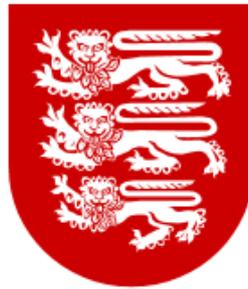

STATES OF JERSEY



REGULATIONS FOR THE LICENSING, PRODUCTION AND EXPORT OF MEDICINAL CANNABIS IN JERSEY (S.R.1/2022): RESPONSE OF THE MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND CULTURE

**Presented to the States on 26th April 2022
by the Minister for Economic Development, Tourism, Sport and Culture**

STATES GREFFE

**REGULATIONS FOR THE LICENSING, PRODUCTION AND EXPORT OF
MEDICINAL CANNABIS IN JERSEY (S.R.1/2022): RESPONSE OF THE
MINISTER FOR ECONOMIC DEVELOPMENT, TOURISM, SPORT AND
CULTURE**

Ministerial Response to:	S.R.1/2022
Ministerial Response required by:	21st February 2022
Review title:	Regulations for the licensing, production and export of Medicinal Cannabis in Jersey
Scrutiny Panel:	Economic and International Affairs Scrutiny Panel

INTRODUCTION

The review of the regulation of Jersey’s medicinal cannabis industry has come at an opportune moment. Jersey has a strong position in the development of a medicinal cannabis industry as the island has a favourable climate, a substantial existing agricultural industry and associated infrastructure, the Government is fully committed to helping build a responsible, well-regulated cannabis industry and has to date issued five medicinal cannabis cultivation licenses, free-trade exists within the UK a key target market where medicinal cannabis is legal to and there appears to be, on the basis of briefings to States Members, a consensus across the States Assembly that the development of a new medicinal cannabis sector presents a significant economic opportunity for the Island.

Jersey has the mature business environment required to support a high value, securely managed medicinal cannabis industry, as a consequence of having an experienced and adaptable agricultural sector with the skills to produce high-value, high quality agricultural products and of being a world class offshore financial centre and the services infrastructure that this provides.

Clearly cannabis cultivation and the associated bio-pharmaceutical industry are in their infancy in terms of establishing businesses, building facilities and ensuring that the correct policy and compliance frameworks are in place as the industry develops. The regulatory, policy and investment framework has been reviewed by officers and has begun to be adapted, through for example, recent amendments to the Proceeds of Crime (Jersey) Law 1999 which altered the regulatory and policy position on cannabis proceeds and made clear that if cannabis is cultivated, produced or sold in a jurisdiction where it is considered legal those proceeds will not be considered in Jersey to be the Proceeds of Crime, which significantly clarified the overall positioning of the Jersey ‘cannabis proposition’ and make it much easier for investors in this new and emergent industry.

In addition, the regulatory relationship between Jersey and the UK was clarified in 2020 through the first ever Memorandum of Understanding (MOU) agreed within the British Isles, being between Jersey and the UK Home Office (the parent regulator) to allow Jersey to establish its own Cannabis Agency. This was unprecedented, resulting in the first commercial licenses to cultivate, possess and supply medicinal cannabis issued in the British Isles since GW Pharmaceuticals (NASDAQ - \$7bn Market Cap.) in 1998, over 20 years ago, putting the Island ahead of other jurisdictions around the globe in this respect. The licenses issued by the Government of Jersey in December 2020 for the commercial cultivation of medicinal cannabis were also the first ever to be issued in the Channel Islands and helped put Jersey at the forefront of the emerging medicinal cannabis markets.

As jurisdictions recognise the value of cannabis as a medicine, legislation across the world is rapidly changing. The cultivation, production and supply of medicinal cannabis is now legal in over 20 countries and an estimated demand for cannabis of \$68bn at maturity, as highlighted by New Frontier's 2019 Global Cannabis Industry Report. Yet there is a lack of EU-GMP grade products in Europe, with no domestic supply from the UK. In such an environment, Jersey is poised, whilst not without risk, to take first mover advantage to become known as a centre of excellence and an integral part of the European market.

Jersey has previously stated its intention to diversify its rural economy towards alternative high value crops in the 2017-2021 Rural Economy Strategy (RES). Diversification was a key part of the RES and was designed to help protect the sector and the Island's natural environment. Diversification includes the development of a responsible, well-regulated medicinal cannabis industry, and we continue to aspire to the position of being a world leader in our legislative framework for investment in the industry.

The industry also aligns with Jersey's strategy for continued economic success, which was set out in the Common Strategic Policy of the Council of Ministers. Cannabis cultivation presents a significant opportunity to generate additional fiscal receipts to support the Island's economic recovery and to increase productivity within the agricultural sector.

To provide oversight and bring the different functions of a complex industry development project together, the Government has established a cross-Government team of officers representing individual Departments whose policy or regulatory functions are relevant to the development of the sector in the form of a Cannabis Coordination Group (CCG). The CCG's role is to consider what is necessary in terms of policy and legislative alignment and delivery, to provide for efficiency and consistency of approach and to make associated recommendations to Ministers for consideration. It provides additional context for licensing decisions being considered and made by the Jersey Cannabis Agency, which can provide licenses to cultivate, possess and supply cannabis for medicinal and research purposes. The industry itself has also established the Jersey Cannabis Advisory Board to provide an ongoing dialogue between industry representatives – both international and domestic – and Government policy makers. This dialogue helps the Government to understand the needs of the sector and its markets.

