) of the said Article, this prohibition does not apply to the import or export of a controlled drug under and in accordance with the terms of a licence issued by the Minister for Health and Social Services, and in compliance with any conditions attached thereto.

Further to a Ministerial Decision on 27 July 2007, a revised Open General Licence for the Importation and Exportation of Controlled Drugs (OGIEL) came into force on 1 August 2007, pursuant to Articles 4(2)(b) and 26 of the Law. A copy of the OGIEL is included below.

Subject to the terms and conditions of the OGIEL, it enables a visitor, who has been prescribed a medicinal product, which in this context is defined in Article 2 of the Medicines (Jersey) Law 1995 as any substance to be administered to a human for a medicinal purpose, to import and export the medicinal product to and from the Island.

It is important to note that the power of the Minister to issue a licence pursuant to Article 4(2)(b) of the Law can only be exercised for the purpose of licensing the import and export of controlled drugs. The OGIEL does not legalise possession of drugs where possession is otherwise unlawful. Therefore, paragraph 3.a of the OGIEL specifically excludes its application to the exportation or importation of any controlled drug by a person who is not lawfully in possession of the drug.

Article 12(1) of the Law allows the Minister by Order to make provisions for the purpose of exempting certain controlled drugs from certain of the restrictions among other things, the possession of drugs in the Law. These exceptions are found in the Misuse of Drugs (General Provisions) (Jersey) Order 2009 (the “Order”). A visitor would not be lawfully in possession of a controlled drug unless authorised in accordance with the Order.

Article 3 of the Order provides the Minister with the power to issue a licence to permit a person to have in his or her possession a controlled drug, including THC, in accordance with the terms of the licence and in compliance with any conditions attached to the licence. This power might be used to issue personal licences in respect of a controlled drug and could be exercised in conjunction with the OGIEL to permit visitors to lawfully import and possess medically prescribed THC products.

MISUSE OF DRUGS (JERSEY) LAW 1978

OPEN GENERAL LICENCE FOR THE IMPORTATION AND EXPORTATION OF CONTROLLED DRUGS

In pursuance of Articles 4(2)(b), and 26 of the Misuse of Drugs (Jersey) Law 1978 the Minister for Health and Social Services hereby licences, with effect from 1st August 2007, and subject to the terms and conditions specified below, the importation and exportation of;

1. Any controlled drug by a person who is entering or leaving Jersey, where the drug is intended for administration for medical or dental purposes in accordance with a prescription issued by a registered practitioner, to himself or to a member of his household who is unable to administer the drug himself, and who is travelling with that person at the time of importation or exportation.
2. Any controlled drug by a doctor of medicine who is entering or leaving Jersey
 - a. with a patient for whose treatment during the Journey to or from Jersey the doctor considers the drug may be necessary;
 - b. for the purpose of immediately leaving or, within the next three days entering Jersey with such a patient; or
 - c. within three days after its lawful exportation by him when leaving, or immediately after its lawful importation by him when entering, Jersey with a patient for whose treatment during that journey from or to Jersey the doctor considers the drug might be necessary.

The terms and conditions attached to this licence are –

1. The time between a person entering and leaving Jersey, or leaving and returning to Jersey, must not exceed 28 days.
2. The person must carry with them a letter from the prescribing doctor or dentist confirming the person's name, address, date of birth, outward and return dates of travel, the country to be visited and the drugs to be carried including dosages and total amounts.
3. This licence does not apply –
 - a. to any controlled drug which is not contained in a medicinal product within the meaning of the Medicines (Jersey) Law 1995
 - b. unless the controlled drug is under the direct personal supervision of the person importing or exporting it
 - c. to the exportation or importation of any controlled drug by a person who is not lawfully in possession of the drug
 - d. to the importation of buprenorphine tablets or methadone liquid

It is hereby directed that, notwithstanding any provision in the Regulations under the Misuse of Drugs (Jersey) Law 1978 with respect to record keeping, no record is required to be kept of any quantity of controlled drug imported or exported under this licence.

The open general licence issued on 1st March 2007, is hereby revoked.

This licence shall remain in force until revoked by the Minister for Health and Social Services.

