

STATES OF JERSEY



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

**Lodged au Greffe on 18th June 2024
by the Council of Ministers
Earliest date for debate: 25th June 2024**

STATES GREFFE

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

1 PAGE 2, PARAGRAPH (b) –

Substitute the words “the necessary legislation” with “proposals”;

After the words “by November 2025,” delete the words “with the legislation”;

Before the words “total acceptable gram allowance” add -

- potential approaches to the decriminalisation, legalisation and regulation of cannabis;
- use in the presence of minors;
- personal cultivation and preparation;
- social supply;
- restrictions on the sale to minors;
- approaches to minors or vulnerable people coerced into cannabis related activities;”.

After the words “relevant roadside capacity tests” substitute the words “; and” with “.”.

2 PAGE 2, PARAGRAPH (c) –

Delete paragraph (c).

COUNCIL OF MINISTERS

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 **proposals** for consideration by the Assembly by November 2025, to include (but not be limited to) –

- potential approaches to the decriminalisation, legalisation and regulation of cannabis;
- use in the presence of minors;
- personal cultivation and preparation;
- social supply;
- restrictions on the sale to minors;

- approaches to minors or vulnerable people coerced into cannabis related activities;
- total acceptable gram allowance;
- restrictions on areas of consumption;
- restrictions on driving under the influence of cannabis;
- relevant roadside capacity tests.

REPORT

The proposition brought forward by Deputy Coles ([P.31/2024](#)) looks to begin an important conversation about Jersey's future approach to the use of recreational cannabis and associated matters.

The Council of Ministers recognise the need to address this matter, including giving consideration to the harms that can arise from criminalising users of cannabis, whilst also considering the need to protect children and the wider community. However, the Council of Ministers propose several amendments to [P.31/2024](#), as lodged, to support more informed decision-making.

For the purpose of clarity, in bringing this amendment, members of the Council of Ministers will be voting as individual States Members (a free vote).

Paragraph (b)

Paragraph (a) of [P.31/2024](#) seeks a secure a principled decision on decriminalisation of personal possession and recreation use of cannabis before detailed work on the impact of decriminalisation has been undertaken. Paragraph (b) of [P.31/2024](#), as drafted, then requires the legislation that provides for decriminalisation to be brought forward by November 2025.

Paragraph (b) is amended:

1. to provide that detailed proposals should be brought forward in November 2025 for consideration by the States Assembly, as distinct from legislation. Properly considered, effective, safe legislation cannot be delivered within a November 2025 timeframe;
2. to provide that the detailed proposals brought forward by the Council of Ministers consider all issues associated with the recreational use of cannabis, including:
 - potential approaches to harm reduction which may include legalisation and regulation – as distinct from decriminalisation – and associated protections for children and the wider community. Appendix 1 provides background information about different approaches to cannabis use;
 - matters related to cultivation, preparation, and supply of cannabis. If we decriminalise possession, we may create increased demand which may be met through increased trafficking into Jersey unless we also address domestic cultivation and preparation or legalised import. Furthermore, we would create a scenario in which the act of possessing cannabis would not be an offence, but the act of obtaining cannabis from the dealer would be an offence.
3. to provide that, in bringing forward those detailed proposals, the Council of Ministers must consider associated legal and constitutional issues. These include:
 - the UK is a signatory to the 1961 UN Convention on Narcotic Drugs which has been extended to Jersey. Legalising possession of cannabis in Jersey may amount a breach of the UK's international obligations under that

treaty which, in turn, could cause constitutional tensions with the UK in the absence of prior consultation and agreement;

- the customs arrangements between Jersey and the UK requires alignment of some legislation and practices. If Jersey were to breach the 1961 Convention, there might be implications in respect of trade in goods, and movement of persons/screening within the Common Travel Area; and
- impact on neighbouring jurisdictions; if we decriminalise cannabis in Jersey (without addressing cultivation and supply) we could encourage more criminality in neighbouring jurisdictions where export of cannabis is an offence, placing a burden on their law enforcement agencies.