The Government's approach has been endorsed by the industry and private sector investors in communications with Ministers and officials, examples of which can be provided at the request of the Panel. In addition, the development of Jersey's cannabis industry has recently been considered by the UK All-Party Parliamentary Group (APPG) on CBD products. Jersey officials have engaged with the secretariate and Chairman of the APPG and have received an invitation to attend a future APPG to provide insight and a briefing on the work being undertaken in the Island. Indeed, the UK Representative of the European Industrial Hemp Association (and Member of the APPG) has noted Jersey's 'progressive stance'.

The Scrutiny Panel have quite rightly highlighted the issue of potential risks associated with a cannabis sector that is perceived as poorly regulated. A full sector specific risk assessment is in the process of being commissioned, in parallel with broader strategic and policy development in, for example, the areas of rural economy, trade and inward investment. Preliminary amendments to legislation have already been made (e.g. tax, proceeds of crime, misuse of drugs legislation) or are in the process of being made (e.g. planning and general development), or are in the process of being considered for amendment (e.g. updating medicines legislation) to support the regulation of this nascent sector.

A range of other jurisdictions and financial hubs (e.g. New York) that are competitors of Jersey are developing quickly in this area, so it is important to ensure that the necessary resources are deployed in Jersey to make certain that the required and ongoing strategy, policy and legislative developments are coordinated in order to keep up with each other, are delivered in such a way as to, where possible, outpace the competition and are focussed on mitigating risk to ensure other sectors of the economy and the Island's reputation for being a safe, well regulated, responsible jurisdiction are not put in jeopardy. This will maximise the chances of achieving public and political support and of developing and maintaining a competitive and sustainable advantage for the Island both now and in the future.

FINDINGS

	Findings	Comments
1	The Jersey Cannabis Agency (JCA) has responsibility for the issuance of licences and is the named body in the Memorandum of Understanding (MoU) with the UK Home Office. The JCA is currently made up solely of the Minister for Health and Social Services and is administered by the Chief Pharmacist.	Noted.
2	The Bailiwick of Guernsey Cannabis Agency (BGCA) is made up of representatives of Environmental	Noted. See response to Recommendation 1 (below).

	Findings	Comments
	Health and Pollution Regulation, the Chief Pharmacist and business support from the Committee for Economic Development, with close support and consultation with Bailiwick Law Enforcement officers. This is in contrast to the Jersey Cannabis Agency with the Minister for Health and Social Services as the sole designated member.	
3	The Memorandum of Understanding (MoU) is between the UK Home Office Drugs and Firearms Licencing Unit (DFLU) and the Minister for Health and Social Services as representative of the Government of Jersey. In the absence of standalone regulations, the MoU allows the Minister to issue licences in Jersey for the cultivation, processing and export of medicinal cannabis. The MoU was prepared by the UK Home Office with very little or no input from the Government of Jersey.	<p>There were several iterations of the MoU which were considered by Law Officers and by the Chief Pharmacist. Law Officers made several recommendations resulting in changes to the MoU and agreed a final version which was the 5th iteration of the document.</p> <p>Jersey has worked collaboratively with the UK Home Office for over 20 years on issues relating to controlled drugs. The principle purpose of the MoU was to formalise the relationship specifically around the need for a cannabis agency to be able to issue licenses for the cultivation of medicinal cannabis.</p> <p>The MoU would be required regardless of any standalone regulations, as it enables the recognition of a Jersey Cannabis Agency as required by the UN Single Convention on Narcotic Drugs 1961. Licences to cultivate cannabis in the Island are issued under existing legislation which is currently the Misuse of Drugs (Jersey) Law 1978 and the Misuse of Drugs (General Provisions) (Jersey) Order 2009.</p>
4	Jersey does not have its own specific regulations to control the Island's medicinal cannabis industry.	Noted. Whilst there is not specific, stand-alone legislation regarding cannabis-based products for medicinal use (CBPM), it is important to acknowledge that cannabis is nevertheless a controlled drug and must be licensed and handled accordingly, as would any controlled drug. The existing Medicines (Jersey) Law

	Findings	Comments
		1995 specifically regulates production, distribution and supply of all medicinal products including CBPMs which can be prescribed and supplied to patients.
5	There is no requirement for the Chief Pharmacist to inform the Jersey Financial Services Commission (JFSC) of any proposed change of ownership of the licensee whether approved or non-approved.	Noted.
6	The Jersey licence application fee for the cultivation, processing and export of medicinal cannabis is low in comparison with some EU jurisdictions and may not be economically viable in the future.	Noted. Fee structures will be reviewed annually (and can also be reviewed on an ad hoc basis) to ensure that the fees are appropriate to cover costs incurred by the Government and which may change over time, whilst also considering the impact on the industry, particularly in the early stages of business development and the economic benefits that the sector brings to the Island.
7	The Minister for the Infrastructure, Housing and Environment (MENV) informed the Panel that he had little involvement in the development of the medicinal cannabis industry, despite the Department being responsible for Island planning and environmental policy issues.	The MENV has conducted two site visits to two businesses that are in the process of setting up medicinal cannabis production facilities. The Minister's initial conclusion is that, owing to the nature of the equipment required and the potential environmental impacts, the production of medicinal cannabis should be viewed as distinct from the general planning description of agricultural or horticultural uses. The Minister further considers that a level of planning control should be introduced, in likelihood by removing certain allowances currently permitted under the Planning and Building (General Development) (Jersey) Order 2011 and other relevant subordinate legislation.
8	The current application procedure for a medicinal cannabis licence requires the submission of an "Economic Impact Assessment" (EIA). However, unlike the form of EIA submitted with a planning application, the EIA accompanying an application for a	Licenses issued by the Jersey Cannabis Agency relate to the cultivation, production, possession and supply of cannabis – there is no requirement or relevance for an <u>Economic</u> Impact Assessment. Equally there is no formal requirement for an

