

The Misuse of Drugs Act 1971 – Updated

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This factsheet outlines a number of significant changes to the Misuse of Drugs Act 1971 since the reclassification of cannabis on 29 January 2004, including changes introduced by the Drugs Act 2005 which constituted the most comprehensive update of drug laws since 1971.

2004

- On 29 January 2004 cannabis was reclassified from a Class B to a Class C drug. The decision to reclassify cannabis had a direct impact on the sentencing powers available for supply offences involving Class C drugs. Previously the maximum sentence available was 5 years imprisonment. This was increased to a maximum of 14 years imprisonment for a supply offence involving any Class C drug.
- The reclassification of cannabis led the Association of Chief Police Officers ('ACPO') to issue guidelines advising their officers to presume against arrest for simple possession of cannabis unless certain aggravating factors existed. These guidelines were further updated in January 2007, to cater for circumstances in which "cannabis warnings" may be given.

2005

- On 18 April 2005 the Drugs Act 2005 received Royal Assent. The 2005 Act had the single largest impact on drugs laws since the 1971 Act. The Act included wide-ranging changes in the law, from the introduction of drug testing upon arrest to the classification of fresh magic mushrooms as Class A drugs. It also introduced drug testing for the presence of heroin and cocaine on arrest for certain offences, and compulsory assessment for treatment upon a positive drugs test. The Act's provisions would gradually come into force over the following two years.
- On 18 July 2005 some fresh magic mushrooms became Class A drugs as a result of an amendment to the 1971 Act by section 21 of the Drugs Act 2005. The 1971 Act now states that 'a fungus (of any kind) which contains psilocin or an ester of psilocin' is a Class A drug.
- On 14 November 2005 ascorbic acid was added to the list of exempt paraphernalia which doctors, pharmacist and persons employed or engaged in drug treatment services could dispense to drug users. This meant that supply of ascorbic acid would not lead to potential prosecution under section 9A of the 1971 Act.
- On 1 September 2005 the proposed amendment

to Section 8(d) of the 1971 Act was repealed. Section 8(d) makes it an offence for an occupier or manager of premises to knowingly allow or suffer the smoking of cannabis on those premises. Section 38 of the Criminal Justice and Police Act 2001 had proposed that this be extended to include all controlled drugs. The Government decided to repeal this amendment before it came into force.

2006

- On 1 January 2006 Ketamine became a Class C, Schedule 4(1) drug. Possession of Ketamine became a criminal offence, carrying a maximum sentence of 2 years in prison and a fine.
- Also on 1 January 2006, section 4 of the 1971 Act was amended by section 1 of the Drugs Act 2005 and the offence of aggravated supply came into force. This offence requires the court to treat a supply offence as 'aggravated' if certain conditions are met which are thought to increase the seriousness of the offence. Those conditions are that:
 - The offence was committed on or in the vicinity of school premises at a relevant time; or
 - A person under the age of 18 was used as a courier in the commission of the offence.
- On 16 October 2006 the Government announced that it would not be implementing section 2 of the Drugs Act 2005. This provision would have allowed courts to presume the existence of intent to supply, where the defendant had been found in possession of a controlled drug above a given quantity threshold. The decision not to implement this provision was, according to Vernon Coaker the Home Office minister responsible for drugs, due in part to 'a lack of consensus on both the provision and the level at which the threshold should be set'. As such, this provision is expected to be repealed without ever coming into force.

2007

- On 18 January 2007 methamphetamine, also known as 'crystal meth', was reclassified from a Class B drug to a Class A drug.
- On 3 April 2007 the ACMD urged the Government to control two new drugs, GBL and 1,4-B, both drugs are considered to be associated with 'date rape' drugs and are similar to GHB. GHB was classified as a Class C drug in 2003. Further changes to the 1971 Act seem inevitable.

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