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Issue Date: 15/01/2009

Implementation Date: 26/01/2009

Home Office Circular 001 / 2009

Controlled Drugs: Reclassification Of Cannabis

From: Crime Reduction and Community Safety Group (CRCSG), Crime and Drug Strategy

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Broad Subject: Crime and Disorder

Sub Category: Drug offences

Dear Sir/Madam,

**MISUSE OF DRUGS ACT 1971 (AMENDMENT) ORDER 2008 (S.I. 2008/3130):
RECLASSIFICATION OF CANNABIS**

Summary

1. This Circular draws attention to the Misuse of Drugs Act 1971 (Amendment) Order 2008 that reclassifies cannabis, cannabis resin, cannabinal and its derivatives from Class C to Class B drugs under Schedule 2 to the Misuse of Drugs Act 1971, including any preparation or other product containing these substances. In addition, any substance which is an ester or ether either of cannabinal or of a cannabinal derivative is reclassified as a Class B drug. (As a result of these changes, it should be noted that cannabis oil is also subject to control as a Class B drug.)

2. The reclassification comes into force on **26 January 2009**. The Order, like the Act it amends, applies to the whole of the United Kingdom. The Misuse of Drugs Act 1971 (Modification) (No. 2) Order 2003 (S.I. 2003/3201), which reclassified cannabinol and cannabinol derivatives and cannabis and cannabis resin as Class C drugs in Schedule 2 to the Misuse of Drugs Act 1971 with effect from 29 January 2004, has been revoked. Accordingly, this Circular supersedes Home Office Circular 005/2004.

3. A copy of the 2008 Order is attached at Annex A. Background information relating to the reclassification of cannabis is at Annex B.

Penalties

4. Reclassification of cannabis to a Class B drug has a number of consequences in terms of maximum penalties under the Misuse of Drugs Act with effect from 26 January 2009.

- For possession of cannabis as a Class B drug, the maximum penalty on indictment increases from 2 to 5 years' imprisonment. On summary conviction, in respect of which the majority of possession cases are dealt with, the maximum imprisonment penalty remains the same at 3 months, although the maximum fine that a Magistrates' Court can impose increases from £1,000 to £2,500.
- For the production and supply offences for cannabis, the maximum penalties on summary conviction increase to 6 months' imprisonment and/or a £5,000 fine (from 3 months and/or a £2,500 fine respectively). The penalties for other offences relating to cannabis are unaffected, including the maximum penalty on indictment for supplying or producing cannabis of 14 years' imprisonment and/or an unlimited fine.

Recording cannabis offences

5. As a result of the reclassification of cannabis to a Class B drug from 26 January 2009, the codes for recording cannabis offences by the police and the courts for Home Office statistical purposes, which are contained in the 2008 Home Office Counting Rules, will revert from the above date to the codes used when cannabis was a Class B drug, as follows:

- 77/54 Possession on a ship of a controlled drug intended for trafficking – class B drug cannabis / cannabis resin / cannabinol / cannabinol derivatives (currently 77/55)
- 77/57 Carrying or concealing on a ship a controlled drug intended for trafficking – class B drug cannabis/cannabis resin/cannabinol/cannabinol derivatives (currently 77/58)
- 92/4 Unlawful importation of a drug controlled under the Misuse of Drugs Act 1971 – class B drug cannabis / cannabis resin / cannabinol / cannabinol derivatives (currently 92/5)
- 92/7 Unlawful exportation of a drug controlled under the Misuse of Drugs Act 1971 – class B drug cannabis / cannabis resin /cannabinol / cannabinol derivatives (currently 92/8)
- 92/21 Production of or being concerned in production of a controlled drug – class B drug cannabis / cannabis resin / cannabinol / cannabinol derivatives (currently 92/26)

- 92/41 Supplying or offering to supply or being concerned in supplying or offering to supply a controlled drug – class B drug cannabis / cannabis resin /cannabinol / cannabinol derivatives (currently 92/46)
- 92/61 Possession of a controlled drug – class B cannabis / cannabis resin / cannabinol / cannabinol derivatives (currently 92/66)
- 92/81 Possession of a controlled drug with intent to supply – class B drug cannabis / cannabis resin / cannabinol / cannabinol derivatives (currently 92/86)
- 93/21 Permitting premises to be used for unlawful purposes – class B drug cannabis /cannabis resin / cannabinol / cannabinol derivatives (currently 93/26)

If any further amendments to these codes are made for policing purposes after the publication of this circular, they can be found online at the Home Office Counting Rules website at <http://www.countingrules.homeoffice.gov.uk/output/Page1.asp>.