	Findings	Comments
	<p>medical cannabis licence is not available to the public and there is no procedure for the public to then make representations relating to a licence application.</p>	<p><u>Environmental</u> Impact Assessment as defined under existing planning and building legislation to obtain a license to cultivate, possess and supply medicinal cannabis.</p> <p>However, the Minister for Health and Social Services, mindful of the potential environmental impact of this activity, currently requires conditional licenses to include a requirement for an informal, independent analysis of any environmental impact and how this will be addressed. The Minister for Health and Social Services has recognised that the use of the term ‘EIA’ in his licencing conditions for medicinal cannabis requires clarification. It is the Minister’s intention to amend his licence conditions to clearly delineate the difference between the regulation of medicinal cannabis and the EIAs required by the Planning and Building Law to regulate development</p> <p>A full Environmental Impact Assessment (EIA) may be required as part of the separate process for a planning application under the Planning and Building (Jersey) Law 2002 and the Planning and Building (Environmental Impact) (Jersey) Order 2006. Schedule 2 of the Order sets out what must be contained in an EIA (Environmental Impact Assessment) for development purposes.</p> <p>If the MENV proposal outlined in 7 (above) is adopted, the Minister will liaise with the Minister for Health and Social Services on how best to align these two processes, or simply to have one assessment, within the planning process if deemed appropriate.</p>
9	<p>The Department for Infrastructure, Housing and Environment, with responsibility for Environmental Impact Assessments (EIAs) under the planning application process,</p>	<p>Noted, see response to 8 (above).</p>

	Findings	Comments
	have not had sight of either of the EIAs submitted with the licence applications that have since been granted by the Minister for Health and Social Services.	
10	Although the security framework is included in the initial licence application, there is no requirement for this to be approved by Planning prior to the licence being granted. Security requirements for each medicinal cannabis cultivation site must be stated at medicinal cannabis licence application stage however, the security does not need to be actually in place before the licence is issued.	<p>Noted. The requirement planning permission (including for site security arrangements) is determined at the planning application stage. Issuing a conditional license in advance of the applicant applying for planning permission confirms that all necessary arrangements are in place, except for the cultivation facility itself. This enables companies to invest in the planning and preparation of their facility, until a point at which an application for planning permission is required.</p> <p>It is important to recognise that a full license application is required and is fully evaluated, with the only difference being that the facility is evaluated from plans. This is a better approach compared to and ‘in principle’ letter of comfort, which may give rise to expectations of a license being granted later under any circumstances. This approach is supported and used by the parent regulator i.e. the UK Home Office. The Panel have previously been provided with copies of such licenses by the Chief Pharmacist.</p>
11	The States of Jersey Police have informed the Panel they will not be directly involved in the policing of the medicinal cannabis industry in Jersey and their sole responsibility will be to respond to any crime occurring which requires a police presence or investigation.	Noted.
12	The involvement of private security firms to undertake the monitoring	Noted. It is a mandatory requirement that the security assessment and plans submitted as part

	Findings	Comments
	and implementation of security for medicinal cannabis sites would eliminate pressure on the States of Jersey Police and other public services.	of the license application need to be developed and provided by an independent security specialist as highlighted in the guidance provided to applicants.
13	Every licence application must designate a specific Responsible Person as the person responsible for the regulatory affairs of the medicinal cannabis business. Apart from passing due diligence and enhanced DBS checks, there are no specific qualifications necessary for the role.	<p>Noted. While there are no set qualifications necessary for the role, it should be acknowledged that the competency of the individual designated as the Responsible Person is assessed during the meeting between the license applicants, UK Home Office officials and the Chief Pharmacist, which takes place as part of the application.</p> <p>Part of the role of the person responsible for regulatory affairs is to ensure that the company employs the necessary specialists - including a suitably qualified 'Responsible Person' - to enable the company to meet its legal and regulatory obligations.</p> <p>It is acknowledged that the terminology responsible person requires some clarification in the context of the application process.</p>
14	In relation to the disposal of the harvested cannabis crop, it is not clear what procedures the Responsible Person would follow. It is also unclear what experience the Responsible Person will need to deal with its destruction within the methods set out and endorsed by the UK Home Office.	<p>Noted. There are no prescriptive procedures. The proposed methods of destruction and associated Standard Operating Procedures (SOPs) are reviewed as part of the evaluation of the application, by both UK Home Office officials and the Chief Pharmacist.</p> <p>The person responsible for regulatory affairs must ensure that a robust SOP exists for the destruction of controlled drugs and that all destructions are personally witnessed and supervised by the 'Responsible Person' authorised to do so under the Misuse of Drugs law.</p>
15	European Union Good Manufacturing Practice (EU/GMP) certification is the highest recognition available by companies in the pharmaceutical sector. It involves	<p>This is not correct.</p> <p>The definition of CBPM in Paragraph 10 of Schedule 2 to the Misuse of Drugs (General Provisions) (Jersey) Order 2009, requires the</p>

