



## Explaining the cannabis laws and their enforcement

### **Current classification**

Cannabis is controlled under Class B of the Misuse of Drugs Act.

The government's decision to reclassify cannabis to Class B under the Misuse of Drugs Act 1971 was announced by Home Secretary on 7 May 2008. Cannabis was reclassified to Class B on 26 January 2009.

In 2008, the Advisory Council on the Misuse of Drugs (ACMD) recommended that cannabis remain a Class C drug, as a result of a review of the evidence on the harms posed by cannabis.

The Government accepted 20 of the 21 recommendations made by the ACMD. It did not accept the recommendation that cannabis should remain a Class C drug.

The reclassification of cannabis to Class B has a number of implications for the way that police will respond to offences involving the drug.

### **Cannabis penalties**

#### **Supply and production**

As a Class B drug, the maximum penalty for supplying or producing cannabis is 14 years imprisonment and/or an unlimited fine. This remains unchanged from when the drug was Class C.

#### **Possession**

##### **Maximum penalty**

As a Class B drug, the maximum penalty for possession increases from two to five years imprisonment.

### **'Escalation' penalty system**

On 13 October 2008, the Home Secretary Jacqui Smith announced the government's intention to introduce a new set of penalties for over 18s caught in possession of cannabis. In her announcement Ms Smith indicated the new penalties would come into force at the time of the upgrading of cannabis to class B on January 26 2009.

A new escalation penalty system for cannabis possession means that the penalty issued is directly related to the number of times an individual has previously been caught in possession of the drug.

#### **If an adult is caught in possession of cannabis:**

- 1) for the first time** - they will be issued with a cannabis warning. A cannabis warning is a spoken warning given by a police officer, either on the street or at the police station. The police have the option of using a cannabis warning when someone is caught with a small amount of cannabis for personal use.

'Cannabis warnings' were first introduced in 2004 as a way for police to respond to cannabis possession offences while the drug was at Class C. However, cannabis warnings issued during the period that cannabis was a Class C drug (between January 29 2004 and January 26 2009) will not be carried forward.

**2) for the second time** - They will be issued with a Penalty Notice for Disorder (PND) for cannabis possession. PNDs are tickets that police officers can issue at the scene of an incident or in custody - they carry an on-the-spot fine of 80.

**Please note:** as of January 23 2009, the introduction of PNDs is awaiting parliamentary approval. The Government has indicated that the introduction of PNDs for cannabis possession will go ahead as soon as possible, subject to the agreement of parliament.

**3) for the third time** - police officers will consider further action. This could include release without charge, caution, conditional caution or prosecution.

**4) any additional times** - According to government statements all subsequent offences are likely to result in arrest .

In the case of someone being brought to prosecution for cannabis possession, as a Class B drug the maximum penalty is five years imprisonment.

### ***Does the escalation penalty system apply to other class B drugs?***

No. With regards to drugs the government has said that extensions for the Penalty Notice for Disorder Scheme apply to the possession of cannabis only. According to the Home Secretary there are no plans to extend the scheme to other Class B drugs or any Class C drugs.

### ***Does escalation penalty system for cannabis possession apply across the UK?***

No. The new policing approach to cannabis possession only applies to over 18s in England and Wales. In Scotland and Northern Ireland, anyone found in possession of cannabis will be reported to the Procurator Fiscal (Scotland) or Public Prosecution Service (Northern Ireland) where a decision on cautioning or prosecution will be made.

### ***What happens with under 18s?***

According to the government the current procedure for under-18s caught in possession - which uses a reprimand, final warning and charge - will remain unchanged as it provides an appropriate escalation mechanism.

According to the Home Office, a young person found to be in possession of cannabis will be arrested and taken to a police station where they can receive a reprimand, final warning or charge depending on the seriousness of the offence. This must be administered in the presence of an appropriate adult.

Following one reprimand, any further offence will lead to a final warning or charge. Any further offence following a warning will normally result in criminal charges. After a final warning, the young offender must be referred to a Youth Offending Team to arrange a rehabilitation programme.

## **Does being issued with a PND or cannabis warning result in a criminal record?**

Neither a PND nor a cannabis warning is a conviction so therefore they will not result in a criminal record. However, the fact that a cannabis warning or PND has been issued may be recorded by the police. At present the recording of cannabis warnings is a matter for individual police forces at a local level.

*Drugscope January 2009: [www.drugscope.org.uk](http://www.drugscope.org.uk)*

## **Further Information:**

**National Drug Strategy** Contains information for Drug Action Teams and interested individuals to find out about the Government's Drug Strategy. **[www.drugs.gov.uk](http://www.drugs.gov.uk)**

**Talk to Frank** Part of a government campaign offering free confidential helpline and advice about drugs. **[www.talktofrank.com](http://www.talktofrank.com)**

**Know Cannabis** Helps assess cannabis use, its impact on life and how to make changes. **[www.knowcannabis.org.uk](http://www.knowcannabis.org.uk)**

**Release** Provides a range of services dedicated to meeting the health, welfare and legal needs of drugs users and those who live and work with them. **[www.release.org.uk](http://www.release.org.uk)**