Internet information

6. The Misuse of Drugs Act 1971 (Amendment) Order 2008 can be found at:–

<http://www.opsi.gov.uk/stat.htm>.

7. The legislation is published by The Stationery Office. Telephone orders/General enquiries 0870 600 5522 or online at www.tso.co.uk/bookshop (ISBN 978-0-11-147160-9, price £4.00).

8. A copy of this circular can be found at: www.circulars.homeoffice.gov.uk.

Yours faithfully,

**Angela Scrutton
Drug Strategy Unit
Home Office**

View attachments here:

[2008-12-15 Cannabis - Reclassification HO circular Annex A x-2008.doc](#)

[2008-12-15 Cannabis - Reclassification HO circular Annex B x-2008.doc](#)

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STATUTORY INSTRUMENTS

2008 No. 3130

DANGEROUS DRUGS

Misuse of Drugs Act 1971 (Amendment) Order 2008

Made - - - - - *10th December 2008*

Coming into force - - - - - *26th January 2009*

At the Court at Buckingham Palace, the 10th day of December 2008

Present,

The Queen's Most Excellent Majesty in Council

In accordance with section 2(5) of the Misuse of Drugs Act 1971(a) a draft of this Order has been laid before Parliament after consultation with the Advisory Council on the Misuse of Drugs and approved by a resolution of each House of Parliament.

Accordingly, Her Majesty, in exercise of the powers conferred upon Her by sections 2(2) and 2(4) of that Act, is pleased, by and with the advice of Her Privy Council, to order as follows:

Citation, commencement and revocation

1.—(1) This Order may be cited as the Misuse of Drugs Act 1971 (Amendment) Order 2008 and shall come into force on 26th January 2009.

(2) The Misuse of Drugs Act 1971 (Modification) (No. 2) Order 2003(b) is revoked.

Amendments to the Misuse of Drugs Act 1971

2.—(1) Schedule 2 to the Misuse of Drugs Act 1971 (which specifies the drugs which are subject to control under that Act) is amended as follows.

(2) In Part 2 (Class B drugs)—

(a) in paragraph 1(a), after “Amphetamine” insert—

“Cannabinol

Cannabinol derivatives

Cannabis and cannabis resin”;

(a) 1971 (c. 38). Schedule 2 has been amended by section 21 of the Drugs Act 2005 (c. 17) and S.I. 1973/771, 1975/421, 1977/1243, 1979/299, 1983/765, 1984/859, 1985/1995, 1986/2230, 1989/1340, 1990/2589, 1995/1966, 1996/1300, 1998/750, 2001/3932, 2003/1243, 2003/3201, 2005/3178 and 2006/3331.

(b) S.I. 2003/3201.

- (b) after paragraph 2 insert—
 - “2A. Any ester or ether of cannabinol or of a cannabinol derivative.”; and
 - (c) in paragraph 3, for “or 2” substitute “, 2 or 2A”.
- (3) In Part 3 (Class C drugs) the following words are repealed —
- (a) in paragraph 1(a), “Cannabinol”, “Cannabinol derivatives” and “Cannabis and cannabis resin”; and
 - (b) in paragraph 1(d), “or of cannabinol or a cannabinol derivative”.