	Findings	Comments
	<p>rigorous testing of the product to ensure that, not only the product, but the company, is compliant with strict EU regulations. Obtaining EU/GMP accreditation shows the company has been scrutinised and approved by the EU/GMP licensing authority, it meets the required standards and the product is of a high quality (products that comply to GMP standards in relation to the production of Active Pharmaceutical Ingredient (API) or Cannabis Based Products for Medicinal Use (CBPM). There is currently no requirement for those granted licences for cultivation, production and export of medicinal cannabis in Jersey to obtain EU/GMP accreditation.</p>	<p>finished CBPM and the Active Pharmaceutical Ingredient (API) are to be manufactured in accordance with GMP. As such, any export of API or CBPM from Jersey would, by default, be produced in accordance with GMP.</p>
16	<p>As previously mentioned, the Minister for HSS is authorised to issue licences under the terms of the MoU however, these are purely for cultivation production, possession and supply. In order to process and manufacture and export the finished processed product, the licence applicant would need to have EU/GMP accreditation which requires separate assessment.</p>	<p>The Minister for HSS issues licences for the cultivation, production, possession and supply of cannabis under Articles 3 and 10 of the Misuse of Drugs (General Provisions) (Jersey) Order 2009.</p> <p>The MoU enables the Minister for HSS to issue licences for the cultivation of cannabis which are compliant with the UN Convention provisions relating to the requirement to have a Cannabis Agency. The Jersey Cannabis Agency is only relevant to licences for cultivation and not to licences for production, possession, and supply.</p> <p>Subsequent production of Active Pharmaceutical Ingredient (API) or a finished Cannabis Based Product for Medicinal use (CBPM) must be in accordance with GMP. Compliance with GMP standards would be independently assessed by the Medicines and Healthcare Products Regulatory Agency (MHRA).</p>

	Findings	Comments
		<p>Furthermore, the production or manufacture of a finished CBPM would also require a manufacturing licence granted under the provisions of the Medicines (Jersey) Law 1995</p> <p>Separately, the import and export of a controlled substance requires the relevant import/export licence under the Misuse of Drugs (Jersey) Law 1978.</p>
17	<p>Without the licence holder obtaining EU/GMP accreditation, the risk is increased that lower grade crops could be exported from the Island resulting in damage to the Island's reputation.</p>	<p>This is not correct.</p> <p>With reference to the comment at point 15 (above), the risk that finished cannabis-based products for medicinal use (CBPMs) or active pharmaceutical ingredients (APIs) could be exported without having been produced in accordance with GMP is likely to be low as such exports would be illegal.</p> <p>However, it is feasible that there could be illegal components within an approved business. Any licence holder found to be illegally exporting product would risk having their licence revoked. It is a license condition that any contravention of the Misuse of Drugs (Jersey) Law 1978 or the Medicines (Jersey) Law 1995 may lead to the license being cancelled. The license condition states:</p> <p>'Contravention of any provisions of the Medicines (Jersey) Law 1995, or the Misuse of Drugs (Jersey) Law 1978 may lead to the license being cancelled with immediate effect.'</p> <p>It might be possible for a GMP-certified company to contract the services of a cultivator to produce raw plant material. If this were to occur, the contracted cultivator would not need to be GMP certified as their sole involvement would be in cultivating the plant. The subsequent processing of any plant material would, however, need to be in accordance with the GMP requirements of the GMP-certified company.</p>

	Findings	Comments
18	<p>There is little evidence to show that checks and balances are in place to ensure the processing of the medicinal cannabis crop is done on an appropriate processing site. There is also little evidence in place to ensure secure monitoring so that the existing cultivation sites do not become ‘industrialised’. Without these checks and balances there is a risk that existing cultivation sites could become sites for processing, which requires a more commercial approach and a relevant planning application.</p>	<p>Ultimately site selection for processing (and cultivation) facilities will be considered under the planning process, however it is acknowledged that this is still under development (see point 7 above). It is however unclear what the Panel means by ‘processing’ – this could range from simple drying and packaging to laboratory extraction of cannabinoids or to the production of finished CBPMs. Definitions here are important as all have differing requirements.</p> <p>Any licence issued under the misuse of drugs legislation is site specific so any separate site for extraction of production of finished CBPM would be subject to a separate licence application, so consideration is being given to the Panel’s concerns.</p> <p>The MENV is not aware of any sites where processing is taking place without planning permission. The distinction between cultivation and processing is clear and is well understood by the Infrastructure, Housing and Environment (Regulation) Department.</p>
19	<p>The medicinal cannabis industry cuts across a number of political responsibilities, and the Council of Ministers has not appropriately established a holistic Government approach to the matter which has in turn blurred lines of accountability. It is therefore difficult to see where the Ministerial responsibility lies.</p>	<p>Noted. The CCG was established to provide oversight and input from a range of different government functions at the officer level representing policy or regulatory functions that are considered relevant to the development of the medicinal cannabis sector. A key role is to consider what is necessary in terms of policy and legislative alignment, development and delivery, to provide for efficiency and consistency of approach and for individual officers to make associated recommendations for any key decisions, for example on funding, policy or legislative changes to their individual Ministers or where appropriate the Council of Ministers for consideration. A Cannabis Political Group (CPG) was established in 2021 to include those Ministers that have political responsibility for</p>