In the event that the Assembly *adopt* paragraph (a), the Council of Ministers' amended paragraph (b) works to address the challenges with the proposed legislation timeframe and to ensure that the Assembly are supported to make more informed decisions about decriminalisation, and potential alternative approaches to harm reduction.

In the event that the Assembly *reject* paragraph (a), the Council of Ministers' amended paragraph (b) can still be adopted as it works to enable the development of fully informed policy proposals.

Paragraph (c)

Paragraph (c) as per [P.31/2024](#) is removed in its entirety as the deadline for development of business cases for the Government Plan 2025 has passed. The officer time required to develop detailed options and proposals will be met from within existing resources, which will require a reprioritisation of existing work.

Criminalisation of children

It is noted that Paragraph (a) of P.31/2024 as drafted is problematic in it decriminalises cannabis for adults (aged 18 and over) but not children. The net effect is that a child who possesses cannabis may be committing a criminal offence, but an adult would not. This is contrary to Government's legal commitment to give due regard to children's rights.

Financial and staffing implications

The officer time required to develop detailed options and proposals will be met from within existing resources, which will require the reprioritisation of existing policy work.

Children's Rights Impact Assessment

A Children's Rights Impact Assessment (CRIA) has been prepared in relation to the Council of Minister's amendment to paragraphs (b) and (c) and is available to read on the States Assembly website.

Appendix 1: Different approaches to cannabis use

The purpose of this Appendix is to provide Assembly members with background information about different public policy approaches to recreational cannabis use. It is not intended to describe any preferred policy approach.

Public policy in relation to cannabis is best understood as a continuum of policy options that fall with three broad categories:

- **Criminalisation.** Most if not all cannabis-related activities are criminal offences resulting in criminal penalties. Prohibition attempts to prevent cannabis use by making its related activities illegal.
- **Decriminalisation.** Criminal penalties for certain cannabis-related activities are removed or not enforced. These activities remain either a criminal or civil offence in law. Decriminalisation can be either:
 1. *De facto* when actioned through guidance or practice which sets out when prosecution or penalties will, or will not, be enforced.
 2. *De jure* when actioned through formal legislation by repealing criminal legislation and repealing or creating civil offences.
- **Legalisation / legal regulation.** The law provides that certain cannabis-related activities are legally permissible with no criminal or administrative sanctions. The law may also provide for the regulation of related activities (for example, the sale of certain drugs to certain categories of people). Breaking legal conditions or regulations may result in criminal sanctions.

At present over 60 jurisdictions in over 30 countries have some form of decriminalisation in place. Others are actively trialling various approaches to decriminalisation and legalisation (for example, in Switzerland different cantons / cities are adopting different approaches to better understand impact).

The Government of Jersey's own Substance Use Strategy¹ identifies a number of issues regarding criminalisation and the effects on islanders, in addition to a commitment to review drugs policy.

Changing public policy in relation to cannabis safely

Further work is needed to assess and understand the potential public policy options related to recreational use of cannabis and the associated balance between potential risks and benefits. This work will take time as consideration needs to be given to:

- Broad models of decriminalisation or legalisation and their likely impact and outcomes;

¹ [A Change of Direction A Substance Use Strategy for Jersey 2023 to 2033 \(gov.je\).](#)

- How and who determines whether possession (or other activities) is *personal* or *commercial*;
- How criminal justice and health services will function efficiently under any proposals;
- Managing the risks to children without potentially disproportionately criminalising them;
- Understanding potential risks and benefits to individual and population level health, community safety, local economy, and environment, including the potential effects on key groups of islanders, including those currently involved in the criminal justice system, people who currently use drugs, people who are at higher-risk of psychosis or adverse effects, people coerced into drug activities, and other at-risk or vulnerable groups;
- Scope, flexibility, and limitations of drug policy change within relevant United Nations drug conventions as extended to Jersey, plus alignment to UN Conventions focused on Human Rights, Rights of the Child, and Anti-Doping in Sport;
- Effect on travel and tourism, including inter-island travel and Common Travel Area; and
- Risks or benefits to Jersey's international reputation.