Judith Simpson
Clerk of the Privy Council

- (a) 1971 (c. 38). Schedule 2 has been amended by section 21 of the Drugs Act 2005 (c. 17) and S.I. 1973/771, 1975/421, 1977/1243, 1979/299, 1983/765, 1984/859, 1985/1995, 1986/2230, 1989/1340, 1990/2589, 1995/1966, 1996/1300, 1998/750, 2001/3932, 2003/1243, 2003/3201, 2005/3178 and 2006/3331.
- (b) S.I. 2003/3201.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order reclassifies cannabis, cannabis resin, cannabinol and cannabinol derivatives from Class C to Class B drugs for the purposes of control under the Misuse of Drugs Act 1971. In addition, any substance which is an ester or ether of cannabinol or of a cannabinol derivative is reclassified as a Class B drug.

RECLASSIFICATION OF CANNABIS

Summary overview

1. Cannabis is harmful and it remains an illegal drug subject to criminal sanctions following reclassification from a Class C to a Class B drug under the Misuse of Drugs Act 1971 with effect from 26 January 2009.

Background

2. In July 2007, the Prime Minister announced that the Government would consider the classification of cannabis to see whether it was right that cannabis should be moved back to Class B, having regard to public concern about the potential mental health effects of cannabis use and, in particular, the use and availability of increased strengths of the drug, commonly known as “skunk”, which has higher levels of the main psychoactive ingredient, tetrahydrocannabinol.

3. The Home Office’s Cannabis Potency Study conducted in late 2007/early 2008 showed that “skunk” now dominates the UK cannabis market, accounting for approximately 80 per cent of street seized cannabis, with a potency of around 16%. This is a significant increase from the available evidence in 1995 which showed average potency levels of 6%. (See <http://drugs.homeoffice.gov.uk/publication-search/cannabis/potency?view=Standard&pubID=553869>.) The clear conclusion is that these increases have been fuelled by the massive growth in the commercial cultivation of cannabis in the United Kingdom in recent years.

4. Following a referral for further advice by the Home Secretary in July 2007, the Advisory Council on the Misuse of Drugs (ACMD) reported in April 2008 that, based on its harmfulness to individuals and society, the majority of its members considered that cannabis should remain a Class C drug. The ACMD’s report, *Cannabis: Classification and Public Health*, is available on the Home Office website at: <http://drugs.homeoffice.gov.uk/publication-search/cannabis/acmd-cannabis-report-2008?view=Standard&pubID=554031>. The Government has provided a formal response to the report and this is available at:

<http://drugs.homeoffice.gov.uk/publication-search/cannabis/acmd-cannabisreclassification?view=Binary>.

5. The Government does not dispute the ACMD's findings on harm which are based on the current available evidence. The ACMD confirmed that cannabis use poses a real threat to health. It concluded that, in the population as a whole, cannabis most likely plays a modest role in the development of psychotic illness. However, it also accepted that the possibility that the greater use of higher than average potency cannabis may increase the harmfulness to mental health cannot be denied, more so if young people start to use at an early age or "binge smoke".

6. The Government has to maintain a classification for cannabis that takes account of its known risks to health as well as the potential long term impacts on health where the evidence is not conclusive at this time. The significant increase in both the market share of higher than average potency cannabis and its actual potency in the last few years in the UK are compelling factors. Where there is a clear and serious problem, but some uncertainty surrounding a drug's full potential to cause harm, the Government considers that it must err on the side of caution and take such preventative action as is necessary to protect the public.

7. In reaching its decision the Government has also taken into account wider issues such as public perceptions and the needs and consequences for policing priorities. Reclassifying cannabis to Class B will help drive the enforcement priorities to reverse the massive growth in commercial cultivation and will support the comprehensive package of measures used to tackle cannabis use as part of the Government's national drug strategy – *Drugs: protecting families and communities* – including prevention, education, early intervention, enforcement, treatment and reintegration. The strategy is available on the Home Office website at: <http://drugs.homeoffice.gov.uk/publication-search/drug-strategy/drug-strategy-2008?view=Binary>.

8. The Association of Chief Police Officers will be issuing updated guidance on policing cannabis to all police forces in England and Wales. Information about reclassification will be made widely available via FRANK – the Government's national drugs awareness campaign.