	Findings	Comments
		<p>policy and legislation which relates to the development of the medicinal cannabis sector. The membership of the CPG includes the following:</p> <ul style="list-style-type: none"> • Minister for EDTSC • Minister for Health and Social Services • Minister for Home Affairs • Minister for the Environment • Treasury Minister • Minister for External Relations and Financial Services <p>The CPG has met twice, most recently on the 7th March 2022 to discuss draft Terms of Reference, which will be forwarded to the Panel once proposed revisions agreed are made and formally approved at the next meeting of the CPG which is anticipated to be held towards the end of April.</p>
20	The Jersey Cannabis Agency does not have clearly defined Terms of Reference and is reliant solely on the Memorandum of Understanding (MoU) currently in place with the Government of Jersey (with the Minister for Health and Social Services as the sole representative of the GoJ) and the UK Home Office.	Noted.
21	The Panel appreciates the need for a cannabis co-ordination group of civil servants but is concerned that, with no Minister being involved in this group, it might lead to key decisions being taken without considered input from Ministers.	See point 19 (above), but it should be acknowledged that a number of references can be found in the minutes of the CCG which refer to the escalation of decisions up to Ministers. The Panel have been provided with these minutes.
22	The medicinal cannabis industry in Jersey has the potential to employ between 40-50 people in the immediate term, 160–180 in the medium term and 330- 360 in the long term.	Levels of employment related to cultivation will be entirely dependent on the number of licenses issued and the type and scale of business activity.

	Findings	Comments
23	It has been agreed that a tax rate of 20% will be applied to this industry on all profits.	<p>This was agreed by the States Assembly following a recommendation by the Revenue Policy Development Board (RPDB) at their meeting on 21st March 2021. The RPDB recommended that a 20% rate of income tax be applied to companies in the industry. The meeting notes are publicly available:</p> <p>Microsoft Word - RPDB meeting 30 March 2021 - minutes for publication v1 (gov.je)</p> <p>The group also recommended that normal tax principles should apply – which means the usual approach to capital allowances and taxing net profits will be followed. However, the RPDB will keep the situation under review as experience (level and timing) of corporate profits reveals itself.</p>
24	Now that Jersey has opted for a 20% rate on companies' taxable profits, tax revenues from such activity may be minimal for several years from the date of licence registration.	The pace at which companies achieve revenue and consequently begin providing fiscal receipts to the Treasury either through profits, personal tax or indirect taxation is dependent on a range of factors e.g., ensuring compliance with necessary regulations, availability of labour, cost of utilities, levels of profitability and market demand.
25	The medicinal cannabis industry's contribution to the Jersey economy is not expected to exceed wage estimates in the early years.	See point 24 (above).
26	The business model of medicinal cannabis companies generally requires that they invest heavily in the early years of the business. Profits therefore from the industry may be minimal for several years from the date of licence registration.	Noted.
27	Based on the information provided, the Panel's advisers have concluded that to date, very little additional "new" taxation would arise in the short to medium term. This includes personal	See point 24 (above).

	Findings	Comments
	tax, corporate tax and indirect taxation such as GST.	
28	The Minister for Treasury and Resources has informed the Panel that it is not yet possible to forecast how much tax will be raised from the taxation of the cannabis industry in Jersey due to the industry being in its very early stages and forecasts would be speculative.	Noted.

RECOMMENDATIONS

	Recommendations	To	Accept/Reject	Comments	Target date of action/ completion
1	The Council of Ministers should ensure that there is adequate representation on the JCA of the range of relevant Ministries, including the Minister for Economic Development and the Minister for the Infrastructure, Housing and Environment so that that matters related to all sectors impacted by the medicinal cannabis industry are fully considered. This should be carried out with immediate effect.	Co M/ MH CS	Accept	As detailed in the previous minutes of the CCG, the principle of expanding the JCA to include broader representation from across Government functions has previously been accepted and will be discussed at the CPG.	Q2 2022
2	The Council of Ministers should implement Jersey's own detailed and specific regulations for the medicinal cannabis	Co M/ MH CS	Accept	Ministers will commission a formal piece of work in collaboration with LOD to provide reassurance that a sufficient legislative base exists for the safe and sustainable development of the sector	Scoping Q2 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	industry. This work should be carried out immediately with a clear timeline set in place with the Legislative Drafting Office.			and to determine the best way to achieve this. Initially, a formal mapping exercise will be completed in conjunction with LOD to scope the required work. See also response to findings 3 and 4 (above)	
3	The Council of Ministers should ensure that the medicinal licence application process includes a full business case setting out the reasoning behind the project, the project and operational costs and timescales and clearly define all benefits both financial and non-financial to Jersey. A business case template should be developed with immediate effect.	Co M/ MH CS	Accept	Ministers agree that there should be a further consideration of a standardised business plan requirement for potential operators to meet. This consideration would form part of a wider cannabis licensing strategy.	Q3 2022
4	The Council of Ministers should ensure the Chief Pharmacist informs the Jersey Financial Services Commission (JFSC) of any proposed change of ownership of the licensee whether approved or non-approved. This would allow the JFSC to check the change against its existing register. Any changes of ownership should be accompanied by a copy of the approval from the Chief Pharmacist. This should	Co M/ MH CS	Accept	Agreed, in principle, although advice would be needed in terms the extent to which this would need to be formalised. Companies are required to notify JFSC if there is any change of ownership and there doesn't appear to be a problem with the Chief Pharmacist sharing any information of this type if it is notified to him/her by licence holders. It is a license condition that license holders notify the Chief Pharmacist prior to any change in ownership, so that the necessary background checks can be undertaken e.g. enhanced DBS.	Q2 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	be implemented with immediate effect.			<p>The license condition reads as below:</p> <p>‘Any proposed change of ownership of the licensee must be notified to the Chief Pharmacist in writing. Failure to notify the Chief Pharmacist may result in the license being cancelled. The change of ownership must not take place unless expressly approved in writing by the Chief Pharmacist.’</p> <p>As businesses are required to notify the JFSC of any change in ownership, there could be a reciprocal arrangement where the JFSC share this information with the Chief Pharmacist, where HLS provide a list of companies who hold a licence. Of course, it may not be the Chief Pharmacist in future once a broader JCA is established – it would then be the newly constituted JCA.</p>	
5	The Council of Ministers should ensure that clearly defined building and development plans are put in place at licence application stage for the use of utilities such as water and electricity with standalone structures (such as substations, pump houses etc) if required. This should be overseen by the Planning Department and put in place with immediate effect.	Co M/ ME NV	Reject	The Minister for the Environment considers that the correct time and place for planning officials to assess any building or development proposals is at the formal planning application stage. Involving planners at the license application stage potentially confuses the quite separate issues. Applicants can seek pre-application planning advice should they wish.	
6	The Council of Ministers should ensure the licence fee for the cultivation, production	Co M/ MH CS	Accept	There is a general acceptance that fees will need to be reviewed regularly and amended over time.	Q3 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	and export of medicinal cannabis is reviewed immediately and benchmarked against the minimum required resource to regulate this industry in Jersey. This should be carried out with immediate effect.				
7	The Council of Ministers should ensure that all Environmental Impact Assessments submitted as part of a medicinal cannabis licence application are made public and, a process introduced that allows both the public and key stakeholders to comment on any such EIA prior to the approval of any licence with immediate effect.	Co M/ ME NV	Reject	<p>The cannabis licensing application process does not include a full, formal EIA.</p> <p>A formal EIA would be required as part of any planning process. The Minister for the Environment considers that all proposals for sites for medicinal cannabis cultivation should go through the planning process. This requires a change to the Planning and Building (General Development) (Jersey) Order 2011.</p> <p>Bringing cultivation within planning control would require the submission of a formal (and public) EIA. It is anticipated that, if actioned, this process could be completed by Q1 2023.</p>	
8	The Council of Ministers should ensure that officers of the Planning and Environment Department are solely responsible for the assessment and approval of any EIA submitted with a medicinal cannabis licence application prior to the Jersey Cannabis Agency (JCA) determining the application with immediate effect.	Co M/ ME NV	Reject	<p>The cannabis licensing process should not be confused with the planning process. They are entirely separate.</p> <p>The EIA for the planning process is overseen and assessed by planning officials in the planning application process, under planning legislation. There should be no need to bring this element forward into the license application.</p> <p>This matter has been addressed in a Written Question (317/2021) previously. See also response to finding 8 (above).</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
9	The Council of Ministers should ensure that prior to a medicinal cannabis licence being issued, a detailed plan for site security should be set out within any licence application. No cultivation of cannabis should begin on site until all the approved security measures are implemented and signed off by the JCA and penalties put in place to ensure compliance.	Co M/ MH CS	Reject	<p>It is already a requirement for an application to provide a security assessment report prepared by an independent security advisor/specialist. This requirement is specified in the application guidance provided to potential applicants.</p> <p>Licence conditions prevent any cultivation, storage or processing of any controlled substance from taking place without appropriate security being in place and is monitored during compliance visits.</p> <p>See response to finding 12 (above).</p>	
10	The Council of Ministers should ensure that a specialised training programme is delivered to Customs and Immigration officers in relation to handling the import and export of medicinal cannabis products. A training plan should be developed within 6 months of the presentation date of this report.	Co M/ MH A	Reject	All legal importation will be in accordance with an import license. If there is no import license it is illegal. Training to be attentive to illicit drug importation and possession is already a function of officers from the States of Jersey Police and Jersey Customs and Immigration Service who are kept up to date by their day-to-day activity and also through existing professional links with national experts.	
11	The Council of Ministers should ensure the Responsible Person who is nominated by the licence applicant at application stage should hold the relevant qualifications to undertake this role. This should include relevant experience in both the	Co M/ MH CS	Reject	<p>Responsible Person (RP) has a specific meaning in relation to the distribution of finished medicinal products which must be in accordance with Good Distribution Practice (GDP) and for which the qualifications and experience are defined. Use of the term Responsible Person should therefore be avoided.</p> <p>The person in the company responsible for overall regulatory affairs and</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	science and biological industry and in the disposal of hazardous waste materials. This should be made part of the licence application process and carried out with immediate effect.			<p>compliance is different. As part of the assessment of an application, the knowledge and competence of an applicant is assessed with the assistance of Home Office colleagues. A successful applicant will need to demonstrate that they have suitable staff to support them to undertake any licensable activities.</p> <p>See also responses to findings 14 and 15 (above).</p>	
12	<p>To protect the quality and reputation of produce grown in Jersey, the Council of Ministers should ensure there is a requirement to apply for EU/GMP accreditation prior to receiving a medicinal cannabis licence to cultivate, process or export cannabis products. This should be monitored by a designated body (JCA) with key milestones in place to ensure the process is being followed and the licence holder is taking the relevant steps to achieve this. This should form part of the licence application process criteria and should be carried out with immediate effect.</p>	Co M/ MH CS	Reject	<p>It is not possible to obtain a GMP certificate without growing cannabis as part of the GMP assessment will be to confirm that crops can be grown and processed to consistent standards and that any subsequent processing of the cultivated cannabis is in accordance with GMP standards. The proposal that GMP certification be achieved prior to issuing a licence to cultivate is therefore not possible. Licences to cultivate must therefore be granted before final GMP assessment can take place.</p> <p>Assessment of compliance with GMP would be undertaken by the MHRA as part of the initial inspection undertaken by them to grant the GMP certificate and as part of the renewal process for any GMP certificate.</p> <p>See also response to recommendation 15 (above).</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
13	The Minister for Planning and Environment must ensure that any sites to be used for the cultivation of medicinal cannabis remain solely for that use. Should a licence holder require a site for processing of the medicinal cannabis crop once harvested, a separate planning application for this industrial activity should be submitted for these purposes in a suitably zoned area. This should be carried out with immediate effect.	ME NV	Reject	This is already in place through the existing planning process. See also response to findings 7 and 18 (above).	
14	The Council of Ministers must recognise cross departmental requirements and ensure synergies are developed especially between the Minister for Health and Social Services, the Minister for Economic Development, Tourism, Sport and Culture, and the Minister for the Environment. This should be carried out with immediate effect.	Co M/E DM	Reject	This has already been recognised and is already in place through the CPG which includes the Minister for Health and Community Services the Minister for Economic Development, Tourism, Sport and Culture, and the Minister for the Environment.	
15	The Council of Ministers should ensure the Jersey Cannabis Agency has	Co M/ MH CS	Accept	Discussions are underway and this is to be added to the agenda of the next CPG meeting.	Q3 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	representatives of other Departments as members. At a minimum, this should include Department of Infrastructure, Housing and Environment, Economic Development, and the Chief Pharmacist and with further support from Law enforcement officers. This group should also be responsible for undertaking due diligence on new licence applications. This should be carried out with immediate effect.				
16	The Council of Ministers should ensure the remit of the Jersey Cannabis Agency is expanded to include both the monitoring function of the medicinal cannabis industry, and compliance with security, quality of production, clear moral conduct of people working in the industry and issuance of trade licences. The monitoring function would also include ensuring Customs and Excise and the States of Jersey Police are well informed about the process of the medicinal cannabis	Co M/ MH CS/ MH A	Reject	<p>The remit of the Jersey Cannabis Agency is to satisfy the requirements of the UNCND.</p> <p>The States of Jersey Police (SoJP) and Jersey Customs and Immigration Service (JCIS) do not deal with the compliance around the medicinal cannabis licensing framework – but of course JCIS would conduct monitoring to ensure that products arriving/leaving the Island have the necessary documentation, including any required licenses. However, the JCIS and the police are and will continue to be well informed about the progress of the medicinal cannabis industry via the Cannabis Coordination Group. In terms of being trained to be attentive to illicit drug importation and</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	industry and are trained to be attentive to illicit drug importation and possession. This should be carried out with immediate effect.			possession, clearly this already is a function of officers from both teams, who are kept up to date on trends by their day-to-day activity and being linked into the national drugs expert community. Currently, SoJP have 6 nationally accredited drugs experts and JCIS have 5 who provide Jersey Courts with impartial evidence during drug trafficking cases. As part of their continued professional development, they attend seminar events and the annual drugs expert course. They are also linked into all drugs experts UK wide. This provides the experts with up-to-date trends.	
17	The Council of Ministers should ensure the Cannabis Co-ordination Group is more transparent and publishes its minutes on the Government of Jersey website. Furthermore, it should carry out a wider communications strategy to help the public gain a better understanding of the potential benefits of the medicinal cannabis industry in Jersey. The Council of Ministers should also carry out a communication strategy with members of the public which may help the public gain a clearer understanding of	Co M	Partial Accept	Minutes have been made available but would need to be appropriately redacted where they refer to policy in development or other restricted or sensitive information as per Government guidelines when placed in the public domain. A communications plan has been approved by Council of Ministers, which has the objective of explaining medicinal cannabis and the nature of the industry. However, the Government cannot promote unlicensed medicinal products and cannot pre-empt clinical decisions. It is therefore not appropriate to highlight any potential benefits of CBPMs to the public.	Q3 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	<p>what the future holds for the medicinal cannabis industry in Jersey.</p> <p>This should be carried out within 6 months of presentation of this report.</p>				
18	<p>The Council of Ministers should ensure a clearly defined structure chart is in place showing the layout and responsibility for each of the supporting groups for the medicinal cannabis industry. This should show defined reporting lines from each of these groups to the relevant Minister with Terms of Reference setting out clear objectives. This should be carried out with immediate effect.</p>	Co M	Partial Accept	<p>This has already been created to a large extent and was presented at the States Members Briefing on 18th November 2021. However, it is accepted that a more formal mapping exercise would be required in respect to the acceptance of recommendation 2 (above).</p> <p>This new industry, like others, does span a number of functions and portfolios but the Ministerial and departmental responsibility for each aspect is clear:</p> <ul style="list-style-type: none"> • Supporting the economic development of the new industry – Minister for EDTSC • Applications and issuing of licenses (including import and export licenses) – Minister for Health and Social Services • Crime prevention and import and export controls – Minister for Home Affairs • Planning issues – Minister for the Environment • Taxation and proceeds of crime legislation – Treasury Minister/Minister for External Relations and Financial Services. 	
19	<p>The Council of Ministers should consider alternative tax bases for</p>	Co M/T RM	Reject	<p>When scrutinising tax policy, the Scrutiny Panels often promote Jersey's tax principles of 'low, broad, simple and</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	<p>the medicinal cannabis industry in Jersey as the indicative taxable profits for the industry may be minimal for several years from the date of licence registration. This should be carried out with immediate effect.</p>			<p>fair'. An alternative basis for taxation for one small sector of our economy would be inconsistent with those principles.</p> <p>As with all other industries, companies in the cannabis industry will be able to claim legitimate business expenses against their income. The medicinal cannabis industry uses advanced technologies that are expensive, which, as noted in the report, will have the effect of deferring tax on profits, possibly for a number of years.</p> <p>The Council of Ministers does not believe this provides sufficient justification for departing from well-established and internationally recognised tax principles.</p> <p>It is also worth noting that Government of Jersey officials communicated early on to the relevant companies that a 20% rate of income tax on profits would be imposed. All businesses, especially those in their early stages, rely on certainty of treatment. It would be disruptive to the emerging economy if Government decided, at this late stage, to impose a different form of taxation.</p> <p>The Council of Ministers does, however, agree that this area should be kept under review as wider government strategy develops and as the level and timing of corporate profits from the industry becomes clearer.</p>	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
20	The Council of Ministers should undertake a reputational risk assessment to determine the impact of the medicinal cannabis industry on Jersey's existing core industries. This should include the mitigation of such risks and cover financial, operational, competitive, security, privacy and compliance. This should be carried out with immediate effect.	Co M/E DM	Accept	Ministers will commission further strategic development work to that will assist Jersey to establish itself as a hub of cannabis excellence and a gateway for Europe for international cannabis business and investors. It will also identify the evolving needs of cannabis operators and investors and the policy areas where Jersey can build a unique competitive advantage to meet these needs. Part of this work will be to undertake a risk assessment of the island's cannabis sector and identify mitigation opportunities.	Q2 2022
21	To improve social awareness and reduce risk of misuse, a public engagement process should be carried out to educate members of the public on the differences of recreational and medicinal cannabis and also highlight the potential benefits of medicinal cannabis. A plan of communication should be compiled with immediate effect.	Co M/E DM	Accept	Agreed. This is already covered in the Government's communication plan as referred to in the response to recommendation 17 (above).	Q3 2022
22	The Council of Ministers should consider a range of possible incentives for on-Island medicinal cannabis growers, to apply for patent and Intellectual Property (IP) protection. This should include research and development and	Co M/E DM/ M EN V	Accept	It seems reasonable to consider where commercial opportunities exist for developing IP and building on the existing R&D programme in liaison with the Jersey Cannabis Advisory Board.	Q3 2022

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	intellectual property, which hold potential benefits. This should be discussed with external stakeholders within 6 months of presentation of this report.				
23	The Council of Ministers should consider encouraging the promotion of medicinal cannabis for the use in veterinary medicine which is a new niche area. This should be carried out with immediate effect.	Co M/ ME NV	Reject	<p>The promotion of specific cannabis products is arguably not a matter for Government, but for the private sector which will determine which markets to pursue. Market forces may, in due course, direct the use of Jersey-produced cannabis towards animal medicine, but such products would currently require a long lead in time prior to approval either in Jersey or the UK.</p> <p>The use of veterinary medicines in Jersey is carefully regulated in line with recognised international standards to protect both animal health and welfare and human health. The Chief Veterinary Officer promotes the safe use of medicines in animals (veterinary medicines) and has highlighted that considerable amount of data on safety and efficacy needs to be produced before a medicine can be considered for approval as a veterinary medicine. Currently in Jersey (and Great Britain) there are no approved veterinary medicines containing active substances derived from cannabis.</p>	
24	The Council of Ministers should ensure all existing medicinal cannabis licence holders	Co M/ MH CS	Reject	Medicinal cannabis is taken to refer to a finished CBPM as defined in the Panel's report. Currently no company holds a licence to manufacture a finished	

	Recommendations	To	Accept/ Reject	Comments	Target date of action/ completion
	implement any changes to their current medicinal cannabis business following any recommendations agreed by the Council of Ministers as a result of this report. These should be carried out within the timeframe stipulated, currently one year from the implementation of the recommendation.			<p>CBPM, so this recommendation is not currently relevant.</p> <p>In addition to the in-year unannounced compliance visits described above, the current annual renewal cycle for licences to cultivate cannabis provides an opportunity to review any relevant and necessary conditions in relation to this. Similarly, a review of conditions relating to the production, possession and supply of controlled substances can also take place at the annual renewal of any licence.</p>	

CONCLUSION

The work of the Scrutiny Panel is much respected and valued and it is encouraging to note that the Scrutiny Panel do not question the ambition of this Government to establish and develop Jersey as a centre of excellence for the cultivation and sale of medicinal cannabis. The potential of the cannabis industry to Jersey's future economic prosperity is recognised.

The complexity and fast-paced nature of an emerging global industry makes thorough scrutiny a potentially valuable addition to the ongoing dialogue about how to achieve a well-regulated, premium-quality medicinal cannabis industry that sits alongside Jersey's other high-quality products such as Jersey milk, Jersey Royals, the finance industry and seafood for which the Island has become well known.

However, I note that during their research, it appears the Panel have decided to not consult directly with industry representatives. This perhaps would have provided a useful and material perspective and provided additional insight, clarity and balance in the report.

It is accepted that further work is required to ensure there is greater public understanding of the opportunities offered by this new sector and to continue to ensure how any risks will be ameliorated. Jersey is establishing a well-regulated industry which will not only has the potential to generate significant revenue for the Island, create jobs, provide alternative uses for existing redundant infrastructure and support diversification in our farming sector, but will also create products which will help alleviate suffering for people around the world.

